

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

2 -----x

3 ALLAN KASSENOFF,

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Plaintiff,

Index #
50594/18

4 -against-

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CATHERINE KASSENOFF,

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Defendant.

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111 Dr. MLK Jr. Blvd
White Plains, New York 10601
Proceedings occurred virtually via Teams
February 1, 2021

10 B E F O R E:

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HONORABLE NANCY QUINN KOBA,
Supreme Court Justice

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

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DIMOPOULOS BRUGGEMANN
Attorneys for Plaintiff
73 Main Street
Tuckahoe, New York 10707
BY: GUS DIMOPOULOS, ESQ.

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THE LAW OFFICE OF MARCIA E. KUSNETZ, P.C.
2 International Drive
Rye Brook, N.Y. 10573
BY: MARCIA KUSNETZ, ESQ.

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CAROL MOST, ESQ.
Attorney for the Children

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ALSO PRESENT:

LISA VARA, ESQ.
Sanctuary for Families

RUCHAMA COHEN, ESQ.
Sanctuary for Families

IRENE RATNER
Court Attorney Referee

ERICA ANDREWS, Senior Court Reporter

1 (Whereupon the following occurred on the record
2 virtually via Teams Application.

3 THE COURT: Let's have appearances please.

4 MR. DIMOPOULOS: Dimopoulos Bruggemann on behalf of
5 the Plaintiff, Allan Kassenoff.

6 MS. KUSNETZ: Marcia Kusnetz, from the Law Office of
7 Marcia E. Kusnetz, along with cocounsel Lisa Vara and
8 Ruchama Cohen, for the Defendant, Catherine Kassenoff, who
9 is on the line.

10 MS. VERA: Good afternoon, Judge.

11 THE COURT: Okay.

12 Ms. Vera, are you going to put your appearance on
13 the record. There you are. Okay.

14 MS. VARA: Sanctuary for Families, for Defendant
15 Catherine Kassenoff by Lisa Vara.

16 THE COURT: Is Maria on the line? I don't see her.
17 Can somebody e-mail Ms. Most to see if she's trying to get
18 in.

19 MS. RATNER: I don't see her trying to get in.

20 I'll mute myself and try to email her or call her.

21 THE COURT: Okay.

22 As I understand it, there are two issues regarding
23 the FASNY. The first one being the payment of the tuition
24 that's owed through this academic year, 2021, correct? And
25 the second issue is whether Mr. Kassenoff has decided

1 whether Charlotte shall continue in the FASNY school for
2 this calendar year 2122; is that correct?

3 MS. KUSNETZ: That is correct.

4 MS. RATNER: I'm just going to interrupt.

5 Ms. Most is here. She's signed in.

6 THE COURT: Okay. Place your appearance on the
7 record quickly please.

8 MS. MOST: Carol Most, attorney for the children.

9 THE COURT: With respect to the payment that's owed
10 and the tuition for the current school year, Mr. Dimopoulos,
11 has that been paid? Because I thought I directed that to be
12 paid and I was told that it was being worked out and it
13 would be paid in early January.

14 MR. DIMOPOULOS: Your Honor, this relates back to
15 the issue of the financial aid application that was
16 submitted and that your Honor had detailed in a letter, that
17 we should have this information before my client makes
18 payments under a payment arrangement that was agreed to by
19 the school. We have no idea what she said and --

20 THE COURT: Whoever is not speaking needs to mute
21 their mike. I hear an echo which means my court reporter
22 also hears an echo.

23 MR. DIMOPOULOS: My client makes a payment to the
24 school based upon tuition that was reduced as a result of an
25 application. Your Honor has already said, she should

1 provide a copy --

2 THE COURT: It's very simple. Did he make the
3 payment, yes or no? The answer is no, correct?

4 MR. DIMOPOULOS: No.

5 THE COURT: Didn't I issue an order regarding
6 disclosure of the financial application?

7 MS. KUSNETZ: May I address that, your Honor?

8 THE COURT: Yes, you may.

9 MS. KUSNETZ: So your Honor issued a directive on
10 December 7th that was unequivocal and there was no
11 conditions on that directive.

12 You asked Mr. Kassenoff whether he would take care
13 of the payment. He said he would do it by, on or about
14 January 1st. You said take care of it and that was that.
15 Going back to August is irrelevant but I will address that.

16 THE COURT: Well, actually it's not irrelevant
17 because I specifically directed that the financial aid
18 application be disclosed because it was expressed at that
19 time the concern of the veracity of the application.

20 MS. KUSNETZ: So let me address that, your Honor.
21 So I looked at Mr. Dimopoulos's letter of January 22nd where
22 he, after this December 1st conference says, my client's not
23 paying. And it has to do with the fact that he's saying
24 that the school was not on notice that their initial payment
25 of the 50/50 deposit changed to 80/20 and that's not

1 correct.

2 I produced today, in fact, to your Honor -- I'm
3 sorry it came in a little late. The school itself, issued
4 back in July the statement for the entire tuition in excess
5 of \$10,000.00 and then in August issued an 80/20 invoice to
6 both --

7 THE COURT: Ms. Kusnetz, my question is very
8 simple. Has the financial aid application been disclosed
9 as I directed back in August?

10 MS. KUSNETZ: So we researched it. She didn't
11 complete a financial aid TADS application. She didn't sign
12 one because she was putting together financial aid in May as
13 opposed to like today the financial aid is due for the
14 following year. What she did was she produced piecemeal to
15 the school through the end of July all of the financial
16 information that they requested. Her tax returns, her pay
17 stubs, her credit card statements, all of the debts. I
18 have a list of everything that she produced to FASNY
19 directly.

20 So understand, TADS is the software company that
21 processes these financial disclosure applications. They
22 didn't process hers because it was never completed through
23 TADS because it was done in May. She did it directly with
24 the school. So I can provide counsel with a list of
25 everything that she provided to the school but he has

1 everything. It's all of her -- he has everything she
2 provided and it's just a side issue because your Honor said
3 to him --

4 THE COURT: Actually, it's not a side issue because
5 this is the first time that I've heard there wasn't a signed
6 financial aid application.

7 MS. KUSNETZ: There was not -- you know what --

8 THE COURT: This is the first time I heard it.
9 Okay. I'm not talking about, I'm not involved in discovery.
10 To me it was a very simple task, if you applied for
11 financial aid and filled out a form and attested to the
12 accuracy. That's easily duplicated. If she did not sign
13 the form, that's a different issue.

14 Mr. Dimopoulos, have you contacted the school or
15 has your client to see if, in fact, there was a signed
16 financial aid application?

17 MR. DIMOPOULOS: Your Honor, I have never heard what
18 Ms. Kusnetz just said to you.

19 THE COURT: That wasn't my question.

20 Please answer my question. I'm leaving at 2:00.

21 MR. DIMOPOULOS: No, he has not.

22 THE COURT: Fine.

23 MR. DIMOPOULOS: He had no reason to know about it.

24 THE COURT: Mr. Kassenoff, did you contact the
25 school?

1 MR. KASSENOFF: Your Honor, if I can just add to
2 that. The whole reason I found out about this was when I
3 contacted the school a long time ago and they told me that
4 Ms. Kassenoff submitted a financial aid application. I
5 asked for a copy of it. They said it's her property, they
6 didn't feel comfortable giving it to me. Which is how this
7 all got teed up.

8 THE COURT: That's very good. I really have no
9 time for these games on something as simple as a financial
10 aid application involving a child of which you have sole
11 custody.

12 So quite frankly, you should have access to every
13 record in the school as the person with sole custody at the
14 present time of this youngster.

15 So Mr. Dimopoulos draft an order for me to sign to
16 the school directing them to release the financial aid
17 application and any other documents relied upon in making a
18 financial aid decision for the calendar year 2021.

19 Next issue, going to school next year. What is
20 the issue on that? Ms. Kusnetz.

21 MS. KUSNETZ: Well, if they don't pay, if he doesn't
22 pay the \$8000 -- so he benefitted from a scholarship and as
23 I said, the school knew of the 80/20. He owes 80 percent
24 of that. If he doesn't pay that -- which your Honor did
25 direct on December 7th and he agreed to pay. And then he

1 sent my client an e-mail saying I'll pay mine, if you pay
2 your remaining \$70.00.

3 THE COURT: I'm sorry, I am leaving at 2:00.

4 The question before you now is, what is the issue
5 for calendar year 21-22, which is the next school year?

6 MS. KUSNETZ: The deposit is due today of \$3,000.00.

7 THE COURT: Okay.

8 MS. KUSNETZ: And if they don't pay the deposit
9 today, her spot is not secured for the school. This is the
10 same thing, I looked at, as what happened last year. She
11 lost her spot and then they had to fight to get back her
12 spot.

13 THE COURT: All right. Well, this is a little
14 different year. This is a different year where I've had a
15 custody hearing and I've been on the bench for over a year
16 in matrimonial.

17 Mr. Kassenoff, have you made a decision yet, as the
18 sole decision maker, where this child is attending school
19 next year?

20 MR. KASSENOFF: Your Honor, to be honest I don't
21 have the money. I'm paying Mr. Dimopoulos hundreds of
22 thousands of dollars, Ms. Most hundreds of thousands of
23 dollars. I'm paying multiple therapists. Now I have to
24 hire an education lawyer. I had to hire a lawyer to deal
25 with the grievance that Ms. Kassenoff filed. I paying Mr.

1 Dimopoulos to litigate the case in Brooklyn that Catherine
2 filed against us. You know, I'm not a pot of money.

3 THE COURT: My question is have you made a decision
4 on this educational interest and whether or not it's in the
5 best interest of your child to continue at FASNY or not to
6 continue at FASNY?

7 MR. KASSENOFF: As of now it is not in her best
8 interest because I can't really afford it.

9 MS. KUSNETZ: Oh my God.

10 MS. KASSENOFF: Oh my God.

11 THE COURT: Ms. Most, what is your position on this
12 and have you spoken to Dr. Adler as to the impact on
13 Charlotte if a decision is made that she will not continue
14 at the FASNY school?

15 MS. MOST: Yes.

16 So Charlotte very much wants to attend next year.
17 So I've received an e-mail communication from her telling me
18 how badly she wants to go.

19 I have spoken to both Dr. Cool and Dr. Adler and
20 both are recommending that she continue.

21 THE COURT: Okay.

22 So Mr. Kassenoff, in light of recommendations of
23 the therapist, if Ms. Kassenoff is able to negotiate a
24 scholarship such as she did for this school year, is that
25 something you would consider in making the decision as to

1 whether or not Charlotte shall continue at the FASNY school?

2 MR. KASSENOFF: I'll consider anything. I mean,
3 if it's a substantial reduction in price and Ms. Kassenoff
4 agrees to pay at least 50 percent, I would definitely
5 consider it.

6 THE COURT: Ms. Kassenoff, is that something you
7 would consider doing?

8 MS. KASSENOFF: Your Honor, I cannot pay
9 50 percent. I thought that we had, what was in place for
10 this year worked out well. And I will say that, you know,
11 in order to get this scholarship I've got to do it
12 immediately, otherwise she will lose her spot today.

13 THE COURT: Okay, but I need to know. So hold on,
14 hold on. I literally have to go back to a hearing. So
15 please listen to me.

16 MS. KASSENOFF: Yes, I know.

17 THE COURT: I know that you negotiated a
18 significant reduction, didn't you? Wasn't it down to like
19 \$10,000.00 or something? What is the tuition versus what
20 you paid?

21 MS. KASSENOFF: Judge, I'm not sure the exact
22 amount but yes, it was significant. I believe it was more
23 like a 40 percent reduction or something like that.

24 But Judge, we won't know the answer to the question
25 of what amount reduction she would get this year for some

1 months and meanwhile the tuition deposit is due today. So
2 I would suggest that --

3 THE COURT: But would you pay 50 percent of the
4 tuition deposit today to reserve the spot so she could go?

5 MS. KASSENOFF: Yes, I would.

6 THE COURT: Mr. Kassenoff, do you agree with that?

7 MR. KASSENOFF: Your Honor, I don't agree to that.

8 THE COURT: He doesn't agree. Okay.

9 MR. KASSENOFF: Ms. Kassenoff is more than welcome
10 to pay the full \$3,000.00. Or you know what, maybe she can
11 drop some of her baseless lawsuits and Appeals and I can
12 save a little money that way and put it towards the kids.
13 That's an alternative, if she'd want to agree to that.

14 THE COURT: Okay. I don't tend to hold children
15 hostage while people negotiate in litigation.

16 So at this point in time Mr. Kassenoff is holding
17 in abeyance the decision as to whether or not Charlotte will
18 attend FASNY.

19 Ms. Kassenoff, if you can I would pay the \$3,000.00
20 and apply for financial aid and present the proposal to
21 Mr. Kassenoff for reconsideration.

22 MS. KUSNETZ: Your Honor, wait a minute. Catherine,
23 hold on.

24 Your Honor, I would like to bring an emergency
25 Order to Show Cause and have this be on the record with all

1 parties noted because this will -- because if this child
2 with her mental state and everything that was represented
3 even in the last summary status report by Hava White is
4 correct and this kid doesn't get to go back to her school
5 with her friends, with that stability for her mental state,
6 that is against her best interest.

7 There's really no --

8 THE COURT: There has to be an ability to pay as
9 well Ms. Kusnetz.

10 Ms. Most, is Dr. Cool completed -- is that a man
11 or a woman?

12 MS. MOST: It's a woman and she will have --

13 THE COURT: Has she completed her analysis?

14 MS. MOST: Yes and she will have a report to the
15 Court within the next few days. She will be sending it
16 directly to the Court, your Honor.

17 THE COURT: Okay.

18 All right, so this is what we're going to do. I'm
19 not directing Mr. Kassenoff to pay the deposit today. He
20 has the decision making power with respect to this
21 particular issue. However, given the conflicting opinions
22 as to whether he can afford it or whether it's in the best
23 interest of Charlotte to continue at this school based upon
24 her current state, I am authorizing Ms. Kusnetz to file an
25 emergency Order to Show Cause, so I have all of the

1 information in front of me regarding finances, the child's
2 activities and what's in the best interest of the child.

3 MR. KASSENOFF: Your Honor then I'll just pay it.
4 Because I'm going to end up paying for it anyway in legal
5 fees. You pretty much forced my hand.

6 THE COURT: Okay. Well, unfortunately I don't have
7 to worry about litigation cost. I have to worry about
8 what's in the best interest of the child.

9 MR. KASSENOFF: But me losing every penny is not in
10 the best interest of the child.

11 THE COURT: I absolutely that it's not in the best
12 interest for you to be rendered financially defunct when you
13 are the only person paying expenses. That's why I would
14 encourage all of the parties to hurry up and complete this
15 litigation and to put this matter on the trial calendar and
16 bring it to a conclusion.

17 However, these children have been now engaged in
18 this divorce for two years basically. It's been a highly
19 acrimonious divorce with a lot of moving parts and it's in
20 their best interest to get it resolved quickly, as well.

21 MS. RATNER: And you directed Ms. Kassenoff to pay
22 half of that though?

23 THE COURT: Yes, Ms. Kassenoff pays her half,
24 Mr. Kassenoff pays his half.

25 Ms. Kassenoff you are going to go ahead and

1 complete the financial status to see if, in fact, we can get
2 this scholarship reduced and figure out a way that is
3 financially viable for her to attend this school; is that
4 correct?

5 MS. KASSENOFF: Judge, yes. And that's with
6 regard to the \$3,000.00, Allan and I will have to work out a
7 way to speak directly to the school to break up the bill in
8 half because currently it's a \$3,000.00 invoice that comes
9 directly to me and to him.

10 So he and I will have to sort to work together
11 today to try to figure out how to do this.

12 THE COURT: I think it's very simple.

13 Mr. Kassenoff, you are the custodial parent. I
14 would notify the school that you will be issuing a deposit,
15 50 percent will be paid by you, 50 percent will be paid by
16 Ms. Kassenoff. That's not a complicated issue. Okay.

17 MS. KASSENOFF: Thank you.

18 THE COURT: Irene, did you have something else to
19 do? I have to go back to my hearing.

20 So is there anything else you need on the record?

21 MR. DIMOPOULOS: Can I raise one brief thing that
22 may alleviate some motion practice, your Honor?

23 THE COURT: Anything you can do to alleviate motion
24 practice the Court would be most grateful. I'll be happy to
25 hear it.

1 MR. DIMOPOULOS: You probably have a Diccicos
2 shopping cart of motions in your chambers.

3 THE COURT: This is not the one with the most
4 motions, however.

5 MR. DIMOPOULOS: Okay.

6 So Ms. Kusnetz was provided authority to file a
7 motion to compel a deposition. I spoke to my client about
8 it. I told the Court that I would have a response to her
9 deficiency letter today. I need until tomorrow,
10 Ms. Kusnetz but I will have it for you.

11 MS. KUSNETZ: That's fine.

12 MR. DIMOPOULOS: We will agree to have
13 Mr. Kassenoff, he'll agree to sit for a one further seven
14 hour deposition on any topic Ms. Kusnetz would like to
15 explore, but we would like to limit it to seven hours and
16 one deposition and move this case to completion.

17 THE COURT: Well, actually under the new rules now
18 applicable to the matrimonial part you're only entitled to a
19 seven hour deposition, period.

20 MR. DIMOPOULOS: That's the new rule, which I love.

21 THE COURT: Yes, it is.

22 MR. DIMOPOULOS: So if we can agree to that, the
23 Court can enforce that seven hours and we can avoid that
24 motion which Ms. Kusnetz has to file by the 16th and we can
25 move this matter to its completion.

1 THE COURT: Well, the Court can state here on the
2 record that the new rule is a seven hour maximum period.
3 There's already been two days of deposition for
4 Mr. Kassenoff. The seven hour rule will be enforced.

5 MS. KASSENOFF: Judge, it wasn't a full second day.

6 THE COURT: It doesn't matter. That's far more
7 than the seven hours you're entitled today.

8 MS. KUSNETZ: So excuse me, Judge. That was not the
9 rule that was in place when Ms. Spielberg reserved her right
10 to continue and that's not really fair.

11 THE COURT: I'm not going to argue with you. It's
12 the rule in effect now. I'm the Judge and it's seven
13 hours.

14 MS. KUSNETZ: You're taking away our --

15 THE COURT: I have to go. So we're signing off
16 now. Erica, we need to go to the next hearing. Ms. Ratner
17 you can continue the conference if necessary.

18 Just so we're perfectly clear, I follow the rules
19 in effect at the present time. As of February 1, which is
20 today, the rule is seven hours maximum.

21 Thank you.

22 (Whereupon the virtual conference is concluded.)
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This is to certify that the foregoing is a true and accurate transcript of the stenographic minutes taken within.

ERICA ANDREWS,
Senior Court Reporter

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