

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF WESTCHESTER

2 - - - - - X

3 ALLAN KASSENOFF,
4 Plaintiff,

5 vs. Indictment No.
58217/19

6 CATHERINE KASSENOFF,
7 Defendant.

8 - - - - - X

9 January 29, 2021
10 Westchester County Courthouse
11 111 Dr. M.L.K., Jr. Boulevard
white Plains, New York 10601

12 BEFORE: HONORABLE NANCY QUINN KOBA
and REFEREE IRENE RATNER

13 A P P E A R A N C E S:

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5 Also present: Court Attorney Referee Irene Ratner
Catherine Kassenoff
6 Allan Kassenoff
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1 REFEREE RATNER: This is the matter of
2 Kassenoff versus Kassenoff, Index No. 58217 of '19.
3 We're on for a pre-motion conference. A letter was
4 written to The Court by Ms. Kusnetz. A response was
5 written by -- to that letter by Mr. Dimopoulos. In that
6 letter Ms. Kusnetz requested a pre-motion conference.

7 I want to state for the record that Ms. Kusnetz
8 was not happy that the conference could not be scheduled
9 before today, but the parties know that numerous dates
10 were given for the proposed conference. Mr. Dimopoulos
11 or other people were not available, and this was the
12 first day -- look at the number of people we have here.
13 This was the first day that everyone was available for
14 this conference.

15 Normally I like to hold a conference within a
16 short period of time after the letter is written.
17 Unfortunately in this matter, that was not possible. So
18 I have your letter, Ms. Kusnetz, and --

19 MS. KUSNETZ: Two letters, Referee. Two
20 letters.

21 REFEREE RATNER: Which was the second?

22 MS. KUSNETZ: So there was a letter on January
23 5th and there was a letter on January 15th. There was
24 also a letter at the end of December with regard to
25 ruling requests with regard to outstanding discovery that

1 relate to today.

2 So there's really a number of letters that we
3 have here. We have custody issues and we also have
4 discovery issues. And as you know, we're set for a
5 continuation of the trial-ready conference on February
6 3rd, but we have not received any discovery since our
7 last conference of December 21st.

8 I know that Ms. Most is on. So if you want to
9 deal with the custody issues first so that we don't have
10 to involve Ms. Most.

11 REFEREE RATNER: Well, I can't because Judge
12 Koba is going to come on afterwards. I can't excuse her
13 even if we deal with the issues. So, which, the December
14 letter?

15 MS. KUSNETZ: Yes. There was also -- December
16 16th there was already a pre-motion request for ruling
17 authorization with regard to a motion to compel. And
18 then we followed up certainly with our January 6th letter
19 to you, Referee, which specifically referred to the
20 outstanding discovery, Judge Koba's directive on the
21 record where she stated to Mr. Dimopoulos that he was to
22 file a formal response to her notice of deficiency. The
23 notice --

24 REFEREE RATNER: I couldn't hear you because of
25 the dog that was barking. I'm sorry. Judge Koba's

1 direction?

2 MS. KUSNETZ: which was appended to my January
3 6th letter. I appended the pertinent part of the
4 transcript wherein Judge Koba directed Mr. Dimopoulos to
5 file a formal response to our December 15th notice of
6 deficiency. She directed him to do that. That was not
7 done. She directed him also to circulate the last pages
8 of Mr. Kassenoff's deposition transcript because there
9 was a disagreement as to how the deposition concluded and
10 what was left open.

11 It was our position that the deposition was left
12 open with regard to the financial issues that were raised
13 at the deposition that were not concluded and involved
14 further documents to be produced that were requested at
15 the deposition. He did not circulate the end of the
16 deposition to everybody. I did with my January 6th
17 letter.

18 So since December 21st we didn't receive any
19 discovery. I also appended portions of the Judge's
20 directives whereby the Judge resolved certain of the
21 issues that were set forth in the notice of deficiency
22 which were specifically financial issues with regard to
23 documents that reside in the marital residence in
24 Larchmont. And certainly with regard to the date of
25 marriage, you know, tax return, which Mr. Kassenoff's

1 father did I believe for the parties, that tax return in
2 its entirety is in the marital residence.

3 It then speaks to certain issues as to what
4 became marital thereafter and what was separate
5 beforehand. It's a very important document. We should
6 not be relegated solely to obtain an IRS transcript
7 which, as you know, is just an abbreviated form of a tax
8 return that's filed.

9 REFEREE RATNER: Let me stop you right there.
10 Mr. Dimopoulos, the notice of deficiency and the tax
11 return, is that in the house? Has your client looked for
12 it?

13 MS. KUSNETZ: He's not on the phone I don't
14 think.

15 REFEREE RATNER: I see him.

16 MR. DIMOPOULOS: I'm sorry. I apologize.
17 Although, I'm sure many people don't like seeing my face,
18 I don't see my own face. So I'm going to jump off and
19 jump back on if you don't mind. Just give me one second,
20 Referee Ratner.

21 (Discussion off the record.)

22 MS. KUSNETZ: I'm just going to say, I noticed
23 that Judge Murphy was on the call before. I caution
24 Mr. Kassenoff to make slanderous statements against me in
25 front of another judge, a court attorney referee, as well

1 as other counsel. He may feel comfortable saying that to
2 the children, but he cannot say that to me.

3 REFeree RATNER: Ms. Kusnetz, I did not hear any
4 slanderous statements.

5 MS. KUSNETZ: He called me a liar.

6 REFeree RATNER: I didn't hear that.

7 MS. KUSNETZ: He called me a liar.

8 REFeree RATNER: I'm trying to get everyone in
9 on the conference. Let's please keep personalities out
10 of it. I don't want any negative comments by anyone
11 about any of the attorneys or any of the parties. Let's
12 try to keep this civil so that it doesn't break down into
13 complete chaos.

14 Now, Mr. Dimopoulos, I don't see you. I know
15 what you look like, so if you want to speak.

16 MR. DIMOPOULOS: Let's just get --

17 REFeree RATNER: Let me deal with the first
18 issues. The notice of deficiency, the tax returns. I
19 remember your client was supposed to look for them in the
20 house. Has he looked for them, has he found them, and
21 have they been given to Ms. Kusnetz?

22 MR. DIMOPOULOS: The answer to the question is
23 whatever she states is in the marital residence we
24 searched. It is not there.

25 REFeree RATNER: So the tax return is not in the

1 marital residence?

2 MR. DIMOPOULOS: No. It's a tax return,
3 incidentally, from 2000 -- from 11 years ago. I can tell
4 you that my client doesn't have it but --

5 REFEREE RATNER: What year are you looking for,
6 Ms. Kusnetz?

7 MS. KUSNETZ: That was 2006. I believe it was
8 prepared by the Plaintiff's father.

9 MS. KASSENOFF: Yes, it was.

10 MS. KUSNETZ: So why wouldn't the Plaintiff's
11 father have the tax returns? And my client specifically
12 knows where they are in the house and where all of these
13 records are maintained including -- I didn't finish,
14 Referee -- what The Court said should be produced, all
15 the closing binders relating to my client's separate
16 property claims with regard to the acquisition of the New
17 Rochelle home also reside in the marital residence. They
18 don't belong to Mr. Kassenoff. They relate to separate
19 properties owned by my client in Brooklyn which the --
20 you know, the net proceeds of the sale can be traced to
21 the acquisition of the New Rochelle home. So those are
22 also in the Larchmont home.

23 REFEREE RATNER: One second.

24 MR. DIMOPOULOS: I will repeat, they are not in
25 the Larchmont home. He looked for them. They are not

1 there. I don't know what else I'm supposed to --

2 MS. KUSNETZ: Where did he look?

3 MS. KASSENOFF: How about put him under oath.

4 MS. KUSNETZ: Catherine, stop. Where did he
5 look?

6 MR. DIMOPOULOS: Can I ask for a favor? I think
7 the problem with my video is that there's just so many
8 people on. I think it will help if all the mics are
9 muted.

10 REFEREE RATNER: Yes. Mute the mics. I'm
11 getting a lot of feedback.

12 Mr. Dimopoulos, do you have a problem if we ask
13 your client where he looked?

14 MR. DIMOPOULOS: Absolutely not.

15 REFEREE RATNER: Mr. Kassenoff, unmute your mic.
16 And can you please tell us where he looked -- you looked.

17 MR. KASSENOFF: Your Honor, I think there's a
18 misunderstanding here. I was not -- my understanding
19 from the last call was the Judge never ordered me to
20 look. I highly doubt I have tax records from 14 years
21 ago. If Ms. Kassenoff is so positive where they are, I'm
22 at the house now. I'm more than willing to run upstairs.

23 I also would like to say for the record that the
24 Brooklyn apartment that her lawyer keeps referring to as
25 separate property, I've already given Mr. Dimopoulos

1 publicly-available information that I found proving that
2 I was a joint owner on that. If you Google it, you'll
3 find that as well, Ms. Kusnetz.

4 MS. KUSNETZ: Excuse me. There's documentation.
5 I mean, he's not his own attorney. My client has a
6 claim. I guess we will be litigating this at a trial,
7 but he just admitted he didn't even look for the
8 documents.

9 REFEREE RATNER: Ms. Kusnetz, please. He has a
10 claim. We're not going to deal with it now. That's
11 reserved for trial.

12 Ms. Kassenoff, unmute your mic, please. Where
13 in the house are those documents?

14 MS. KASSENOFF: Come on, Referee. I haven't
15 been in that house in over six months.

16 REFEREE RATNER: I thought your attorney just
17 said she knows where they were. Where did you leave
18 them?

19 MS. KASSENOFF: I'm going to give you various
20 locations where I believe that they may be located. It
21 was not a well-organized situation when I left. I'm
22 certain that it's gotten far less organized at this
23 point.

24 Mr. Kassenoff who lives in that house needs to
25 take a look at the third floor attic. He needs to take a

1 look in my office in the third floor. He needs to look
2 at work where he leaves a lot of his documents that I
3 never hear anything about because he has secret bank
4 accounts. He needs to look, and he was ordered to do so.

5 MS. KUSNETZ: Catherine --

6 REFEREE RATNER: Ms. Kassenoff, I'm going to
7 stop you. Ms. Kassenoff, I'm going to mute you. I asked
8 you a simple question. I want a response to the
9 question.

10 MS. KASSENOFF: It's not simple.

11 REFEREE RATNER: I am interrupting you, and I
12 just want you to know the court reporter will write what
13 I say not what you say. And if you continue to make
14 these editorial statements, I will not speak to you. You
15 will have to speak to your attorney by phone and she will
16 speak for you. I am giving you the courtesy of allowing
17 you to state -- as your attorney has said, you know where
18 the documents are. Mr. Kassenoff has said he is in the
19 house. He will look, look again where you said. You
20 said third floor attic, your documents in the attic.

21 where else? No editorials.

22 MS. KASSENOFF: I'm doing my best. I'm not
23 editorializing or calling anybody a liar.

24 REFEREE RATNER: Ms. Kassenoff.

25 MS. KASSENOFF: They are located on the third

1 floor. I'm answering the question. I'm not at the
2 house. I haven't been there since March.

3 MS. KUSNETZ: Third floor and in her office.
4 Third floor attic and in her office.

5 MS. KASSENOFF: And in his various offices. He
6 has one in white Plains, he has one in --

7 MS. KUSNETZ: Stop. We don't know whether he
8 removed the documents from the house is what she's
9 saying. But in the house where she last saw them was in
10 the third floor attic or in her office. She has an
11 office in the house.

12 REFEREE RATNER: Okay. Please mute your mic.
13 That is the answer to that question.

14 Mr. Kassenoff, would you please go upstairs and
15 look? Are you on your phone?

16 MR. KASSENOFF: No. I'm on a laptop.

17 REFEREE RATNER: You can take it with you while
18 you go upstairs.

19 MR. KASSENOFF: I'm still a little confused. I
20 don't recall the Judge ordering me to do this.

21 MR. DIMOPOULOS: You were never ordered to do
22 it.

23 REFEREE RATNER: Mr. Kassenoff, I am ordering
24 you to go upstairs and look for it. Please don't argue
25 with me. If you want this case to go on for the next 10

1 years, it will if we don't resolve these issues. These
2 are relatively minor issues. If it's in the house, let's
3 get it to Ms. Kusnetz. If it's not, you're going to have
4 to state that it's not in the house, and I'm sure
5 Ms. Kusnetz is going to want an affidavit from you that
6 it's not in the house. But please don't argue with me.
7 Just go look upstairs and look to see if the documents
8 are there. Very simple request.

9 Okay. The next question, notice of deficiency.
10 Not the notice of deficiency. That was the other thing.

11 Mr. Dimopoulos -- and I'm trying to deal with
12 these one by one. If not, we'll be here forever.

13 The direction that was appended to her letter
14 that the husband was to file a formal response to
15 Ms. Kusnetz's 12/15 deficiency notice.

16 MR. DIMOPOULOS: Inaccurate, Referee Ratner.
17 Here's what happened. I went back over the transcript.
18 What happened was that, as we know, Ms. Spielberg was the
19 prior attorney. The last demand for discovery was after
20 Mr. Kassenoff's deposition way back in July. We got a
21 response to my letter -- we got a post-deposition demand
22 from Ms. Spielberg. Okay. That was the last discovery
23 demand we received for many, many months until January.

24 At a conference, a video conference with
25 Referee -- with Judge Koba, I misspoke and said I didn't

1 get a post-deposition demand. I later corrected that by
2 saying I forgot I did get one and I did respond to it,
3 and I sent my response and a lot of documents that we
4 produced to Ms. Kusnetz. So I don't understand how she
5 could produce a deficiency letter to a demand in a
6 response she had never seen.

7 MS. KUSNETZ: Because Mr. Dimopoulos --

8 MR. DIMOPOULOS: Ms. Kusnetz, I promise I will
9 not interrupt you.

10 REFEREE RATNER: Ms. Kusnetz, please let's try
11 to keep this civil. Neither of you is to interrupt the
12 other.

13 Please continue, Mr. Dimopoulos.

14 MR. DIMOPOULOS: So I produced the post-EBT
15 production to Ms. Kusnetz which I had already given to
16 Ms. Spielberg.

17 One of the issues in this case, Referee Ratner,
18 is there have been seven prior attorneys for
19 Ms. Kassenoff. So every time the file moves from Mitch
20 Lieberman to Lisa Zeiderman, from Lisa Zeiderman to Mr.
21 Nissman, everyone claiming charging leaves and retaining
22 leaves, I don't know where these documents are. I can
23 tell you assuredly that Judge Koba said from the other
24 conference, "If you didn't respond to it, respond it to."
25 That was her order.

1 She never ordered me -- and I challenge anyone
2 to prove to the contrary -- that I was to respond to a
3 deficiency demand. I responded to the post-deposition
4 demand I forwarded to Ms. Kusnetz. Everything is
5 provided. Okay?

6 Just for clarification, I need to just mention
7 what is in these deficiency demands that Ms. Kusnetz has
8 propounded. They are wage statements that go back to
9 2006 which we produced for multiple multiple years. They
10 are partnership documents and 1099s and things from
11 Greenberg Traurig that my client said many, many times,
12 "I don't get a 1099 so I can't give you one."

13 And on top of that they asked for documents that
14 are now subject to motion practice between Ms. Kusnetz
15 and counsel for Greenberg Traurig. My client cannot
16 provide firm documents that his employer refuses him to
17 provide himself. Okay?

18 So even if I were directed to respond to this
19 deficiency, which I was not, this deficiency asks for
20 things that are beyond the scope of what she's entitled
21 to get from my client and is subject to litigation.

22 REFEREE RATNER: You said she's seeking wage
23 statements from 2006. Were those ever requested before?

24 MR. DIMOPOULOS: The only thing that was
25 requested before was in the first demand. I produced

1 three separate tranches of documents. Okay. The third
2 production of documents included all w-2s and wage
3 statements that he has possession of. I told him, "Give
4 me every single one you have." who keeps their w-2s for
5 15 years? I don't know anyone that does that.

6 MS. KUSNETZ: May I respond?

7 MR. DIMOPOULOS: Except my mother who is --

8 MS. KUSNETZ: We don't have the time for that.

9 MR. DIMOPOULOS: Here's the situation. Okay.
10 We produced everything we were ordered to produce. We
11 produced it multiple times to multiple attorneys.
12 Discovery cannot go on forever.

13 MS. KUSNETZ: So let me respond, please, because
14 if you look at Page 28 of the December 21st transcript,
15 you know, all of this fluff that -- all of this
16 detraction cannot excuse him from failing to abide by a
17 court directive where The Court says to him,
18 "Mr. Dimopoulos, please issue a formal response, and if
19 you already responded designate what notice you respond
20 to." Okay. And that is exactly the Judge's directive in
21 discussing my December 15th notice of deficiency which
22 was brought up on Page 27 of this transcript and the
23 conference.

24 He was directed to file a formal response to the
25 notice of deficiency, and I just want to state that the

1 notice of deficiency, even though Mr. Dimopoulos wasted
2 our time and said he never got a post, you know --

3 REFEREE RATNER: Ms. Kusnetz, Ms. Kusnetz, and I
4 would just ask you, please just lower your voice.
5 Everyone hears you.

6 MS. KUSNETZ: I apologize.

7 REFEREE RATNER: Thank you. Please.

8 So, Mr. Dimopoulos, can you please just simply
9 issue a formal response as set forth on Page 28 of the
10 12/21 transcript?

11 MR. DIMOPOULOS: Your Honor, I will do so, but
12 what Ms. Kusnetz is reading is a directive from Her Honor
13 that was based upon me saying no response was given, and
14 then I corrected it by saying it was responsive. I'm not
15 going to argue --

16 REFEREE RATNER: Excuse me. Ms. Kusnetz, no
17 interruption.

18 Mr. Dimopoulos, then it should be a very simple
19 response. You erroneously stated hadn't been. You did.
20 This is a formal response, what you produced.

21 MR. DIMOPOULOS: I will do that by Monday, Your
22 Honor.

23 MS. KUSNETZ: I just want to say something,
24 Referee, please, so you understand, that the notice of
25 deficiency actually specifically speaks to post-EBT

1 deficiencies. Do you understand that we knew about the
2 post-EBT demands? It is included in the notice of
3 deficiency, and his just asking for wage statements is
4 certainly not the only thing that is noted in the notice
5 of deficiency that is seven pages long. And the --

6 REFEREE RATNER: Ms. Kusnetz --

7 MR. DIMOPOULOS: I don't know if you heard what
8 I said. I said I'll respond by Monday. Is my mic muted?

9 REFEREE RATNER: No, it's not. Mr. Dimopoulos,
10 come on, let's try to keep this civil.

11 Okay. I know there's a lot of acrimony.
12 Nothing is gained by the acrimony except the expenditure
13 of money by the clients having to pay their attorneys.
14 It's very simple. So let's please --

15 MS. KUSNETZ: A waste of time.

16 REFEREE RATNER: -- try to keep this civil. So
17 the post-EBT demands, you will respond and you will
18 respond to Page 28?

19 MS. KUSNETZ: No, no.

20 REFEREE RATNER: You have responded to them?

21 MS. KUSNETZ: It is not the post-EBT demands.
22 The notice of deficiency goes back to -- it is an
23 accumulation of deficiencies since his first production.
24 That is what the Judge spoke to. The notice of
25 deficiency encompasses all of the supplemental demands,

1 not just the post-EBT demands. It is not new, Referee.
2 You said tell me what hasn't been produced, not what you
3 want to be produced today.

4 The only additional production that we asked
5 for, Referee, is what we are entitled to under the law
6 which is 3101(h), updated documents. And if you look at
7 the trial-ready conference, Mr. Dimopoulos agreed to
8 upload -- I mean update his legal invoices. He agreed to
9 update financial documents without a date certain.

10 How are we going to prepare a notice -- a
11 statement of proposed disposition? How are we supposed
12 to know what the state of the assets are that are in
13 Mr. Kassenoff's name? We're entitled to update
14 disclosure. It is a matter of law. We don't have to
15 wait until the day before trial. This is 3101(h),
16 Referee.

17 You know from The Court's decision from another
18 case we have together, we are entitled to updated
19 supplemental discovery. I served a notice to continue
20 Mr. Kassenoff's deposition. I did that because I'm
21 entitled to do it, and there was no limitation. I'm
22 entitled to take his deposition and with a supplemental
23 demand for updated documents --

24 REFEREE RATNER: Ms. Kusnetz, you've said it
25 already. The issue as to whether you are entitled to

1 continue Mr. Kassenoff's deposition was an issue that has
2 been raised because my recollection is that there was a
3 claim that the update was only for a limited purpose and
4 it was based upon a -- the report of the neutral
5 financial evaluator and questions only related there.

6 Mr. Dimopoulos, do you have -- Ms. Kusnetz,
7 please do not interrupt.

8 Mr. Dimopoulos, the Judge had requested that
9 you -- or at some point she did request that you provide
10 the part of the transcript where it said -- limited the
11 husband's further deposition or where there is even a
12 right reserved for a further deposition because if it was
13 not reserved that's a separate issue. I don't know if it
14 was or was not.

15 MS. KUSNETZ: I circulated it. I circulated it.
16 He didn't do it. I circulated -- you didn't hear me say
17 that. I circulated the deposition transcripts where
18 Ms. Spielberg reserves the right to continue, not
19 limited. She reserves the right to continue.

20 Mr. Dimopoulos, after he misrepresented that to the
21 Judge, the Judge told him to do that on December 21st.
22 He didn't do it.

23 I did it with my January 6th letter. That is 23
24 days ago, Referee. Judge Koba said, "Circulate it, sir."
25 He didn't do it. I did it.

1 REFeree RATNER: I heard you.

2 Mr. Dimopoulos, do you have a transcript that
3 disputes what Ms. Kusnetz is saying occurred at the end
4 of the deposition where Ms. Spielberg reserved the right
5 to continue the deposition without any limitation?

6 MR. DIMOPOULOS: She didn't reserve the right.
7 Okay. She said -- I think I'm quoting or very close to
8 verbatim -- "Let's see what the documents say." She
9 didn't say, "I hereby reserve my client's right to call
10 your client for a further deposition upon receipt of
11 further documents."

12 Okay. If she wants to challenge me on that, she
13 can all she wants. Here's the deal, he sat for two days
14 of depositions, two days. Just today I got notice of the
15 new uniform rules of the trial part. Seven hours. Seven
16 hours. That's all you get.

17 REFeree RATNER: I know. I know. I went to the
18 Conference of the American Trial Lawyers at 12 o'clock.
19 Seven hours. You need permission for more than seven
20 hours.

21 MR. DIMOPOULOS: I absolutely applaud these new
22 rules. They mirror the federal rules which are
23 fantastic. We're not going to get 62-page
24 interrogatories anymore. The Federal Rules of Civil
25 Procedure have had a limit on interrogatories and

1 deposition time for years.

2 REFeree RATNER: Mr. Dimopoulos, please. Let's
3 stick to the issue and the issues in the Kassenoff cause.

4 MR. DIMOPOULOS: Here are the issues: My client
5 is not going to sit for another open-ended deposition for
6 a third and fourth day with Ms. Kusnetz unless he is
7 ordered to do so by this Court after a formal motion to
8 brief the issues. This is harassment. You see how this
9 attorney conducts herself. You think I'm going to let my
10 client sit for another 18 hours so he can get yelled and
11 screamed at when he's already sat for two days with
12 another lawyer? Not going to happen.

13 He will sit for a deposition on the limited
14 issue of Mr. DiMarco's report only because I've already
15 said he would. Okay. That's that. I'm not going to --
16 he's not going to sit again. There's only so much I can
17 take here. It's not going to happen.

18 REFeree RATNER: Is that acceptable, Ms.
19 Kusnetz?

20 MS. KUSNETZ: That is not acceptable to me.
21 That is not what Judge Koba directed him to do. And,
22 frankly, I don't think that Referee should permit
23 Mr. Dimopoulos to continue that abusive behavior and
24 comments about me, about the way that I conduct myself.
25 That doesn't seem to bother you. That just is permitted

1 continually, and I am saying that is grievable. He may
2 not speak to me that way, he may not categorize my
3 conduct, and he may not outright deny The Court's
4 directive.

5 REFeree RATNER: Ms. Kusnetz, there have been
6 allegations and I have begged both of you to stop it.
7 You have made comments about Mr. Dimopoulos and he's made
8 comments about you. I will not allow -- there you go
9 again.

10 I will not allow anything other than dealing
11 with the issues or I am going to terminate this
12 pre-motion conference and there will be no motion allowed
13 other than the one I will allow -- everyone turn off your
14 mic. I'm getting feedback.

15 I will only allow the motion at this point on
16 the issue of the husband's deposition and the extent to
17 which whether you're allowed an open-ended deposition or
18 a -- the extent of the husband's further deposition.

19 okay. That's already -- that part is allowed as
20 part of the motion. And I'm just going to need dates.
21 There will be other issues which we'll deal with, but for
22 the ruling, when do you want to make your motion,
23 Ms. Kusnetz?

24 MS. KUSNETZ: Can you tell me when you think the
25 motion to quash will be determined?

1 REFERENCE RATNER: I'm going to try to get to
2 everything today.

3 MS. KUSNETZ: No. I'm asking because the motion
4 would encompass -- if The Court orders certain discrete
5 documents to be produced by Greenberg Traurig that
6 Mr. Kassenoff has already testified in his deposition
7 that he has, he has access to. So as far as I'm
8 concerned, with regard to those documents I think we need
9 to see whether The Court --

10 REFERENCE RATNER: I have no way of knowing that.
11 What I would suggest you do is that in your motion you
12 request that in the event the motion to quash is not
13 determined, that you be given the opportunity to
14 depose -- if The Court allows the deposition, that you be
15 allowed to depose Mr. Kassenoff on the limited issue
16 regarding the motion to quash.

17 MS. KUSNETZ: Okay.

18 REFERENCE RATNER: Or something to that effect,
19 exactly what you're requesting. That can be in your
20 motion. When do you want to file your motion by?

21 MS. KUSNETZ: I also want to ask for counsel
22 fees. I would like that included.

23 MR. DIMOPOULOS: You want to ask for counsel
24 fees?

25 MS. KUSNETZ: Yes, I do.

1 MR. DIMOPOULOS: Can I be heard on that,
2 Referee?

3 MS. KUSNETZ: Because certainly with regard to
4 the fact that nothing was produced with regard to claims
5 of documents that are available in the -- in the marital
6 residence --

7 REFEREE RATNER: Allegedly. Let me find out.
8 Mr. Kassenoff, are you back?

9 MR. KASSENOFF: I'm back.

10 REFEREE RATNER: Have you searched the third
11 floor?

12 MR. KASSENOFF: I did the best I could. I found
13 the 2006 tax returns. I found nothing on Brooklyn
14 properties.

15 REFEREE RATNER: And nothing on the Brooklyn
16 properties. Anything on any other properties?

17 MR. KASSENOFF: Oh. Was there more that they
18 wanted?

19 REFEREE RATNER: I don't know.

20 MS. KUSNETZ: Well, we don't have the closing
21 binders for the two marital residences. Maybe those
22 documents are in them.

23 MR. KASSENOFF: They're --

24 MR. DIMOPOULOS: They're marital properties to
25 be split equitably.

1 MS. KUSNETZ: Listen, with joint funds -- we are
2 not here, Referee, to debate the merits. We're entitled
3 to --

4 REFEREE RATNER: I got it. I got it.

5 Mr. Kassenoff, do you know if the closing
6 binders for the two marital properties are in the attic?

7 MR. KASSENOFF: I wasn't looking for those. I
8 will go look now, Your Honor.

9 REFEREE RATNER: Thank you. We'll get back to
10 you.

11 MS. KASSENOFF: If I could just make a point.

12 REFEREE RATNER: No, no. You have an attorney.

13 Mr. Dimopoulos, do you want to be heard on the
14 issue of counsel fees?

15 MR. DIMOPOULOS: Yeah, I do. I think this is
16 probably the most sickening request of all. She's had
17 more attorneys --

18 REFEREE RATNER: Please leave out the
19 adjectives. Simply address the issue. I don't need the
20 adjectives. It's only going to exacerbate and inflame
21 the issues. I don't want to do that. Please, let's try
22 to keep this civil.

23 MR. DIMOPOULOS: How can I?

24 REFEREE RATNER: Mr. Dimopoulos, I am asking --
25 again, I am going to terminate this conference. It's

1 going to be over. I do not want to hear -- I want to
2 hear the issues addressed and no more than that. All
3 we're here for -- you're both attorneys. There's a code
4 of conduct which everyone should be observing. Please
5 restrain yourself.

6 MR. DIMOPOULOS: I do not think she should be
7 given permission to request counsel fees. I think she
8 has three pro bono attorneys. I think she's already
9 received a \$100,000 counsel fee award which was paid. I
10 think that she owes all of her attorneys money. I think
11 that everything is over-litigated. She's been to the
12 Appellate Division twice, she's filed multiple, multiple,
13 multiple motions, all of which The Court has refused to
14 sign the order to show cause which were ridiculous
15 because they were third and fourth requests for the same
16 relief.

17 REFEREE RATNER: Mr. Dimopoulos, excuse me. I'm
18 dealing with the counsel fees and the request for counsel
19 fees, and the request for counsel fees would only be with
20 respect to the continued deposition and anything else we
21 deal with here today. Her request for -- if she wants
22 counsel fees for the other things, that's not before us
23 today. Okay. You can respond to her request. I really
24 can't refuse her request to make the request for counsel
25 fees. You will have the opportunity to answer that

1 request -- that motion. When do you want to make your
2 motion?

3 MS. KUSNETZ: Within two weeks.

4 REFEREE RATNER: Give me a date, please.

5 MS. KUSNETZ: Do you have your calendar? I'm
6 looking at my calendar.

7 REFEREE RATNER: I have a calendar.

8 MS. KUSNETZ: By February 12th?

9 REFEREE RATNER: Court is closed February 12th.

10 MS. KUSNETZ: By the 15th then?

11 REFEREE RATNER: I hate to say this, but court
12 is closed the 15th also. I'm sorry.

13 MS. KUSNETZ: Then by the 16th. I'm on trial on
14 the 16th, but I'm going to try to get it in before that,
15 Referee. I have a trial.

16 REFEREE RATNER: You can e-file it at any time.
17 You can e-file it by the 12th. Just understand that no
18 one will look at it until the 16th. I don't even think
19 the notice will come in until after that.

20 MS. KUSNETZ: Should I just say the 16th then?

21 REFEREE RATNER: Yes. And, Mr. Dimopoulos, how
22 long do you need to answer?

23 Did we lose him? One second. I didn't realize
24 that.

25 Mr. Dimopoulos, are you here?

1 MR. DIMOPOULOS: Yeah.

2 REFEREE RATNER: Did you hear what I said, that
3 the issue of the counsel fees will only be regarding
4 this -- any ruling that she's granted today, not with
5 anything that happened in the past, only the issues
6 raised today?

7 MR. DIMOPOULOS: That's fine.

8 REFEREE RATNER: And I want that to be clear in
9 the motion, that the counsel fees only will be issues
10 today.

11 MR. DIMOPOULOS: I missed the briefing schedule.

12 REFEREE RATNER: Okay. She'll file a motion.
13 She first asked to file it by February 12th. The court
14 is closed. By the 15th, the court is closed. It's
15 unusual that we have such a long weekend. So by February
16 16th, Tuesday, February 16th. How long do you need to
17 respond?

18 MR. DIMOPOULOS: Two weeks?

19 REFEREE RATNER: The 23rd.

20 MR. DIMOPOULOS: That's fine. The Court is
21 closed on the 12th? what's the 12th?

22 MS. KUSNETZ: Lincoln's birthday. And Monday is
23 Washington's birthday. So you folks will have a lot of
24 time to work on those days. You won't have any
25 conferences on either day.

1 Reply, Ms. Kusnetz?

2 MS. KUSNETZ: I would -- I'm on trial
3 unfortunately that week. So I would have to say March
4 1st.

5 REFEREE RATNER: Okay. By March 1st. Okay. So
6 we go with that. The extent of any further deposition,
7 that's going to be the first thing that's allowed.

8 MS. KUSNETZ: So, Referee, if when we get
9 Mr. Dimopoulos' response to the notice of deficiency --
10 he said he's doing that by Monday. So if he and I do not
11 resolve what is outstanding with regard to what he
12 submits to me by Monday, can I include those documents in
13 my motion to compel?

14 MR. DIMOPOULOS: No matter what I give, it's not
15 going to be enough so -- but here's the deal, okay, if
16 you -- if I refuse to give something, those are valid
17 grounds to make a motion. If I say we don't have them,
18 those are not valid grounds.

19 REFEREE RATNER: I agree that it's not.

20 MR. DIMOPOULOS: So to the extent I provide
21 something and Ms. Kusnetz would like to compel me to,
22 then I don't have an objection to that. But I can pretty
23 much assure you that's not going to be the case, but
24 fine.

25 There's not been one thing thus far that I've

1 said, "No, I'm not giving it to you," other than the
2 Greenberg Traurig documents which Greenberg Traurig has
3 said we can't provide them. So I'm not arguing about
4 turning over discovery.

5 MS. KUSNETZ: That's not correct.

6 REFEREE RATNER: And I will say that -- one
7 second. Okay. I just got a notice but it's incorrect.

8 The issue is -- the issue is whether --
9 Mr. Kassenoff I think was credible. He said he was --
10 and he found the 2006 tax returns.

11 Are you back, Mr. Kassenoff?

12 MR. KASSENOFF: I am, Your Honor. There's no
13 closing binders on the third floor.

14 MS. KUSNETZ: Can he look in my client's office?
15 Maybe she should be allowed to go --

16 MS. KASSENOFF: Can I make a statement?

17 REFEREE RATNER: Mr. Kassenoff, please. Do you
18 have a problem going into her office on the third floor?
19 She's giving you permission to go in.

20 MR. KASSENOFF: Let me just explain. There is
21 no office for Ms. Kassenoff. There's an office which --
22 frankly, it's my house now. It's my office. I work from
23 there. And, yes, I looked in the third floor office,
24 I've looked in the attic compartment, in the file cabinet
25 in both rooms. I don't know where else they would

1 possibly be. There was a point where Ms. Kassenoff
2 removed files from the house. I know that for a fact. I
3 think she put them in a safe-deposit box. She had them
4 in her car.

5 REFeree RATNER: Closing binders wouldn't fit in
6 a safe-deposit box.

7 MS. KUSNETZ: Right. She doesn't have them.

8 MR. DIMOPOULOS: I have a really big one.

9 REFeree RATNER: Ms. Kusnetz, the problem is
10 Mr. Kassenoff said he does not have them. He found the
11 2006 tax returns. Mr. Dimopoulos will get them to you by
12 tomorrow -- by Monday.

13 MS. KASSENOFF: Your Honor, can we just have him
14 confirm that he has checked any other possible location
15 where he thinks he might have put them. These are
16 financial documents that he was always in control of. I
17 wasn't the one to file these. He was. So he may have
18 other locations that he's not discussing with us.

19 REFeree RATNER: Mr. Kassenoff, did you look
20 everywhere they might have been on the third floor or
21 second floor or anywhere else in the house?

22 MR. KASSENOFF: Your Honor, I don't know what
23 she's talking about, I was in charge of filing them.
24 Everybody is in charge of filing documents. I looked in
25 the two file cabinets we had. Those are the places they

1 would be. I don't have them. I don't know what to say.

2 MS. KASSENOFF: If he says he doesn't have them
3 anywhere, then I'll take that representation, Judge. I
4 just want to be sure we're not playing games here where
5 he's just trying to figure out what I'm going to identify
6 as a place and then he says, "I checked that place and
7 it's not there." This is not a game.

8 REFEREE RATNER: Ms. Kassenoff, he was pretty
9 clear. He said he checked in the office file cabinets
10 and other places on the third floor.

11 MS. KUSNETZ: What about outside of the house?
12 He has other offices. Did he remove them?

13 MS. KASSENOFF: That's right.

14 MR. DIMOPOULOS: Al, did you check the subway
15 station on the way to work?

16 REFEREE RATNER: Mr. Dimopoulos, again, I
17 implore -- I am imploring you to please stop the
18 comments. I understand your frustration. You are both
19 frustrated. You know what, everyone is frustrated with
20 this procedure. I wish this case was over. Everyone
21 does. I'm sure the parties wish it was over. The amount
22 of money they are expending on counsel fees is insane.
23 It's almost criminal. But there's nothing we can do
24 about that. That is their choice.

25 I wish there was some way to get everyone

1 together and to try to sit down and resolve the issues
2 without the necessity for expending money that they don't
3 have. They simply don't have it.

4 MS. KUSNETZ: Do that, Referee. We'll sit at a
5 meeting.

6 MR. DIMOPOULOS: Can I just say something? My
7 client --

8 REFEREE RATNER: Mr. Dimopoulos?

9 MR. DIMOPOULOS: My client -- a meeting to
10 settle this case?

11 REFEREE RATNER: Absolutely. You know I'm the
12 eternal optimist, Mr. Dimopoulos.

13 MR. DIMOPOULOS: Referee Ratner, there is a
14 pending grievance filed against my client. There is a
15 lawsuit against him and me personally, the lawyer.

16 MS. KUSNETZ: Because you would not -- you know
17 what, to this date she never got her cancer medication.
18 To this date, she's never gotten the cancer medication.
19 We have proof of it being delivered to the house.

20 MR. KASSENOFF: No. No. I'm sick of the cancer
21 medication nonsense.

22 MR. DIMOPOULOS: It's a lie. We know it.

23 MS. KUSNETZ: We have a delivery notice.

24 REFEREE RATNER: Excuse me. Let me just -- you
25 know what -- excuse me. Ms. Kusnetz, I'm just going to

1 say one thing with personal experience. With the postal
2 service and other delivery services, I have received
3 tracking that an item was delivered. You got it like I
4 got it. It was never delivered. So, you know, not
5 everything is what -- you can't take everything to the
6 bank, I'll tell you that. There are problems.

7 Anyway, I'm not going to deal with that. I'm
8 not going to deal with that. If you are interested,
9 Mr. Dimopoulos, in some kind of a settlement conference,
10 I will speak to Judge Koba and maybe the four of us, only
11 counsel, and maybe we can deal with those issues with the
12 grievance committee and whatever else is there. If we
13 can settle the case, maybe we can get all of the
14 complaints withdrawn so these two people can move on with
15 their lives.

16 MR. DIMOPOULOS: Referee Ratner, nothing would
17 make me happier than crossing this case off of my list of
18 open cases. Nothing would make my client happier than
19 never speaking to me as long as he lives ever again.
20 However, a meeting with these people is a very good way
21 to guarantee a settlement doesn't happen. If they would
22 like, send us a proposal, I will counter and respond to
23 any proposal to the extent there is any hope that the
24 issues can be resolved even in part, even in part. We
25 will entertain it willingly.

1 REFEREE RATNER: As far as the children, you
2 must include Ms. Most.

3 MR. DIMOPOULOS: We would love nothing more than
4 to resolve this case, and I welcome Ms. Kusnetz instead
5 of a motion prepare a settlement proposal. I will
6 respond immediately.

7 REFEREE RATNER: Okay. Ms. Kusnetz, can you do
8 that?

9 MS. KUSNETZ: So I'm just -- I would be happy --
10 I don't know if I can do a global one without certain
11 answers to questions, and I would be happy to pose those
12 questions to Mr. Dimopoulos if he can answer certain
13 financial questions for us that are outstanding because
14 of documents that are outstanding. I would be happy to
15 do that with regard to that. But with regard to a
16 custody proposal, of course I could prepare one. I could
17 prepare one within a week.

18 REFEREE RATNER: A custody proposal is going to
19 be a more difficult issue, I will tell you. I can
20 foresee a possible settlement on the finances. You know,
21 the finances -- you're talking about a trial of -- for
22 finances alone probably two weeks. Is that an
23 approximate estimate or more?

24 MR. DIMOPOULOS: Referee Ratner, if this case
25 goes on another three or four months, there will be no

1 more money left. We will have blown through almost
2 \$2,000,000 if this case goes to trial.

3 REFeree RATNER: I understand that. And we're
4 also dealing with the net proceeds from the sale of the
5 house.

6 MR. DIMOPOULOS: The lion's share of which is my
7 client's separate property subject to trial.

8 In any event, send me whatever settlement
9 proposal you would like to send me. I will respond
10 immediately.

11 REFeree RATNER: I would suggest, Ms. Kusnetz,
12 that you do it in two parts, financial and custody.
13 Those are two. The second one has to go to --

14 MS. KUSNETZ: Clearly custody is the most
15 important issue to my client in this case, Referee. You
16 understand that?

17 REFeree RATNER: I understand that. I do think,
18 though, that unless there is -- well, Mr. Dimopoulos, is
19 your client willing to agree to some resolution of
20 custody without an updated report from either Dr. Abrams
21 or another doctor?

22 MR. DIMOPOULOS: I don't need anything further
23 to happen to respond to and settle custody. We are
24 willing to discuss that right now.

25 REFeree RATNER: I don't have the time right

1 now.

2 MR. DIMOPOULOS: No, no. I don't mean that. I
3 corrected myself. I mean, we don't need an updated
4 report from Dr. Abrams or a new forensic or anything
5 else. We'll discuss settlement.

6 REFEREE RATNER: Okay. So I would do it in two
7 parts, Ms. Kusnetz. One is financial because Ms. Most
8 doesn't have to be involved in the financial. Any
9 custody has to -- she has to be included in that request.
10 So maybe --

11 MS. KUSNETZ: But like I said, I have some
12 questions that I need to be answered with regard to that.
13 And I have to say something. If, frankly, with regard to
14 even just the issue of the valuation of the Plaintiff's
15 ownership interest in Greenberg Traurig --

16 REFEREE RATNER: One second. It's not a -- he
17 doesn't have an ownership interest.

18 MS. KUSNETZ: Yes, he does. He has a
19 shareholder interest. Please don't go back. It was
20 valued -- shareholder is an owner. Please don't go back
21 there. I don't think you really understand what Mr. --
22 I'm not going to say you didn't understand.

23 REFEREE RATNER: Thank you. I restrained myself
24 from responding to you.

25 MS. KUSNETZ: You don't have to restrain. You

1 can always respond to me. I do misspeak.

2 REFERENCE RATNER: Nothing would be gained by a
3 response.

4 Okay. Ms. Kusnetz.

5 MS. KUSNETZ: If Mr. Kassenoff would speak to
6 his co-shareholders at Greenberg Traurig and if two sets
7 of documents were produced with two categories, for
8 example, the work in progress and his share of the
9 receivables, which Mr. DiMarco spoke specifically about
10 that is added on in the second department, we could avoid
11 a trial.

12 You know, that -- this is very frustrating to me
13 because those are added on in -- that is a Rubino
14 analysis. It's added on in the second department.
15 Mr. DiMarco said it to the Judge. If those documents
16 were produced and if they are encased in a confidential
17 jar and a confidentiality order signed by this Judge, we
18 could settle the valuation issue. If I don't have those
19 two categories of documents, it's too much money to
20 settle a case without going to trial. I need those
21 documents. It is a Rubino Second Department argument.
22 Mr. DiMarco said it to the Judge, "I cannot give you that
23 valuation without accounts receivable and without
24 Mr. Kassenoff's work in progress."

25 And, in fact, Jill Spielberg at the deposition

1 asked him whether he had access to those two categories
2 of documents, and he said he did but he could not produce
3 them because his employer did not give permission to do
4 so.

5 So I'm just saying, you know, the valuation of
6 the interest is a huge piece of this. I would love to
7 settle that with Mr. Dimopoulos. We can talk about a lot
8 of different things with regard to that valuation, but I
9 do need those documents.

10 REFEREE RATNER: Mr. Dimopoulos, you know what
11 I'm going to suggest, reach out to Mr. Warder I believe
12 is the attorney's name.

13 MR. DIMOPOULOS: Referee Ratner, let me be
14 clear.

15 REFEREE RATNER: Let me propose something. My
16 suggestion would be you speak to Mr. Warder and see if
17 there is any way the three of you can engage in a
18 conference and Mr. Warder -- see if Mr. Warder can
19 provide those numbers without anything in writing. The
20 conference should not be in any way -- either it would be
21 confidentiality, you can't release any of the numbers,
22 neither of you can, you know, do anything with those
23 numbers, and see if that will obviate the need for the
24 motion which Ms. Kusnetz -- which has been filed to quash
25 this -- Ms. Kusnetz's subpoena. See if there's any way

1 to resolve it. Just reach out to them.

2 MR. DIMOPOULOS: Can I briefly respond?

3 MR. KASSENOFF: I have to leave.

4 MR. DIMOPOULOS: You have to go pick up
5 Charlotte?

6 MR. KASSENOFF: JoJo, yes.

7 MR. DIMOPOULOS: Oh, okay. He's just going to
8 jump off the phone.

9 MR. KASSENOFF: I'm just waiting to be let in,
10 Gus.

11 REFEREE RATNER: Got it.

12 MR. DIMOPOULOS: Let me briefly address this
13 issue. I don't know how much more we have. I have a
14 conference with Judge Koba at 3:30 that I must --

15 REFEREE RATNER: Right. And I want to bring her
16 in on two issues. So I'm going to do this very quickly.
17 I have to go to the rest of the --

18 MR. DIMOPOULOS: Let me address that issue. I
19 don't have any control. I've spoken to Mr. Warder on
20 many occasions. Greenburgh Traurig does not provide
21 those documents in any case for its many many hundreds,
22 if not thousands -- I don't know how many shareholders
23 there are. They do not do it for anyone under any
24 scenario. So I can't help.

25 MS. KUSNETZ: You know what, they are more

1 concerned about the income information, and we would be
2 more amenable to settle the reasonable compensation issue
3 which is based on, you know, determining the income of a
4 senior associate in his department. We would be more
5 amenable because Mr. DiMarco actually did change his
6 number on that after my comments. We would be more
7 amenable to look, you know, to look -- you know, for the
8 moment, not waiving my objection on it, but certainly to
9 greater probability to settle the issue would be to get
10 the percentage of accounts receivable and his works in
11 progress which is what we put in our reports in the
12 second department.

13 MR. DIMOPOULOS: I just have to clarify.

14 MS. KUSNETZ: Many of them, right.

15 MR. DIMOPOULOS: The valuation report of any
16 excess earnings approach encompasses two categories.
17 Okay. It is reasonable comp and goodwill. A Rubino
18 analysis that was constantly referred to is nothing more
19 than a second department holding saying you've got to
20 take into consideration goodwill. It's not just the
21 excess earnings.

22 Okay Mr. DiMarco's report gives two separate
23 values, one for excess earnings and one for goodwill. It
24 gives those same two values on two different valuation
25 dates. It's a very exhaustive approach. She wants a

1 work in progress not so she can get a Rubino analysis, so
2 that she can say that the Rubino analysis and the
3 goodwill in the report is not enough.

4 So it's not as if she didn't get the value she's
5 looking for. She just wants to say it's not high enough.
6 I just wanted to clarify.

7 MS. KUSNETZ: That is not correct. Please read
8 Rubino. Rubino was very clear.

9 REFEREE RATNER: Okay. I don't have time.
10 Ms. Kusnetz, if it can be resolved fine. I have to move
11 on because I have to bring Judge Koba in on this also.

12 You want a ruling that the father is precluded
13 from bringing the girls to the paramour's home. I have
14 to tell you I discussed this with Judge Koba, and we are
15 both of the opinion that -- of course this case has been
16 going on for something like two years. Mr. Kassenoff has
17 the right to have a girlfriend if he wants one, but I
18 think that the girlfriend should not be sleeping over at
19 the house. She can certainly come to the house, she can
20 be there. The girlfriend should not be staying
21 overnight. He can go out with her. He can go out on a
22 date but --

23 MS. KUSNETZ: what about his sleeping over at
24 her house and not being --

25 REFEREE RATNER: Really -- no more than really

1 once, at most twice a week. But he should -- it should
2 be very limited as long as there is an adult in the
3 house.

4 MS. KUSNETZ: Over my objection.

5 MR. DIMOPOULOS: Do you know where they're
6 getting their information from?

7 REFEREE RATNER: I saw the text from Ally.
8 Please stop, Ms. Kusnetz. I saw the text that
9 Ms. Kusnetz provided that were from -- virtually every one
10 was from Ally who seems to be up at 11 at night, 7 in the
11 morning. I don't understand why she is not sleeping and
12 why she is reporting what is allegedly going on. I don't
13 know how she knows where the father is when he leaves the
14 house. He is entitled to go out. There is an adult
15 there supervising. He should be there supervising.
16 These children need -- there's no question they need
17 supervision. He shouldn't be out every night.

18 Okay, Mr. Dimopoulos. The girlfriend should not
19 be sleeping over.

20 MR. DIMOPOULOS: I'm sorry.

21 REFEREE RATNER: I asked Mr. Dimopoulos. I'm
22 directing this to him. Okay. Do you have a problem with
23 that?

24 MR. DIMOPOULOS: Referee Ratner, Ms. Kassenoff
25 spent 10 days testifying about what a liar her daughter

1 is, and now we're going to rely on text messages, which
2 is against court order, we're going to rely on an 11 year
3 old --

4 REFeree RATNER: No, we're not. Mr. Dimopoulos,
5 we're not -- we're not relying on it. What I'm saying to
6 you is while this is going on, it's simply going to
7 exacerbate the animosity between the parties. It is
8 going to cause more friction with the girls, with
9 Ms. Kassenoff and the girls and Mr. Kassenoff and the
10 girls.

11 I think it is a -- I think it is much smarter to
12 limit -- the girlfriend can come over to the house
13 whenever she wants. He can take the girls there if he
14 wants. But as far as Mr. Kassenoff sleeping over at her
15 house, really try to limit it to one night a week.

16 MR. DIMOPOULOS: First of all, it's not even
17 consistently one time a week. It's happened. He does
18 sleep at her house when he leaves the house at 11 after
19 the kids have gone to bed and comes back before 6 a.m.
20 because he's got to drop Charlotte off at school at 6:15.
21 That's exactly what he's doing now. You want to limit
22 him to sleeping out to once a week, that's not a problem.
23 That's what he does.

24 But we're relying upon the word of an 11 year
25 old here who is literally doing nothing other than spying

1 on her father.

2 REFERENCE RATNER: Mr. Dimopoulos, I'm sorry for
3 interrupting you. I already noticed the times, and I
4 don't understand why this child -- you know, maybe the
5 answer is that the children's -- that their ipads and
6 their phones, they shouldn't have them at night. Because
7 there also were allegations that these children were
8 sleepy, they were tired, and that they may be on their
9 devices well into the night. And maybe the answer is
10 they have to turn them in when they go to sleep. I mean,
11 I do remember when my son was little I caught him more
12 than once -- in those days it was a Gameboy. I'd look in
13 the room and see a light and it's 11 or 12 at night and
14 he's playing on his Gameboy. What did I do? I took it
15 away.

16 Mr. Dimopoulos, your client is the father. He
17 has the right and he has sole custody, temporary custody.
18 He has the right to tell the children, "If I catch you
19 doing this, I'm going to" -- "you're going to have to
20 turn in your devices when you go to sleep."

21 MR. DIMOPOULOS: I have to respond. They do.
22 Here's what happens. What stops an 11 year old from
23 walking down the stairs and going to get it in the
24 kitchen? Should he put it in a safety-deposit box?

25 REFERENCE RATNER: Put it in his bedroom.

1 MR. DIMOPOULOS: This is a child that just ran
2 away and took a cab. How do you control that?

3 REFEREE RATNER: Okay. Well, you know what,
4 then maybe he has to buy a lockbox and put them in the
5 box and lock them up overnight. I don't know what to
6 tell you, Mr. Dimopoulos. He's the father. And you know
7 what, if they do that and they go and take them and he
8 catches them -- I know you have young children. Do they
9 ever get punished? Well, then maybe he takes away the
10 phone the first time for the day and then a week and then
11 a month.

12 MR. DIMOPOULOS: But when he's taken her phone
13 away, we get 50 e-mails from Mrs. Kassenoff saying, "How
14 dare you punish her."

15 MS. KUSNETZ: Excuse me. Excuse me.

16 REFEREE RATNER: Mr. Dimopoulos, discuss it with
17 your client. I'm moving on.

18 MS. KUSNETZ: I just want to say there was
19 another issue with that and that was when the father
20 scheduled a court-ordered Zoom call with the children
21 from the girlfriend's home. That was completely
22 improper. What The Court ordered on December 21st was
23 that the location of the Zoom calls is just as important
24 and the organization of all three girls to be present
25 without their devices was part of her court order. The

1 fact that he felt it was an appropriate thing to schedule
2 a court-ordered zoom call from his girlfriend's home is
3 outrageous to me. It is humiliating.

4 REFEREE RATNER: Ms. Kusnetz, you'll deal with
5 that with Judge Koba. That's one of the things --

6 MR. DIMOPOULOS: Referee Ratner, she can move
7 for whatever restrictions on his relationship she wants.
8 We're not consenting to any.

9 MS. KUSNETZ: That's not a relationship. That
10 relates to the children and the effect on the children.

11 REFEREE RATNER: Let's move on, please. The
12 contempt provided the order of December 1st.
13 Communications with -- that was -- exactly which one
14 was -- oh, the contempt Judge Koba will deal with. And
15 the hiring of a private attorney, you can make your
16 motion on that issue. Okay. So it's going to be motion
17 for a private attorney.

18 THE COURT: We have dealt with all of the
19 issues.

20 MS. KUSNETZ: We have the issues of JoJo's
21 portal.

22 REFEREE RATNER: The Judge denied that. She
23 denied that already.

24 Mr. Dimopoulos.

25 MS. KUSNETZ: When did she deny that?

1 MS. KASSENOFF: We have FASNY, please.

2 MS. KUSNETZ: And the payment of the tuition.

3 REFEREE RATNER: Judge Koba will deal with that.

4 MR. DIMOPOULOS: I need to make something very
5 clear because I don't want someone to say that it went
6 another way during the conference. My client does not
7 consent to any restrictions on his freedom to do as he
8 pleases. I understand that she's going to make a motion.
9 That's fine. We will respond.

10 REFEREE RATNER: She's not making a motion on it
11 because at this point let's see what happens going
12 forward.

13 MR. DIMOPOULOS: What's the issue with FASNY,
14 that he didn't pay the tuition? I think I've been so
15 clear on that.

16 REFEREE RATNER: Yes, I think you have.

17 MS. KUSNETZ: I thought you said that the Judge
18 was going to deal with that. But I want to talk about
19 JoJo's portal because the father -- you issued a
20 directive that he should provide all the notices to the
21 mother that appear on JoJo's portal, and he did not do
22 that. The first time that he did that was on January
23 21st for notices that had occurred, Happy New Year
24 Notices.

25 So my letter to you was on January 15th. It was

1 only when I sent the letter to you -- it was a week after
2 that he first sent notices to the mother about what
3 appeared on JoJo's portal and --

4 REFeree RATNER: Is she now getting the notices?
5 Mr. Dimopoulos, is he sending her the notices? He should
6 forward the notices from the portal to her.

7 MS. KASSEN OFF: No. I'm getting nothing.

8 MR. DIMOPOULOS: My kids are on Google Classroom
9 just like everyone else's. Every day things come in.
10 This is your homework assignment or in today's class
11 we're going to do this, and there are other things
12 announcing there's a test next week. Does he literally
13 provide every single thing on there?

14 REFeree RATNER: Yes. She wants every one.
15 Correct, Ms. Kusnetz?

16 MS. KUSNETZ: Yes.

17 MR. KASSEN OFF: I'm not doing that. She can
18 have access to the portal. I'm not doing it.

19 MR. DIMOPOULOS: That's impossible.

20 MR. KASSEN OFF: This is insane.

21 MR. DIMOPOULOS: Let her have access.

22 MR. KASSEN OFF: There's like 500 notices. Today
23 is a red day, today is a yellow day.

24 MR. DIMOPOULOS: Give her access, Referee
25 Ratner. Let her have at it.

1 REFEREE RATNER: Now, she can have access to the
2 portal. But I discussed this with Judge Koba. She
3 cannot communicate with anyone through that portal. Is
4 that acceptable, Ms. Kusnetz?

5 MS. KUSNETZ: Unless it's the teacher that
6 reaches out.

7 REFEREE RATNER: No. No. She cannot respond to
8 the portal. She cannot respond to the teacher. She is
9 not -- she is not the custodial parent at this time.

10 MS. KUSNETZ: Excuse me. There is no order of
11 this Court that restrains my client from speaking to a
12 teacher for the child, and this is the way the teachers
13 communicate with the parents. The teacher has sent her
14 an e-mail. Why is it not on the portal?

15 MR. DIMOPOULOS: The teacher -- that's
16 inaccurate.

17 MS. KUSNETZ: She can't speak to JoJo's teacher?
18 Under what order?

19 MR. DIMOPOULOS: Deep breath. Deep breath. She
20 can communicate with the teacher. She can e-mail them.
21 They don't communicate with parents through the portal.
22 Your children are older. Let me just explain to you how
23 this works. Okay? If you have a portal, that's for the
24 child and the teacher. Parents do not communicate
25 through the portal. There is no order from this Court

1 prohibiting her from e-mailing any of the kids' teachers.
2 There's a difference, before you blow a gasket.

3 REFeree RATNER: Excuse me. Mr. Dimopoulos, I'm
4 going to ask you to submit a proposed order regarding the
5 portal.

6 MR. DIMOPOULOS: Okay.

7 REFeree RATNER: No opposition and what -- and
8 also please set forth what the purpose of the portal is
9 and the purpose of the portal.

10 MR. DIMOPOULOS: To pretend to give children an
11 education during Covid.

12 REFeree RATNER: Right. I agree with that.
13 Okay. So we dealt with that. The payment of the tuition
14 Judge Koba will deal with.

15 Ms. Baratta I believe is still -- is she still
16 here? No, she's not here. She must have signed off.
17 Let me just call Judge Koba and she will sign on. Okay.
18 I'm sorry. One moment and I will call her again. She'll
19 sign on. I'm going to mute myself.

20 MS. MOST: Wait. Ms. Ratner.

21 REFeree RATNER: I just spoke to Judge Koba.
22 Unfortunately, she's stuck on another conference. She
23 said it will take less than 10 minutes if you want to
24 hold on.

25 MS. MOST: Ms. Ratner, I have some issues as

1 well.

2 REFeree RATNER: Okay. Good. Let's deal with
3 those.

4 MS. MOST: So the first issue is that we
5 initially arranged for payment of therapists, money was
6 going to be coming out of a marital account. It was
7 provided to Mr. Kassenoff to pay for therapists. There
8 are therapist bills that are unpaid now because that
9 money is gone. So Mr. Kassenoff has taken the position
10 that since reimbursements for medical -- I think you
11 heard about this -- have gone back to Mrs. Kassenoff, he
12 wants those to be repaid before we replenish the
13 accounts. But we have doctors that are not being paid.
14 Now there's going to be a lawyer that has to be paid.
15 That account has to be replenished.

16 REFeree RATNER: Ms. Kusnetz, I have heard this
17 before. I have heard in the past that your client --

18 MS. KUSNETZ: I can't hear you, Referee.
19 There's some resounding thing.

20 REFeree RATNER: Everyone turn off your mics.
21 Let me turn off my phone. I don't think it's on my
22 phone.

23 I have heard in the past that the claim has been
24 made that the reimbursement checks have been sent to your
25 client even though Mr. Kassenoff paid and it was from

1 marital assets. Where are those funds and when are they
2 going to be redeposited into the bank account from --

3 MS. KUSNETZ: There are no funds.

4 REFEREE RATNER: What happened to them?

5 MS. KUSNETZ: I'm going to tell you. You have
6 to understand, that money is marital money.

7 Mr. Kassenoff is obligated to pay 80 percent. It's an
8 80/20 split with regard to the payment of the
9 unreimbursed medical expenses and therapy costs.

10 Ms. Most chose two therapists who are not in my client's
11 health insurance plan. She pays all the premiums for the
12 health insurance plan, and there are deductibles that are
13 taken out of the health insurance plan, over \$1,500, and
14 then there are premiums which she pays for exclusively.

15 Out of that account, you have to understand, she
16 immediately gets a credit because it's a marital trading
17 account. She owns 50 percent of it. But of that
18 account, she's only responsible for paying 20 percent.

19 REFEREE RATNER: I understand, Ms. Kusnetz. Let
20 me correct you. My recollection is that the husband has
21 a separate property claim to a significant portion of
22 that account. Is that correct?

23 MS. KUSNETZ: That's not that account, no.

24 MR. KASSENOFF: Yes, it is.

25 MS. KUSNETZ: This is a marital security account

1 that my understanding is was these funds were derived
2 from that. I have no information that these are solely
3 separate property funds. My understanding was it came
4 from a marital trading account. If that's not the case,
5 then I will have to redo my numbers. But what I'm trying
6 to tell you right now is that the number which
7 Mr. Dimopoulos keeps throwing around is not at all
8 accurate. It doesn't reflect the actual reimbursements,
9 and I'd love to see really what -- you know, I know that
10 before Mr. Dimopoulos said something, "Oh, your client
11 wants an accounting of what was paid," or whatever, I
12 haven't seen that. But all I'm saying is that the
13 reimbursements don't track what Mr. Dimopoulos is talking
14 about with regard to this discreet account.

15 We believe that he's talking about payments that
16 were made out-of-pocket even before this was an account
17 created because we cannot reconcile that number that he
18 keeps throwing around. Plus, my client is entitled.
19 She's saying it's marital funds. She's entitled. She
20 owns 50 percent of those funds, yet she's only obligated
21 to pay 20 percent of those funds to these doctors.

22 REFEREE RATNER: At the end of that -- at the
23 end of this case there has to be a true-up because your
24 client isn't paying any of the marital expenses and she's
25 not paying child support. So there will have to be a

1 significant true-up of all of the accounts and all the
2 money and everything else. Mr. Kassenoff --

3 MR. DIMOPOULOS: Referee Ratner --

4 REFEREE RATNER: Mr. Dimopoulos, we don't have a
5 lot of time.

6 MR. DIMOPOULOS: I'll be very brief. There is
7 no order requiring Mr. Kassenoff to pay 80 percent and
8 Ms. Kassenoff to pay 20 percent. I wish there were. As
9 a matter of fact, I made a motion a year ago to implement
10 that pro rata, and it was denied.

11 So consequently, my client is left with a very
12 favorable split og he pays one-hundred percent and
13 Ms. Kassenoff pays zero. I'd love to change that. I'd
14 love to change it retroactively. That is complete
15 inaccurate information that you just received. There is
16 no order requiring her to pay 20 percent of anything.
17 It's a complete red herring because here's the issue:
18 There is an account e-trade. Pursuant to court order,
19 all of the money comes out of that for therapy.
20 Mr. Kassenoff pays it and provides an accounting.

21 That's not what's happening here. What's
22 happening is he writes a check to a therapist for 1,000,
23 2,000, 3,000 out of the e-trade pursuant to order.
24 Ms. Kassenoff then goes to her insurance company as she
25 is the insured and gets a reimbursement for that payment

1 and pockets the money.

2 So if this Court is to order him to get more
3 money out of the e-trade account, he's going to reduce
4 the e-trade account and then she's going to pocket more
5 money.

6 REFEREE RATNER: But, Mr. Dimopoulos, some
7 doctors have -- oh, Judge Koba I think is on.

8 THE COURT: I'm here. I have literally 10
9 minutes before I go into another conference at 3:30 and I
10 have one at 4:15 and this conference was supposed to be
11 an hour.

12 Where are we, Ms. Ratner?

13 REFEREE RATNER: Well, just the only other issue
14 that was just raised in addition to everything else is
15 that the therapists haven't been paid, that the money was
16 to be paid, they're being paid from the e-trade account,
17 and the allegation is that the wife has been receiving
18 the reimbursement checks for the co-pays and she's been
19 keeping them and those should go back into the e-trade
20 account because the therapists were to be paid from the
21 e-trade account.

22 MS. KUSNETZ: So what I said to Your Honor --

23 THE COURT: I'm not addressing that issue right
24 now. To me I thought I said that's a trial issue. I
25 thought I said --

1 REFEREE RATNER: The issue is they aren't being
2 paid.

3 MS. MOST: They have to refund the account.

4 THE COURT: I'm not going to deal with that
5 issue right now. The issue that I want to deal with are
6 the Zoom calls. Did you deal with that issue yet?

7 REFEREE RATNER: Which one?

8 THE COURT: The Zoom calls.

9 REFEREE RATNER: No, I didn't. I left that for
10 you.

11 THE COURT: Okay. So The Court is in possession
12 of the correspondence regarding the Zoom call that was
13 held on the date where Mr. Kassenoff was driving home
14 with the children from the mandated -- at that time
15 mandated updated evaluation from Dr. Abrams. There's a
16 request to find him in contempt. That request is denied.

17 The Court finds that that was a unique
18 circumstance. I had ordered that the evaluation go
19 ahead. It was not stayed at that time. The fact that he
20 tried to facilitate a call during the period of time --
21 there's no contempt there. Okay. It was not reasonable
22 to tell him to pull over and stop in the middle of a
23 highway to have this phone call. There has to be some
24 reasonableness when these parties are dealing with each
25 other. Okay. That was unique.

1 with respect to the electronics between the
2 children, is that still an ongoing issue?

3 REFEREE RATNER: Yes. I addressed it, but
4 please.

5 MS. KUSNETZ: Yes, it is. And, in fact, you
6 know, the Referee said they shouldn't have their
7 electronics at certain points during the day or even at
8 night. But, Your Honor, that motion for contempt was not
9 just dealt on that. It was based on Mr. Kassenoff's own
10 statement where he says, "I'm not home when they" -- you
11 know, "I'm not home a lot of times when the kids have
12 their Zoom call with the mother," or, "I disappear." If
13 you want me to tell the nanny to take the electronics
14 away from the children, then we're back in the situation
15 where you're accusing the nanny of assault, which she did
16 assault Ally when she took her phone.

17 THE COURT: I'm not going there. I read that.

18 REFEREE RATNER: Judge, deal with it, please.

19 THE COURT: Referee Ratner and I discussed it,
20 and my position on the electronics is very simple. The
21 father cannot take their electronics away if he's at
22 work. Let's be reasonable and rational.

23 I recommended -- and it sounds like Referee
24 Ratner had communicated this -- the father tells the
25 children, "You need to put your electronics in the other

1 room when you have your Zoom calls with your mother. If
2 I come home from work and I am informed that you did not
3 leave your ipads, your cell phones, or whatever other
4 device in the other room when you are having your Zoom
5 call with your mother as you've been told, then they will
6 be removed from the children and they will lose them for
7 the entire day and the father will take them away."

8 That's what's going on here. The nanny is not
9 going to get involved with it because there was an issue
10 with that. So Mr. Kassenoff is to tell the children
11 that's what's going to happen, period. And they're not
12 going to have their electronics for the entire day until
13 they understand that their calls with their mother are
14 their priority during that period of time that the mother
15 is having their Zoom call, period.

16 MS. KUSNETZ: The other issue, Judge, is that he
17 doesn't organize it -- he's probably not there -- so that
18 they're all present for the zoom call. So Ally will just
19 show up or JoJo.

20 THE COURT: I don't think it's the father's
21 obligation -- these are not two, three, and four year
22 olds. Okay. These children are old enough to get to a
23 zoom call. If the father is at work, he can't possibly
24 expect them to be standing over these children. The
25 children know what time -- aren't these Zoom calls the

1 same time every time?

2 MS. KASSENOFF: Not quite. Roughly.

3 THE COURT: What time are they?

4 MR. KASSENOFF: 6:30 every day, Your Honor.

5 MS. KASSENOFF: Judge, they go anywhere from
6 6:30 to 6:45.

7 THE COURT: Okay. So relatively the same time
8 every day. The children are instructed to be there at
9 6:30 every time during the -- at 6:30 when the call is
10 scheduled with the mother. Ally is 11. Charlotte, I saw
11 her birthday. She's going to be 10 years old, right?

12 MS. KASSENOFF: Yeah.

13 THE COURT: Next week. The only little one that
14 may need some coaxing is JoJo because she's only seven,
15 but the other two understand that they need to be there
16 at 6:30. And Mr. Kassenoff can emphasize with them when
17 he's making the conversation about the electronics that
18 they need to be there at 6:30. Whatever time it's
19 scheduled, 6:30 to 6:45, they need to be available and
20 present for their conference with their mother, and
21 Mrs. Kassenoff can emphasize that as well in the presence
22 of the supervisor, that that's when they need to be
23 there. Okay?

24 REFEREE RATNER: Without their devices and not
25 be on their phone.

1 THE COURT: Absolutely. No devices.

2 Yes, Ms. Dimopoulos.

3 MR. DIMOPOULOS: Judge, Koba we were notified
4 earlier this week by Mr. Milagos.

5 THE COURT: Who is that?

6 MR. DIMOPOULOS: I don't know if he's --

7 THE COURT: Ms. White's supervisor?

8 MR. DIMOPOULOS: No. No. She's the new person.
9 We were notified on I think it was Monday that the Zoom
10 calls were going to be suspended indefinitely by the
11 mother.

12 THE COURT: Okay.

13 MR. DIMOPOULOS: And then --

14 THE COURT: Then that solves the issue.

15 MR. DIMOPOULOS: It does resolve the issue. But
16 three days later we got an e-mail saying that they had
17 just booked two more sessions. I'm bringing this to The
18 Court's attention because I know somehow we'll be accused
19 of it. My client is ready, willing, and able to have
20 Zoom calls every day pursuant to The Court's order. If
21 the mother chooses not to have them, that's her
22 prerogative, but it is posing an issue for the kids in
23 terms of what does he tell them. They've asked him, "Is
24 there a Zoom call tonite?" "No." when he got the e-mail
25 that they were stopped indefinitely, he didn't know what

1 to say to them.

2 So if The Court could encourage Ms. Kassenoff to
3 have some consistency to the messaging that's proper for
4 the children, that's all I ask.

5 MS. KUSNETZ: May I respond?

6 THE COURT: who's responding? Ms. Kusnetz, go
7 ahead.

8 MS. KUSNETZ: So my client ran out of money,
9 Judge, because --

10 THE COURT: You have four minutes.

11 MS. KUSNETZ: She ran out of money for that day.
12 You have to pay by 12 o'clock that day in cash. She
13 can't pay by a credit card. If she could pay by a credit
14 card, she could have had the Zoom calls.
15 She ran out of cash because --

16 THE COURT: wait a minute. They don't allow you
17 to pay by a credit card?

18 MS. KUSNETZ: No. And that is a huge problem
19 because it has to be cash. She ran out of cash those two
20 days. And Mr. Milagos was clear. He said she doesn't
21 have the funds today. We'll let you know when they
22 resume. I'm sorry she didn't let me know beforehand or I
23 missed her communication. She was panicked and she was
24 upset by this. You can imagine. But she has to pay for
25 the supervision for CFS in advance. That's \$2,300 a

1 week. Do you understand? It's outrageous.

2 THE COURT: You said it to me multiple times,
3 and I said get someone locally.

4 All right. So, Ms. Kassenoff, I understand you
5 had difficulty that day. So, yes, notify Ms. Kusnetz so
6 that Mr. Kassenoff can be notified and the children can
7 be notified. But that is not the norm.

8 MR. DIMOPOULOS: I just want to know, Your
9 Honor --

10 MS. KASSENOFF: Can I respond to this? I'm just
11 going to reiterate what Ms. Kusnetz said. I don't know
12 what to do. I'm in a really dire financial situation.
13 It's really bad and I don't know how long I can sustain
14 it. I have maxed out credit cards. I owe thousands and
15 thousands of dollars to attorneys. I don't know what to
16 do. My income does not cover my weekly expenses. Yes,
17 we did try to find an alternate supervising service. We
18 can't find one. That's probably because of Covid. There
19 are long waitlists for people. What am I supposed to do,
20 Judge? I am literally picking between eating and paying
21 for food and my kids, and I don't think that's the right
22 choice that a mother should have to make. And I'm doing
23 everything I can. I've forgone whatever I can. I don't
24 even heat my house anymore. You know what I do, I buy
25 cords of wood and I put them in the fireplace. I'm doing

1 everything I can, Judge, and, you know, I can't sustain
2 it much longer.

3 THE COURT: Okay. So the Zoom calls will be --
4 Mr. Kassenoff will tell the children to make sure there
5 are no electronic devices, and they need to be present
6 when the calls are scheduled, 6:30 to 6:45, and be
7 present and accountable, especially when their mother is
8 spending the money to have the time available with them.
9 I need to jump off because I have another call.

10 MR. DIMOPOULOS: Your Honor, as do I.

11 MS. KUSNETZ: We --

12 THE COURT: This has gone on -- I have to go.
13 Mr. Dimopoulos needs to leave too because he's on my
14 other conference, and I have two other conferences I need
15 to get done today.

16 MS. KUSNETZ: Catherine, the payment for the
17 school is due on Monday, Referee. The payment for -- the
18 payment for the school is due on Monday.

19 MR. DIMOPOULOS: I have another call. I have to
20 go. You heard the, Judge. I have to go.

21 MS. MOST: Can we get another conference set up,
22 Ms. Ratner, because I have more issues?

23 (Proceedings ended.)
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THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE
AND ACCURATE TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC
RECORD



JENNIFER GRUSEKE, CSR
Senior Court Reporter