

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----x
ALAN KASSENOFF,

Plaintiff,

-against-

CATHERINE KASSENOFF,

Defendant.

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Index No. 58217/2019

Westchester County Courthouse
111 Dr. M.L.King Blvd
White Plains, New York 10601
April 8, 2012

BEFORE: HON. NANCY QUINN KOBA
Justice of the Supreme Court

APPEARANCES:

LAW OFFICE of MARCIA E. KUSNETZ, P.C.
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BY: MARCIA E. KUSNETZ, ESQ.
BY: DIANE STEINER, OF COUNSEL

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Attorney for the Children
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BY: CAROL MOST, ESQ.

IRENE BINDEL, RPR, CSR
Senior Court Reporter

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(Whereupon, the following proceedings
were held virtual via TEAMS.)

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(Plaintiff and Defendant present on
TEAMS conference.)

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MR. DIMOPOULOS: For the plaintiff Gus
Dimopoulos, Esq., and Michael Chiaramonte, Esq.,
and I think my client, looking at the bottom, has
joined the call as well, Your Honor.

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MS. KUSNETZ: Marcia Kusnetz, Esq., Law
Office of Marcia E. Kusnetz, Esq., for the
Defendant Catherine Kasssenoff who I see is on the
line, Your Honor.

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13

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Good afternoon.

15

THE COURT: Good afternoon.

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MS. STEINER: Good afternoon, Diane
Steiner, Esq., for the defendant, Sanctuary for
Families, along with Ruchama Cohen, Esq., and Lisa
Vara, Esq., who may be joining this call.

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

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THE COURT: So I am going to start with
the basic instructions which is I expect
appropriate decorum during this virtual court
appearance.

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25

1 This is in fact a court appearance
2 governed by all rules applicable to a court
3 appearances.

4 There shall be no recordings, streaming,
5 broadcasting of any of the proceedings that
6 occurred here today.

7 I have this conference scheduled for two
8 reasons, one, to complete our discussion regarding
9 the sale of the New Rochelle property and to
10 discuss what we will do with the proceeds if the
11 parties agree to that and also to discuss the
12 Motion Number 24 regarding the materials that were
13 sent to Dr. Abrams.

14 I had thought that I directed the
15 parties to work out a modified access schedule
16 during our prior conference from Ms. Kusnetz'
17 letter I read on April 5th. It doesn't appear
18 that that has occurred.

19 So I will elevate the access issue to be
20 the first issue to be addressed today.

21 Ms. Kusnetz, where are you with that?

22 MS. KUSNETZ: So, thank you very much,
23 Your Honor, for doing that.

24 We sent a letter on March 23rd basically
25 because counsel was unsuccessful in negotiating a

1 modification of the prior access schedule despite
2 Referee Ratner's directive through Your Honor to
3 do so.

4 And Ms. Kassenoff had asked because she
5 cannot afford the twice per week supervised
6 visits, the two hours because as I showed to Your
7 Honor they pay the same travel cost for Ms. White
8 as the time during the visit and a visit can be
9 close to a thousand dollars. It is upwards of
10 \$850 to \$875. It is very expensive.

11 So what we proposed was she would like a
12 once a week visit and to extend the time of that
13 visit which Ms. White said she could accommodate.
14 She just needs the order of the court or agreement
15 of the parties to do that.

16 Your Honor had previously ordered that
17 for a Holiday visit so there is some precedent
18 that it worked fine.

19 It would be once per week on a Saturday,
20 and, of course, my client would like the full four
21 hours that's up to the discretion of the court.

22 With regard to the Zoom visits, she
23 asked for three times per week and to extent the
24 Zoom call to 30 minutes instead of the 15 minutes
25 which is kind of like as Your Honor has seen

1 bedlam with the girls here and about.

2 She would like it staggered so she could
3 at least speak to each of the girls individually
4 and have some one-on-one time which was
5 recommended by Dr. Kuhl in her report. She was
6 very specific about not just with Charlotte but
7 having one-on-one time with each of the girls with
8 their mother and that the access had to be
9 continued and she wanted one-on-one time that was
10 a big thing in her report.

11 So that's what we had proposed. My
12 co-counsel had proposed it before I wrote the
13 March 23rd letter. We have been going back and
14 forth and unfortunately the answer was just no
15 and unless my client would go back to the original
16 court order, there would be no access whatsoever.

17 Ms. White said I will not schedule an
18 visit unless there is an agreement of the parties.
19 And I know that the father is bringing the girls
20 to the mother's house.

21 THE COURT: Let me just stop you there,
22 if I understand.

23 Mr. Dimopoulos, why would that be
24 something the father --

25 MR. DIMOPOULOS: Judge Koba, forgive me,

1 I don't know what letters you have the ability or
2 time to read and what you don't.

3 But Ms. Kusnetz' comments was that the
4 answer was just "no" is completely inaccurate.

5 THE COURT: Okay, because I didn't see a
6 response by you.

7 MR. DIMOPOULOS: The response, Judge,
8 there have been so many letters I wouldn't blame
9 you --

10 THE COURT: I know. I loose track.

11 We're here today to try to reach a
12 modification.

13 MR. DIMOPOULOS: It is very simple. The
14 accurate facts are as follows:

15 First of all, the Court has to know on
16 February 20th Mrs. Kassenoff sent an e-mail to
17 everybody.

18 THE COURT: Mr. Dimopoulos, let's assume
19 that I am familiar with the case because we seem
20 to have a conference every other week.

21 I am at the point today where there has
22 been a proposal that has been presented which off
23 the top of my head it does not appear to be
24 unreasonable to address the concerns of the cost
25 but also I think at this point in time one-on-one

1 time with the mother and each child is probably a
2 good idea. So I am just trying to figure out what
3 Mr. Kassenoff --

4 MR. DIMOPOULOS: What we had said, Your
5 Honor, is very simple.

6 We said in our letter, it is written to
7 Your Honor on March 26th, we didn't say no. What
8 we said was that Your Honor heard testimony for
9 ten days and made an informed decision to have two
10 visits of two hours each.

11 The purpose I believe without reading
12 Your Honor's mind is Dr. Abrams' testimony that he
13 said frequent short visits would be better.

14 So what I wrote to them is inherently I
15 don't have a problem with it but I don't believe
16 it is in conformity with Judge Koba's Order which
17 specifically said two hours. So I don't think
18 four straight hours is fine And then I said we
19 need the Court's position on this.

20 As for the Zoom calls, the Zoom calls, I
21 have watched every single one, Your Honor.

22 They are not -- and this is not to say
23 anything negative about Mrs. Kassenoff -- they are
24 15 minutes now and the kids have a very, very
25 difficult time with it.

1 By enlarge Ally is the only one that is
2 on the call the entire time and she is usually
3 gathering her sisters from various parts of the
4 house trying to get them on the call and they are
5 dancing and they are flipping, 30 minutes while
6 again, Mr. Kassenoff does not have a problem with
7 either of these, it is going to be a big mistake.

8 It is going to be a mistake.

9 It is going to make it harder for the
10 kids and all that.

11 Now in balancing what is good for the
12 kids versus Ms. Kassenoff's pocket, I don't think
13 it makes any sense. In terms of one-on-one time,
14 again, I watch the calls. She has it during these
15 frequent 15 minutes calls. She says as a matter
16 of fact, Ally, go get Jojo. I want to talk to
17 Jojo. Jojo comes on the call. She talks to her
18 for a couple of minutes. Okay, Jojo, go get
19 Charlotte. Charlotte comes on the call. That is
20 happening now.

21 To double the length of the time and
22 Your Honor will also recall that when we took
23 testimony in July, Carmine Candelario who was
24 doing the Zoom visits for a period specifically
25 testified it was a mistake to having these calls

1 longer. The girls are having a hard time with it.

2 Now, again, what we are advocating is
3 that she use her court ordered time. That is five
4 days a week, 15 minutes, we're saying that's fine
5 or if she wants to change it to two times a week
6 for 30 minutes.

7 THE COURT: I thought it was three times
8 a week.

9 MR. DIMOPOULOS: Oh, I am sorry.

10 So it is three times a week for 30
11 minutes. It is not the duration or the time, it
12 is practicalities and the problem is we have not
13 said no to anything. We have just said we can't
14 stipulate to four hours without the court opining
15 on it. It is as simple as that.

16 THE COURT: Okay, here is my thought
17 process -- Ms. Most, let me just hear what you
18 have to say.

19 MS. MOST: (No response.)

20 MR. DIMOPOULOS: You're muted, Carol.

21 THE COURT: You're muted.

22 MS. MOST: Sorry.

23 I spoke with all three girls this week.
24 I just want to let Your Honor know that they all
25 consistently have told me now that they want to

1 live with their father all three.

2 They feel that the Zoom calls are very
3 boring. They are willing to do it but they don't
4 love them.

5 They feel that they are very boring.
6 Two of the girls said that, Ally did not have that
7 opinion.

8 They all have told me that they want to
9 see their mother only one time each week.

10 So I didn't ask them about time and the
11 length of the visit but that was their position.
12 I would be concerned about having a 30 minute
13 block of time where the ten minutes for each girl
14 and then it is their responsibility to get the
15 other child who is up next to be on the call.

16 What I would prefer is one call for each
17 child. Let the mother have the whole call. The
18 child knows this is your appointment today.
19 That's what I would prefer for the girls
20 otherwise it is going to be more chaos.

21 THE COURT: I don't necessarily have a
22 problem with that.

23 I do agree at this point in time that
24 the mother should be having communication
25 one-on-one supervised with the children.

1 Now, whether that is call each child
2 separately or I don't know how you want to do that
3 but I think it is something that maybe you want to
4 do it by days.

5 15 minutes one day with one, 15 minutes
6 with the next and balance it off. That way the
7 mom has one-on-one time because every child has a
8 different issue or different concern or different
9 thing they want to talk about. Then everybody
10 knows there is a schedule and they have to adhere
11 to it. You know Ally who I saw running around the
12 house and trying to gather up the other sisters.

13 In terms of the time I think if we were
14 ever to transition to more access to the mother as
15 we progress, then we need to start that. It has
16 been a long enough period of time. How did the
17 visit go -- when was that, Christmas, when we had
18 the longer period of time?

19 MR. DIMOPOULOS: There were no issues
20 with that.

21 MS. KUSNETZ: No issues, Judge. It went
22 very well.

23 THE COURT: So I think it is probably
24 better for the children too than it is one set at
25 a time, four hours, more normalized visit and then

1 they still have time to plan their schedules
2 because they are at the age where they are busy
3 and they want to talk to their friend and do other
4 things.

5 Now I don't know what their schedule is
6 on Saturday in terms of picking a time that should
7 be consistent for this visit with the mother so
8 everybody knows this is occurring.

9 MS. MOST: So I think part of that will
10 depend on Ms. White's schedule when she can
11 arrange to do it.

12 MS. KUSNETZ: So that's a problem,
13 Judge, because we just got an e-mail from
14 Ms. White where she, you know, we asked what the
15 ability was for April. She had many more dates
16 that clearly have disappeared and her next date is
17 April 18th. But she would not book it unless it
18 was an agreement by the parties or a court
19 directive and then when we said, well, this is a
20 large organization and many of us, including my
21 co-counsel, have used them on many cases. There
22 are other therapeutic supervisors. And she said
23 that would be up to Ms. Most, whether Ms. Most
24 would agree to substitute a different supervisor
25 for a visit. I have never heard of such a thing.

1 I have never heard of that.

2 THE COURT: I don't think it is up to
3 Ms. Most.

4 MS. MOST: I don't think so either, Your
5 Honor. That should not come from me.

6 THE COURT: It is very simple.

7 I would prefer to have a time period on
8 Saturday that is consistent based upon the
9 children's schedule that therapeutic supervision
10 occurs.

11 And as long as it is a therapeutic
12 supervisor that should not be an issue whether it
13 is Ms. White or somebody else from the same
14 organization and has the expertise.

15 Mr. Dimopoulos?

16 MR. DIMOPOULOS: Your Honor, I do not
17 believe that is -- I don't agree with that at all.

18 The reason is that consistently
19 throughout this case we saw first with
20 Ms. Candalerio and we're seeing it now again when
21 the supervisor starts -- look, Ms. Kassenoff is
22 not during these visits a physical danger or she
23 is not doing anything outwardly dangerous towards
24 the kids. What is happening here from our
25 perspective is covert and, your know, in code

1 language manipulation.

2 THE COURT: You don't have to explain it
3 to me. I have been on the case which is why I
4 said supervised therapeutic individual and my
5 understanding of that is that every person to
6 present as that has had the particular training
7 required in order to act as a therapeutic
8 supervisor whose job is to monitor the
9 communications and interactions between the
10 parents, be alter for whatever you referred to as
11 "code," and intervene appropriately.

12 This organization, I assume, that
13 Ms. White is not the only one in the organization
14 that has been so trained.

15 Hold on, Ms. Kusnetz, I am talking to
16 Mr. Dimopoulos.

17 MR. DIMOPOULOS: One can be properly
18 trained but unless they have the experience and
19 the facts of seeing what she has seen and knowing
20 what to look for. So you know I frankly don't
21 understand. Making a supervisor switch is a
22 mistake.

23 THE COURT: I am not making a supervisor
24 switch. I am saying that when Ms. White is not
25 available, I think another person from that

1 organization should be able to supervise the visit
2 so the children know on this day, at this time,
3 they see their mother.

4 MR. DIMOPOULOS: Perhaps we should first
5 learn -- my take from Chava White's e-mails were
6 that she wasn't going to set something in her
7 schedule right away unless she knew it was going
8 to continue.

9 She may find some time.

10 I think it would be prudent for us to
11 find out first what her availability is now. If
12 there is going to be a follow-up court order and
13 say this is going to continue and when can you do
14 it.

15 If not, I would say find someone else in
16 the organization provided Ms. White could brief
17 them on her involvement and that person would read
18 the reports and know what is going on that would
19 be my suggestion.

20 MS. KUSNETZ: Excuse me, I don't think
21 we have to micromanage how CFS, you know, assigns
22 its therapeutic supervisor to a case or how they
23 advise each other or if they review reports. That
24 is the organization that has been picked by the
25 court in this proceeding.

1 But I want to say something --

2 THE COURT: I would expect that the
3 supervisor regularly assigned to a particular
4 family would touch base with any other supervisor
5 who is coming in to handle for a particular day,
6 just like as an attorney, I would brief someone
7 who is covering for me on a particular day.

8 I think that would just be a matter of
9 professionalism that I assuming this organization
10 has.

11 MS. KUSNETZ: I am sure they have a
12 protocol, Your Honor.

13 What I am trying to say is this. In
14 reading Dr. Kuhl's report, right, she, you know,
15 Ms. White spoke with her, Dr. Adler spoke with
16 her, Dr. McGuffog spoke with her.

17 So it is a really telling report about
18 the informal and improper diagnoses of Charlotte
19 with a butting personality disorder which she --

20 THE COURT: I am not going there. I am
21 just trying to work on a schedule, okay.

22 So I am telling you what I want.

23 I want Saturday a four hour period that
24 is blocked out that everybody knows that time on
25 that Saturday belongs to the mother and the

1 children.

2 We need to start moving forward and try
3 to work out a way to hopefully increase this
4 access at some point; not at the present time
5 because I want my update from Dr. Abrams. And I
6 will discuss that after this but I want the
7 schedule.

8 So in terms of one-on-one time with the
9 girls, each who are different ages and have
10 different attention spans, maybe I would recommend
11 that one day, you know, it rotates. Monday can be
12 Ally. Tuesday can be Charlotte. Depending on
13 their schedules. Wednesday Jojo and so forth.
14 So she has her one-on-one time with the children
15 with some flexibility, if somebody is having a
16 particular crisis, they may be able to interrupt
17 the schedule.

18 But generally so the girls know that the
19 whole point is consistency when they are speaking
20 with their mother and their expectation is that
21 they will be present at the call when it is their
22 turn, their time, their private time.

23 MS. KUSNETZ: So, Judge, with regard to
24 that, Judge, because that really would kind of
25 limit a child speaking to their mother just once a

1 week which is not what we want.

2 THE COURT: I am not doing it once a
3 week. I am saying every other day they do it.
4 Then if there is an issue, they can ask the mother
5 to speak in it and then they will see them on
6 Saturday.

7 We tried the 30 minutes calls before.
8 It does not work.

9 MS. KUSNETZ: So you want, so for
10 example, 15 minutes on Monday with Ally and 15
11 minutes on Monday with Jojo and then it
12 alternates?

13 THE COURT: No, I am going to continue
14 that 15 minute call or if you want to do a 20
15 minute call. 30 minutes does not work. We have
16 done it before. Let's do a 20 minute call and
17 break it up so the kids know.

18 Ally obviously is the older person with
19 the greater attention span to spend on the call.
20 Jojo is the youngest. What is she? Six? Seven
21 now? Her attention span is not the greatest. She
22 likes to be physically active and stuff. You
23 might have a shorter time with her.

24 So I don't know maybe -- you guys can
25 work out the schedule. I mean maybe 20 minutes is

1 a little better. You get a little more time. You
2 have one primary person and then at the end you
3 say I want to say goodbye.

4 MS. KUSNETZ: Because, Your Honor, we
5 have to really hammer it down right now because if
6 we leave this phone call and we don't have an
7 absolute directive from Your Honor like last time,
8 it will be another three weeks that she doesn't
9 have access.

10 THE COURT: Here it is, Saturday, what
11 time of the day works best, Mr. Kassenoff?

12 MR. DIMOPOULOS: Your Honor, the kids
13 play soccer on Saturday. He does not yet have the
14 schedule. So we don't know. And this is
15 something that all the kids do and love and have
16 been doing it for years.

17 We need to -- certainly there is a four
18 hour block of time that will work but until we get
19 that schedule we don't know.

20 Secondly, Ms. White may say I am
21 available 10 to 2 and that works out.

22 Look, Your Honor said four hours on
23 Saturday, we will make that happen. We just don't
24 know when.

25 THE COURT: Good.

1 MR. DIMOPOULOS: As far as the phone
2 calls, again, it has been said time and again we
3 are obstructing.

4 Right now there is a court order
5 permitting a call five days a week for 15 minutes
6 that is not being exercised by one person.

7 We are fine with continuing that.

8 If Ms. Kassenoff wants to change that,
9 fine. Give us the day she wants to do it. Tell
10 us how long it will be and we'll comply as Mr.
11 Kassenoff always has.

12 THE COURT: Let's do it now.

13 What days of the week are you going to
14 speak to them, Ms. Kassenoff, what days work best
15 for their schedule?

16 MS. KUSNETZ: Catherine, can you hear
17 the judge?

18 CATHERINE KASSENOFF: Oh, I am sorry.

19 THE COURT: Ms. Kassenoff, what
20 happened? I am actually asking to talk to her.

21 CATHERINE KASSENOFF: Yes, I know. I am
22 sorry, Judge. I am not sure of their schedules. So
23 I was thinking Mr. Kassenoff --

24 THE COURT: Mr. Kassenoff, what's the
25 best day based on their schedule?

1 ALLAN KASSENOFF: Your Honor, it really
2 doesn't matter if it is at 6:30. That time has
3 been locked for as long as I can remember.

4 THE COURT: We'll keep it at 6:30.
5 What days of the week do you prefer,
6 Ms. Kassenoff?

7 MS. KUSNETZ: So my question is this:
8 So now if it is a 20 minute call, right, and 15
9 minutes is with one child, just so she
10 understands, 15 minutes is with one kid each of
11 the days, it is at least three, right?

12 And then the last five minutes everybody
13 says goodnight to Mommy, like whoever can jump on.
14 Am I clear about that, Judge?

15 THE COURT: That makes sense to me so
16 she can actually have one-on-one time with the
17 children.

18 MS. KUSNETZ: Okay.

19 THE COURT: Like Ally probably has a
20 greater attention span than Jojo.

21 MS. KUSNETZ: So my point is, it doesn't
22 just have to be three times a week. If she wants,
23 she can do one-on-one time for the five days; is
24 that correct?

25 THE COURT: She can do five days at

1 20 minutes, yes.

2 MS. KUSNETZ: Okay.

3 CATHERINE KASSENOFF: Thank you.

4 MS. KUSNETZ: Catherine, is that good?

5 CATHERINE KASSENOFF: That would be
6 great, Judge. Thank you. I appreciate that.

7 MR. DIMOPOULOS: Hold on, hold on.

8 I can't tell you how many hours of work
9 I have spent on this and now they're saying they
10 are going back to the five days a week?

11 MS. KUSNETZ: No, but it is different.
12 It is one-on-one time.

13 THE COURT: I changed the time based
14 upon the input from Carol Most.

15 MR. DIMOPOULOS: So now we're -- I am
16 unclear, so, please, Ms. Kusnetz, tell me again.

17 THE COURT: I will tell you what it is.

18 Five days a week phone calls; the Zoom
19 calls will continue.

20 We will expand them to 20 minutes.

21 Of that 20 minutes of time, one child
22 will have like 15 minutes and the other two will
23 have time to come by and say hello unless somebody
24 has a crisis.

25 MS. MOST: Your Honor, if we could get a

1 schedule, so I can tell the girls Monday is Ally's
2 time, Tuesday is Jojo, and Wednesday is Charlie
3 and so on and so forth because otherwise they have
4 to know when it is their time.

5 THE COURT: I will do it for you.

6 Monday is Ally.

7 Tuesday is Charlotte.

8 Wednesday is Jojo.

9 Thursday is Ally.

10 Friday is Charlotte and then Jojo we can
11 like sort of squeeze her in there because until
12 she gets a little older I don't see her attention
13 span lasting very well here.

14 MS. MOST: She doesn't particularly like
15 the calls -- not that they doesn't want to speak
16 with her mother -- she just finds them very boring
17 and she has a hard time paying attention.

18 THE COURT: That's what I am saying.
19 Wednesday she will have her private time. We'll
20 see how that goes. And then Thursday or Friday
21 she can be coming on the five minutes there which
22 is basically pretty much what she wants to do, Hi,
23 Mommy, I love you, Mommy, just face contact with
24 her mother.

25 Is that alright, Ms. Kassenoff?

1 I think it is the older ones you really
2 need the one-on-one time with?

3 CATHERINE KASSENOFF: Judge, I think
4 that is right. I am okay with that schedule.
5 Thank you.

6 MR. DIMOPOULOS: Your Honor, I would
7 like to say one thing for the record.

8 THE COURT: Everybody has the schedule?

9 MS. KUSNETZ: I wrote it down. Monday
10 Ally, Tuesday Charlie, Wednesday Jojo, Thursday
11 Ally and Friday --

12 THE COURT REPORTER: I am sorry, I
13 cannot hear with all the background noise.

14 THE COURT: Ms. Kusnetz, you can clearly
15 state the schedule so it is clear.

16 MS. KUSNETZ: So the prior supervised
17 access schedule is amended so that the mother will
18 have one-on-one Zoom calls or, I am sorry,
19 one-on-one supervised calls with the children, I
20 guess with that new platform it is not Zoom.

21 Monday 15 minutes with Ally, five
22 minutes for the girls to come in and say, Hi, mom,
23 how are you? 20 minute call.

24 Tuesday 20 minute call, 15 minutes with
25 Charlotte, five minutes for the girls to come in

1 and say, Hi, I love you mom.

2 Wednesday Jojo 15 minutes, one-on-one
3 time with mom. Then five minutes for the girls to
4 collectively say so long.

5 Thursday, again, Ally 15 minutes and
6 then five minutes for the girls to get on the
7 phone call and say hello to their mom.

8 Friday is Charlotte and that is
9 15 minutes and then the remaining time should be I
10 guess for Jojo to come in and have a little time
11 with mom.

12 THE COURT: Right.

13 Everybody clear on that?

14 MS. KUSNETZ: And that this can start
15 immediately, Judge.

16 I mean Carlos has been wonderful in
17 saying he is ready. He is ready to start again.

18 THE COURT: Yes, it can start
19 immediately. Just give Ms. Most a time to tell
20 the children. So as of tomorrow you can start it.

21 MS. KUSNETZ: Okay, and then with regard
22 to in-person visits Your Honor is modifying the
23 prior order to permit one week visits on Saturday
24 for a consistent four hour block of time and that
25 we will know -- we will communicate with CFS to

1 assure that they can have a supervisor for a
2 consistent Saturday visit every week for a four
3 hour block and the father is to -- should let us
4 know today or as soon as possible what that
5 schedule looks like on Saturday but if there is no
6 -- if there is soccer for this Saturday, we would
7 like to start it this Saturday.

8 So we would like to know what the
9 schedule for the girls is to start this week. My
10 client hasn't seen the girls since February 16th.

11 THE COURT: I don't think anybody is
12 disputing that as long as Ms. White is available
13 and Mr. Kassenoff.

14 MS. KUSNETZ: I don't know that Ms.
15 White is available, Judge. She said she wasn't
16 able on the 18th.

17 THE COURT: What's this week? It is on
18 the 18th.

19 MS. KUSNETZ: Not yet, it is the 10th.

20 THE COURT: Let's check and see, okay.

21 MR. DIMOPOULOS: Your Honor, can I make
22 a couple of points, please?

23 THE COURT: Yes.

24 MR. DIMOPOULOS: Much has been made
25 about my client and his nanny being on or near the

1 calls and all these things.

2 So he cannot nor will the nanny who has
3 been falsely accused too be anywhere near these
4 calls. They will set the kids up on the call and
5 they will leave. They will be not able to police
6 who is on the call, who comes at this time, that's
7 Ms. Kassenoff's responsibility. I just wanted to
8 mention that.

9 No one is going to be gathering the kids
10 for the last five minutes. We will notify the
11 children or Ms. Most will of what the schedule is
12 and my client should not be responsible for
13 policing it.

14 The second thing is that we are
15 having -- one of the reasons I was having an issue
16 with Mr. Malave that there were various calls that
17 were not recorded. He tried to recover them. He
18 couldn't. There was an issue. It doesn't matter.

19 What I had recommended was going to
20 another platform that I heard works a little
21 better. I just would like the Court's opinion, if
22 there is no confirmation that the call is being
23 recorded, or there is something wrong, the call
24 should terminate.

25 All calls should be recorded. That's

1 all. If we find out later there is nothing we can
2 do but if there is an indication that the call
3 cannot be recorded it should not occur.

4 And the last point I want to make, since
5 August, my client has been dropping the kids off
6 and picking them up from the visits, okay.

7 There is no order as to who does pickups
8 and drop offs.

9 The problem is this, there have been
10 many things going on with threats made to my
11 client about when he is going to go near her house
12 or when he is going to her house.

13 Ms. Kassenoff or the supervisor should
14 pickup and drop off the kids. My client doesn't
15 want to go anywhere near the New Rochelle
16 residence when he is being threatened with calls
17 to the police because of this or that.

18 He has no responsibility under the
19 Court's order to pick them up. Ms. White can pick
20 them up or the other supervisor can pick them up
21 or drop them.

22 If the visit is four hours and
23 15 minutes to accommodate my client --

24 THE COURT: I don't think that Ms. White
25 drives, does she?

1 MS. MOST: She does drive but I don't
2 think she can expected to pick up the children and
3 drop them off. Perhaps she can accompany
4 Ms. Kassenoff but it is not something you can ask
5 the supervisor for.

6 THE COURT: One person at a time.

7 MR. DIMOPOULOS: My client is being
8 threatened every time he goes near the house, I am
9 going to call the police, don't go near my house.
10 He is not doing it. It is not fair to him. The
11 false allegations are too much, okay.

12 THE COURT: I don't see what the issue
13 is. He stays in the car, Ms. White comes and gets
14 the children and leaves with the children and he
15 and Mrs. Kassenoff don't have to see each other.

16 She stays in the house.

17 MS. KUSNETZ: There is no issue, and
18 there has never been one issue with regard to
19 dropping the children. Usually the nanny does it,
20 dropping the children at the house and picking
21 them up. There has never been an issue with
22 regard to that. I also remind the court it is --

23 THE COURT: Stop.

24 We have two other issues and then we are
25 done.

1 Let me make it clear, the stipulation
2 will state that the father or the nanny will drive
3 the children to the mother's house, stay in the
4 car, and the supervisor will come out to retrieve
5 the children and bring them in the house and to
6 return them to the father or the nanny.

7 Mrs. Kassenoff, during that exchange,
8 you need to stay in the house with the door closed
9 and not participate at all; okay?

10 CATHERINE KASSENOFF: Yes, Judge, I
11 always do that.

12 THE COURT: Okay, this way we eliminate
13 any potential issue.

14 That's done.

15 MR. DIMOPOULOS: Are we going to be
16 entering an order?

17 THE COURT: Draft a consent order.

18 MS. KUSNETZ: Can I just --

19 THE COURT: No, we're done with that
20 issue, Ms. Kusnetz.

21 MS. KUSNETZ: He raised a recording
22 issue, Judge, which I don't agree with.

23 THE COURT: The visits can go. If for
24 some reason the recording is broken because that's
25 what the supervisor's job is, so if the supervisor

1 is present and the recorder breaks or malfunctions
2 for some reason, the supervised visit can
3 continue.

4 If it turns out that every day the
5 recording does not work, then you will have a
6 problem. As long as the supervisor is present and
7 that's the supervisor's job, the visit can
8 proceed.

9 MS. KUSNETZ: Thank you.

10 THE COURT: With an explanation as to
11 what happened with the recording. But if I find
12 out that I am getting a recording every week or
13 every other, then I will have an issue with
14 something not working properly, okay.

15 Dr. Abrams -- we're moving on,
16 Ms. Kusnetz, I have a finite period of time.

17 Ms. Kasssenoff --

18 CATHERINE KASSENOFF: Yes, Judge.

19 THE COURT: -- we contacted Dr. Abrams.
20 I received communications from him that you are
21 currently scheduled for April 29th.

22 CATHERINE KASSENOFF: Well, Judge, I just
23 received an e-mail -- at first he put it off until
24 early May I believe and I asked him --

25 THE COURT: You weren't going to have

1 14 days you thought after your second shot.

2 CATHERINE KASSENOFF: Judge, look, I
3 don't need that 14 days. I have had my first
4 shot. I am willing to do it earlier and I would
5 prefer it.

6 THE COURT: April 29th, I am going to
7 tell him, you will leave that time.

8 CATHERINE KASSENOFF: There is nothing
9 earlier. Like even a half day?

10 THE COURT: No. He is like booked. This
11 is him trying to juggle his schedule to get us in
12 there.

13 Maria, is she still here?

14 MS. KUSNETZ: I see here.

15 THE COURT: As far as Dr. Abrams goes,
16 Mrs. Kassenoff will keep the April 29th
17 appointment, that will go forward because
18 otherwise he will not be able to address this for
19 a very significant period of time.

20 Now I received something about Mrs.
21 Kassenoff wanting to record that. That is
22 absolutely not going to happen Mrs. Kassenoff.

23 MS. KUSNETZ: She already agreed not to
24 do that, Judge.

25 THE COURT: We don't have to go on. If

1 it is not an issue, that's good.

2 Let's talk about I received the updated
3 financials.

4 You can have an extension of time to
5 respond to the motion, Ms. Kusnetz.

6 What about this house in New Rochelle?

7 MR. DIMOPOULOS: Your Honor, I am sorry,
8 excuse me.

9 THE COURT: Hold on, Ms. Kusnetz. One
10 person at a time or my court reporter sign out and
11 will just stop me. One person at a time.

12 So, Mr. Dimopoulos.

13 MR. DIMOPOULOS: We were talking about
14 Dr. Abrams. I don't know whether or you not you
15 are coming back to the issue of the materials.

16 THE COURT: Right.

17 MR. DIMOPOULOS: Can I have brief
18 update, Your Honor?

19 THE COURT: Would you like to see what
20 happened when I went through your list?

21 MR. DIMOPOULOS: I redacted it.

22 THE COURT: I crossed off 90 percent of
23 what you had on this list.

24 Everyone is sending to me before it goes
25 to Dr. Abrams what they intend to submit and I

1 will make a decision as to whether or not that
2 material is going to be shown to him.

3 I went through this 17-page document. I
4 can tell you 85 percent of this, I deemed not to
5 have been appropriately forwarded to him.

6 So there is no misunderstanding, he is
7 the neutral whose job is to advise the Court of
8 his opinion based upon his profession experience.

9 He is a neutral.

10 He is not to be getting comments on the
11 side from the other parties. In fact if you read
12 the order no one is allowed to talk to him ex
13 parte.

14 Putting in a comment on a piece of paper
15 to him, that's ex parte communication with him. He
16 is looking at data that accrued from the last time
17 he met the people up until the present time. That
18 would be medical records, therapy records, videos
19 that occurred between that time without
20 commentary.

21 So everybody is sending to me a list of
22 what they intend to show and I will decide if it
23 is appropriate or not.

24 MR. DIMOPOULOS: Your Honor, did you
25 have occasion to read Mrs. Kassenoff's submission.

1 THE COURT: I did not. That's why I
2 just said everyone has to send it to me.

3 MR. DIMOPOULOS: Because here is the
4 problem, okay --

5 MS. KUSNETZ: Judge, when would you like
6 that by?

7 MR. DIMOPOULOS: Can I please get a
8 chance to speak without being interrupted?

9 THE COURT: No. There is no need to do
10 it. I just said "everybody." That includes
11 Ms. Kusnetz.

12 MS. KUSNETZ: I just asked when would
13 you like the list?

14 THE COURT: By the end of the week, I
15 will read through what you are sending.

16 MS. KUSNETZ: By tomorrow?

17 THE COURT: I will decide what is
18 appropriate and what is not appropriate and nobody
19 will be sending a commentary to Dr. Abrams
20 describing any of these items.

21 He is a professional.

22 I will give him credit that if he picks
23 up an e-mail, he can read it and figure out what
24 it says, okay.

25 I don't need to review the Zoom calls

1 because I don't have time to do that. But you can
2 state "Zoom call April 20th" and we can trust the
3 gentleman to understand that when he reads it, he
4 is seeing what he is seeing and hearing what he is
5 hearing without somebody telling him or putting a
6 spin on it.

7 There is no spinning.

8 This is my neutral individual whose job
9 is to evaluate this and help the court in making a
10 decision on this extraordinary critical issue.

11 Ms. Kusnetz send me yours by the end of
12 the week. Ms. Most send me yours by the end of
13 the week.

14 MS. KUSNETZ: Tomorrow I am on trial.

15 THE COURT: Next Friday is fine.

16 You need to send it to me by Friday
17 April 16th so I can look at it before he meets
18 with Ms. Kassenoff because he does not have time,
19 okay.

20 And I do not want this to get pushed any
21 further. This case needs to move forward. It is
22 almost two years old now.

23 MS. MOST: Your Honor, I do not send
24 documents to Dr. Abrams.

25 THE COURT: Okay, perfect.

1 Then the other people that send
2 documents need to send me their information.

3 MS. MOST: Absolutely. Thank you.

4 MR. DIMOPOULOS: Your Honor, just so I
5 am clear, do you want to see the list of documents
6 or do want to see all the documents as well. Do
7 you want us to send the link of the drive?

8 How do you want it? Just so I am clear.

9 THE COURT: You should send me a link to
10 the drive because if there is anything I have a
11 question on, I will look at it.

12 But I can tell you looking at yours
13 right now, letters to the court, no, court
14 transcripts from conferences I had with the court.
15 No.

16 What I see in here that is appropriate
17 are supervisors' reports, your reports from your
18 Dr. McGuffog, your identification of supervisors
19 without a commentary such as she was fired after
20 she testified. No.

21 Just your video files.

22 What you did in your first two columns
23 is appropriate. You list the video file and the
24 date. That's what you are supposed to be putting
25 in. Not a commentary that says "many of these

1 files are evidence in the custody hearing." You
2 know that's not relevant to him. He doesn't need
3 to know that.

4 MR. DIMOPOULOS: I heard your ruling.

5 I understand you can pick out a few. A
6 lot of times, look, the forensic gets a lot of
7 data. He is not going to be able to look at all
8 of it.

9 When I quote from an e-mail it lets the
10 forensic know what data I am looking at.

11 THE COURT: Here is the problem that you
12 have with that, then out of all the stuff you are
13 doing, you are designating for him what you think
14 he should look at.

15 No. No.

16 MR. DIMOPOULOS: I think he should look
17 at all of it but I get it. Your Honor, I heard
18 you loud and clear.

19 MS. KUSNETZ: Thank you, Judge, next
20 Friday.

21 THE COURT: Now let's go back to New
22 Rochelle.

23 MS. KUSNETZ: We had suggested all the
24 way back I believe in December --

25 THE COURT: The only thing I need to

1 know from you is your client willing to stipulate
2 to the disbursement of some portion of the
3 proceeds to each party as an advance on equitable
4 distribution so that she will have funds available
5 to find another place to live?

6 MS. KUSNETZ: So I would like to do this
7 in two parts, so basically lets get the house on
8 the market immediately and then when it sells, I
9 don't know what the situation will be at that
10 particular time or where we will be in this case,
11 but I would say that the funds initially go into
12 escrow and then when she needs to get a down
13 payment or she locates where she going to be near
14 the children, then I would send Your Honor a
15 proposal as to the amount that she will need.

16 She may not need the 50 percent of the
17 net equity and frankly until equitable
18 distribution is determine by this Court and there
19 is a resolution of all of the outstanding issues,
20 we should not be distributing or designating
21 liquid funds.

22 She needs shelter. Thank you but at
23 that time let us make a specific proposal, she
24 found this condo, this is exactly what she needs.
25 It may not be 50 percent. It will be entirely

1 specific to what she needs, Judge.

2 THE COURT: I am not saying I would
3 agree to disburse 50 percent of whatever the net
4 proceeds are.

5 MR. DIMOPOULOS: Let me make it simple.
6 If the proceeds are not distributed, then my
7 client does not consent and it will be sold after
8 the judgment of divorce is entered.

9 MS. KUSNETZ: We can't do that. We have
10 the law of the case.

11 THE COURT: We already have an order
12 directing it be sold, don't we?

13 MR. DIMOPOULOS: Your Honor, the order
14 was on consent and he is revoking his consent.

15 And on top of that --

16 MS. KUSNETZ: No, actually --

17 MR. DIMOPOULOS: -- excuse me.

18 THE COURT: Ms. Kusnetz, stop.

19 MR. DIMOPOULOS: The order was entered a
20 long time ago, number one.

21 Number two, my client has just paid
22 Ms. Most over \$75,000. He has paid me hundreds of
23 thousands of dollars. Every time he needs money,
24 Your Honor, to pay counsel fees or the expenses,
25 he goes into his brokerage account and sells stock

1 and incurs a 25 percent tax.

2 As you can see from the documents I
3 sent, he has \$161,000 capital gains just to pay
4 for this litigation and his expenses.

5 That is patently unfair.

6 That wasn't the case when he consented
7 last time and he needs liquid assets.

8 So this Court Under 234 and under Hann
9 v. Hann --

10 THE COURT: Hold on, hold on, hold on.

11 Maybe I am obtuse but if you sell the
12 house and you get net proceeds that becomes the
13 liquid asset that he can use, right? Why delay
14 it?

15 MR. DIMOPOULOS: Because they are
16 refusing to sell unless the proceeds are held in
17 escrow.

18 We are saying we'll sell it tomorrow but
19 the proceeds get released 50/50 to the parties.
20 It is as simple as that.

21 THE COURT: Why?

22 MS. KUSNETZ: Judge, we have law of the
23 case.

24 This was not a consent order.

25 He submitted it. It is a so order that

1 this house be sold. There were no such conditions
2 before, net proceeds of the sale were going to go
3 into an escrow account. We have not resolved
4 equitable distribution in this case and you know
5 what I am sure at that point if the plaintiff, you
6 know, who is only earning over \$900,000 --

7 THE COURT: We don't need to keep going
8 that way.

9 MS. KUSNETZ: You get my point, Judge.

10 MR. DIMOPOULOS: This is not going to
11 happen.

12 The reason why they want to lock the
13 proceeds up -- the absurdity of it, and I have to
14 make my record, the absurdity of someone who is
15 now telling this court I need to see my children
16 less because I have no money, I have to heat my
17 house with firewood because I can't pay my bills.

18 And now coming to court and when she has
19 the ability to get hundreds of thousands of
20 dollars put in her pocket, she says no, put it in
21 escrow.

22 Why do we think that? Why?

23 It is very simple so she can continue
24 with this impoverished ruse and keep coming to the
25 court for counsel fee applications and maintenance

1 fee applications, so if counsel thinks that a
2 prior order entered with my consent --

3 THE COURT: Mr. Dimopoulos, I appreciate
4 that you think I was born at night but I wasn't
5 born last night, okay, and I am not naïve. I
6 think I have established that in the appearances
7 that you have had before me.

8 So we can all stop because I can go on
9 and on about both sides here, so that's it.

10 You are not going to sell the house
11 right now. You are going to sell it after the
12 judgment comes out.

13 Hopefully it wouldn't crash too much and
14 you will have a better market and you will not
15 have the same difficulty that you have now because
16 you paid a million four for a house that now even
17 in hottest market that has been in twenty years,
18 you can't get an offer of a million dollars.

19 Hold on to the asset and hope that it
20 doesn't get in a worse condition now with equity.

21 Do what you want to do, okay, but don't
22 have a conversation where you think I don't get
23 what is going on because I do from both sides.

24 MS. KUSNETZ: Your Honor, what I said to
25 you was we want the house sold. There is an order

1 of this Court to sell it.

2 It is the law of the case.

3 We do not agree that it be held post
4 judgment of divorce and upon the sale what we do
5 in every single case is the proceeds of sale
6 before ED is decided go into escrow. Either side
7 can make an application.

8 THE COURT: I have plenty of cases where
9 they agree that a certain percent of the proceeds
10 will go out to pay legal fees or to get another
11 place to live. So it is not black and white like
12 that.

13 MS. KUSNETZ: So let them make an
14 application as to what they need from that.

15 This is a man who just sold \$400,000 of
16 stock, okay, and didn't tell anybody. It is a man
17 who got a forbearance and two mortgages of \$18,000
18 a month and didn't tell you.

19 THE COURT: I am sorry, the stock that
20 he said was that not separate property?

21 MR. DIMOPOULOS: Yes.

22 MS. KUSNETZ: But he had that money.

23 THE COURT: Let us stop because right
24 now all I can see is that combined between the two
25 parties here, you spent a million dollars in cold

1 cash on fees and litigation expenses.

2 MS. KUSNETZ: Not on my fees.

3 THE COURT: Well, all around, okay.
4 Because Mrs. Kassenoff had fees before you came
5 in. If you add what I know she paid already to
6 what he paid, it is over a million dollars when
7 you include the AFC in here, okay, a million
8 dollars cash.

9 MS. KUSNETZ: That's Mr. Dimopoulos'
10 fees.

11 THE COURT: It is not just on him. Cold
12 cash, whether you call it credit cards or
13 whatever, so stop.

14 CATHERINE KASSENOFF: I am carrying debt,
15 Judge.

16 THE COURT: So you will have to pay it
17 back. Either way it is a ton of money for this
18 family.

19 MS. KUSNETZ: Judge, I don't understand
20 how we can just reverse a court order that is on
21 the record.

22 THE COURT: Nobody is reversing the
23 Court Order but my recollection of the Court Order
24 was that they had to agree on a particular broker
25 and that broke agreement expired; did it not?

1 MR. DIMOPOULOS: Yes.

2 MS. KUSNETZ: We made an excellent
3 proposal for Sotherby's, the best broker in the
4 county, who was also going to do this April a free
5 real estate tax reduction application for them.

6 I mean this was a great deal.

7 THE COURT: I don't have anymore time
8 for motion practice in this case.

9 I need to move on to my next thing, so
10 this is what we are going to do. You can send me
11 a letter about why it should go forward.

12 Mr. Dimopoulos, if you have a case that
13 says when an order has been issued by the court
14 whether on consent or not that you can
15 unilaterally decide that you are withdrawing your
16 consent, I would love to see that case.

17 MR. DIMOPOULOS: Your Honor, I am not
18 going to find that case but just as you said that
19 order, okay, was entered many, many months ago, it
20 directs the broker to be used. Things have
21 changed, okay.

22 With all due respect, Your Honor, you
23 know I am not going to find that case. It doesn't
24 exist.

25 THE COURT: Of course. That's why you

1 are sitting there telling me you are withdrawing
2 your consent.

3 It is ludicrous.

4 MR. DIMOPOULOS: It is not ludicrous at
5 all, Your Honor.

6 THE COURT: You cannot withdraw consent.
7 It is an order.

8 You can move to modify the order and
9 provide a reasonable basis for it and I can decide
10 if there is a reasonable basis for it or not but
11 right now that order continues in effect whether
12 it was issued on consent because it is enforceable
13 or whether you had a motion and I issued. It is
14 an enforceable order.

15 MR. DIMOPOULOS: So the burden is on the
16 party who is saying we'll go forward with your
17 recommended broker. We will do that. We just
18 want to release the money 50/50.

19 The other party who is putting on a
20 ruse, we do know he is putting on a ruse --

21 MS. KUSNETZ: We are not putting on a
22 ruse.

23 MR. DIMOPOULOS: It is not on that
24 person to hold money in escrow so they can make
25 successive counsel fees motions that will hit Your

1 Honor's desk in a couple of months, with all due
2 respect, Your Honor, it is completely unfair to
3 put that burden on me, but I will take it.

4 I will brief the issue.

5 THE COURT: I am sorry, let me
6 understand this.

7 It is completely unfair for me to expect
8 both parties to adhere to the Order of this Court,
9 that order does not say that the net proceeds will
10 be distributed 50/50 upon the sale of the house,
11 does it? Because if it does, I will be glad to
12 enforce that.

13 Is that what it says? I don't have the
14 order in front of me.

15 MS. KUSNETZ: I have it.

16 THE COURT: Ms. Kusnetz, I am not
17 talking to you.

18 Mr. Dimopoulos, is that what it says?

19 MR. DIMOPOULOS: I think it says the
20 proceeds will be held in escrow nine or ten months
21 ago before my client paid another five or \$600,000
22 and wiped himself clean of all liquid assets.

23 THE COURT: Then I suggest, those are
24 your choices. You cannot modified an order,
25 Mr. Dimopoulos.

1 You cannot say "I withdraw my consent.
2 I am not doing it." It doesn't work that way.

3 You need to get the other party to agree
4 or you say, Judge, I need to make a motion to
5 modify it.

6 MR. DIMOPOULOS: There needs to be a new
7 order anyway issued because the broker is
8 changing. There needs to be a new order anyway
9 because a new listing price is going to be issued.

10 So is it that this order controls? Then
11 this order controls and it does not change.

12 Go back to the old broker. Go back to
13 the old listing price and that's fine. I will
14 adhere to the order because it is an order.

15 If Ms. Kusnetz wants to change it, I
16 will not, So I will do it that way.

17 MS. KUSNETZ: You know what, the
18 Sotherby's proposal would benefit your client and
19 it is not even --

20 MR. DIMOPOULOS: No, no, no, no.

21 THE COURT: We're done. I am done
22 talking to that.

23 MS. KUSNETZ: Okay, fine.

24 THE COURT: The order is what the order
25 is.

1 People can move to enforce it if they
2 wish or they can move to modify it.

3 It is what it is. You are not going to
4 agree or consent. Okay, that's it for my list.

5 Send me those document things by next
6 Friday, Ms. Kusnetz, I will go through them and I
7 will advise what can and cannot be sent to Dr.
8 Abrams who has been advised not to review a single
9 thing sent after January 5th until such time as we
10 document what can and can't go to him.

11 MR. DIMOPOULOS: Your Honor, I have one
12 issue I would like to raise.

13 MS. KUSNETZ: Is that --

14 THE COURT: Ms. Kusnetz, stop talking
15 over everybody.

16 MS. KUSNETZ: I am sorry. I had a
17 question whether you were going to tell Dr. Abrams
18 that. That's all.

19 THE COURT: Dr. Abrams was informed of
20 that the same day I issued an order to show cause
21 with the stay.

22 MS. KUSNETZ: I didn't know that.

23 I asked that question in an e-mail and I
24 didn't get an answer.

25 THE COURT: Well, surprisingly we have

1 a hearing on this doctored e-mail.

2 MR. DIMOPOULOS: That was my second
3 suggestion.

4 My second suggestion, Your Honor, is
5 that we say whether or not that issue can come up
6 at the final trial without any arguments of
7 inadmissibility or irrelevancy and we don't have
8 to do anything about it.

9 MS. KUSNETZ: Are we going to do a
10 hearing as to how four documents, excuse me, were
11 sent to a forensic contrary to a judge's order?

12 MR. DIMOPOULOS: You can do the hearing
13 right now. I made a mistake.

14 THE COURT: Excuse me. Excuse me, just
15 stop.

16 Yes, you can talk about the alleged
17 doctored e-mail at trial if you have a good faith
18 basis for establishing how, when, and who
19 allegedly altered it because that would go to the
20 issue of credibility and fraud.

21 MR. DIMOPOULOS: The issue is now
22 resolved. That's all.

23 THE COURT: Let's move on. I am done.

24 MS. KUSNETZ: We have the enrollment
25 form. One more issue.

1 THE COURT: It was not on my agenda
2 today.

3 I have already made my statement on
4 that. I read the other transcripts and here is my
5 statement:

6 Mr. Kassenoff has the sole decision
7 making authority at this point in time.

8 He will make that decision. He is
9 indicating that he would like to take money from
10 the E-Trade account to pay it toward the tuition.

11 You're going to oppose or do whatever
12 you want to do on the motion and when I get the
13 motion I will make a decision on that.

14 That's where we are at; I am not
15 discussing that anymore.

16 Thank you.

17 Good-bye.

18 MS. KUSNETZ: Thank you, Judge.

19 MR. DIMOPOULOS: Thank you, Your Honor.

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(Certification continued on the following

23 page.)

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* * *

I , Irene Bindel, a Certified Shorthand Reporter in and for the State of New York, do hereby certify that the foregoing portion of the transcript is true and accurate to the best of my knowledge, skill and ability.

Irene Bindel

Irene Bindel, RPR, CSR

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