

1 SUPREME COURT STATE OF NEW YORK
2 COUNTY OF WESTCHESTER: MATRIMONIAL PART
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3 ALLAN KASSENOFF,
4 Plaintiff,

4 -against- Index No.
58217/19

5 CATHERINE KASSENOFF,
6 Defendant.

6 -----X

7 County Courthouse
8 111 Dr. Martin Luther King Jr. Blvd.
9 White Plains, N.Y. 10601
10 September 9, 2021

9 B E F O R E:

10 HON. LEWIS J. LUBELL / NANCY QUINN KOBA,
11 Justices

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Senior Court Reporter

1 THE COURT: On the record. This is the matter of
2 Kassenoff versus Kassenoff. Index number 58217 of 2019.
3 Can I have appearances please, plaintiff.

4 MR. DIMOPOULOS: Dimopoulos Bruggemann by Gus
5 Dimopoulos; Tuckahoe, New York. My client is appearing via
6 Zoom. Good afternoon, your Honors.

7 THE COURT: Good afternoon. For the defendant.

8 MR. KORNFELD: Good afternoon, your Honor. I'm
9 John Kornfeld; with the Law Offices of John A. Kornfeld,
10 LLP, 850 3rd Avenue, New York, New York 10022, for the
11 defendant, Catherine Kassenoff. With me to my left --
12 appearing on matters related to custody.

13 MR. WIEDERKEHR: Evan Wiederkehr; the Wiederkehr
14 Law Group; co-counsel to Ms. Kassenoff. Good afternoon,
15 your Honors.

16 THE COURT: Good afternoon. For the children.

17 MS. MOST: Carol Most; attorney for the three
18 Kassenoff children.

19 THE COURT: Good afternoon. Be seated.

20 MR. KASSENOFF: Your Honor, if I may, this is Allan
21 Kassenoff. I could hear Mr. Kornfeld and yourself very
22 well, and Mr. Wiederkehr I could hear a little bit. I
23 didn't hear Mr. Dimopoulos or Ms. Most at all.

24 MR. DIMOPOULOS: I'm sorry. I wasn't speaking into
25 the microphone. I'll do better.

1 THE COURT: Before we get into the nature of the
2 request by Mr. Kornfeld for today's conference, keep in
3 mind, as I indicated in my e-mail, you're very lucky that I
4 had an open slot. We don't just sit around waiting for
5 emergencies to happen. We happen to be a very busy court.

6 Number one, matter of housekeeping before we get
7 down to business; do you want to address your e-mail this
8 morning, Mr. Dimopoulos?

9 Before you start assuming the reason that people
10 are on links and invitations and maybe giving false
11 impressions or reasoning, you want to understand it or have
12 knowledge of why people are on a link, come to the source.
13 That is me.

14 Nobody's ever had a problem coming to me with a
15 question. So let me clear it up for you: The reason that
16 Captain Patrinos and Captain Launzinger are on the e-mail
17 link is because we are dealing with an in-person appearance.

18 Operations needs to be aware of when an in-person
19 appearance is coming, especially with a multiple of counsel
20 as well as litigants, so that we could be appropriately
21 staffed.

22 Meagan, is my part clerk, Lucille Valentin is Judge
23 Koba's part clerk. You seem to have gotten everybody else
24 correct. I hope that clears up your inquiry.

25 MR. DIMOPOULOS: It does.

1 THE COURT: Good.

2 MR. DIMOPOULOS: It wasn't an inquiry, your Honor.
3 I was just letting my client know --

4 THE COURT: Well, it got to me, Mr. Dimopoulos, and
5 some of the comments contained within that e-mail rose my
6 specter of inquiry.

7 MR. DIMOPOULOS: Understood.

8 THE COURT: So now you understand why instead of
9 thinking it's a little strange.

10 MR. DIMOPOULOS: Understood, your Honor, but that
11 e-mail was not intended for anyone other than my client.

12 THE COURT: I understand, but that's the nature of
13 electronic media these days.

14 MR. DIMOPOULOS: Understood, your Honor.

15 THE COURT: Could be a very dangerous weapon. Mr.
16 Kornfeld.

17 MR. KORNFELD: Your Honor.

18 THE COURT: Let me hear from you.

19 MR. KORNFELD: Thank you, your Honor. First and
20 foremost, thank you for seeing us. We have written a number
21 of letters requesting a conference.

22 THE COURT: And those are going to stop.

23 MR. KORNFELD: Understood. And we proceeded by
24 motion by order to show cause on motion sequence number 32.
25 The current extant court orders permit my client

1 therapeutically supervised access with the children one hour
2 per week with each of the girls.

3 We had located a therapeutic supervisor,
4 Ms. LaMelle, who works out of Mount Vernon. On
5 September 30th, we notified counsel for the plaintiff and
6 the attorney for the children regarding Ms. LaMelle's
7 availability and willingness to work with Ms. Kassenoff and
8 with the children. And we asked for them to cooperate in
9 effectuating the court ordered therapeutically supervised
10 access.

11 THE COURT: Who is supervising now?

12 MR. KORNFELD: There is no access right now.

13 THE COURT: Why?

14 MR. KORNFELD: Because there is no supervising --
15 there is no supervising -- there's no current therapeutic
16 supervisor. The mother has not had access for over three
17 months.

18 THE COURT: Okay. Go ahead.

19 MR. KORNFELD: So following my August 30th e-mail,
20 I sent a follow-up e-mail on September 1st. We got no
21 response to that substantively. We got no response
22 whatsoever from counsel for the plaintiff.

23 We did get a response or a reply from counsel for
24 the children saying -- making an inquiry regarding unrelated
25 issue of payments to the children's therapists.

1 We wrote a couple of letters to the Court
2 requesting a conference in the hopes of avoiding a motion,
3 then we had to proceed by motion. And we sought interim
4 relief pending the hearing and determination of the motion
5 and followed up with the motion with a letter requesting
6 that a date and time be set for our application so that the
7 children can see the mother and so that the mother can see
8 the children consistent with the prior court orders.

9 THE COURT: Ms. Most, let me hear from you. And,
10 Mr. Dimopoulos, could you pass her your microphone so that
11 Mr. Kassenoff can hear.

12 MS. MOST: Thank you, Judge. We've been through
13 many previous supervisors with unsuccessful supervision.
14 The last supervision was with -- I think with CFS, who
15 stated that they could only do supervision in an enclosed
16 setting, such as an office, so that they could control the
17 situation. My clients do not want to see their mother.

18 Do you want me to sit down?

19 THE COURT: Sit down, speak into the microphone.
20 You can drop your mask if that will help.

21 MS. MOST: My clients don't want to see their
22 mother. We have three little girls that are all in therapy.

23 THE COURT: 8, 10 and 12, if I'm not mistaken?

24 MS. MOST: Around that. And their therapists are
25 not recommending access at this time. And so I'm

1 representing my clients' wishes and what the therapists are
2 suggesting, and that is for no access at this time.

3 We had a two-week trial last summer, more than a
4 year ago. And there was recommendation for Mrs. Kassenoff
5 to get certain help; she has not done that. And the access
6 with her children has just gotten worse and worse and worse.
7 They don't want to have that access at this time.

8 THE COURT: Anything from you, Mr. Dimopoulos?

9 MR. DIMOPOULOS: Your Honor, every time I think
10 this case cannot get worse, it does. Just this morning,
11 Mrs. Kassenoff showed up to a delicatessen that was across
12 the street and one building over from Charlotte's school.
13 There is an order of protection from a month ago, full stay
14 away.

15 I didn't know how, the other day she wrote
16 threatening e-mails to my client saying, on Rosh Hashanah,
17 saying, Why isn't Charlotte in school today, on Rosh
18 Hashanah. And we didn't respond, there was nothing to
19 respond to. I did send a note to Mr. Kornfeld, but it was
20 Rosh Hashanah.

21 Now, we can only surmise that every day she shows
22 up at the child's school at exactly the time that she walks
23 from around the corner to her house to the school, which is
24 temporarily located -- because it's located in Mamaroneck,
25 it's temporarily located in Larchmont, two blocks away from

1 the residence where Mr. Kassenoff lives with the children.

2 This morning the nanny spotted her across the
3 street lurking. This is the same thing that lead Judge Koba
4 to issue -- one of the reasons to issue a temporary order of
5 protection last month. We have taken no action on it. This
6 type of deteriorating conduct is extremely concerning to my
7 client. It does not get better; it only gets worse.

8 We have been through friends and family supervision
9 and that didn't work. We've been through Carmen Candelario;
10 she refused to continue. We've been through an agency in
11 the city who was doing the Zoom calls, they refused to do
12 it. CFS, they refused to do it. We had a whole hearing
13 with one of the supervisors from CFS and she talked about
14 what happened at the last visit on May 30th.

15 Judge Koba has never, ever, told the mother that
16 she can not have access. Since May 30th, the orders have
17 not changed. She has had the ability to have one hour of
18 therapeutically supervised access. She voluntarily chose,
19 from May 30th, not to do that.

20 She brought a police officer from Yorktown or from
21 Somers or somewhere; she recommended that person, we had a
22 hearing on it. Judge Koba thought that it should be
23 therapeutically supervised. She waited another
24 month-and-half before she now brings up Ms. LaMelle.

25 I know Ms. LaMelle. She is a lovely, lovely

1 person. And in my humble opinion, not that I get a say in
2 it, but she can't handle this. Okay. This is a situation
3 that gets very volatile very fast.

4 THE COURT: Mr. Kornfeld, what do you want from me
5 today? And that doesn't mean you're getting anything. You
6 asked for this conference, we responded.

7 MR. KORNFELD: Thank you, your Honor.

8 THE COURT: So the underlying question for today's
9 purpose only, though I may address, I did receive an email
10 from Ms. Most relative to the payment of the child's
11 therapists, and, technically, I have a list of all of the
12 extant motions that Judge Koba and I are going to determine
13 what will lay under her jurisdiction and what will lay under
14 my, as supervising judge, and the trial assignment judge.

15 I am also cognisant of your request of possibly
16 making a motion to vacate the note of issue, stay the trial,
17 and pending an updated forensic evaluation, because of
18 certain circumstances which are now existing.

19 So, question one: What is it you are asking of me
20 today?

21 MR. KORNFELD: I am asking your Honor today to
22 direct cooperation with Ms. Kassenoff's therapeutically
23 supervised access with the children with Ms. LaMelle one
24 hour per week, once a week, consistent with the extant court
25 orders.

1 I reached out to Ms. LaMelle this morning to find
2 out if she is still available on the dates and times that I
3 had previously written to counsel about to which I received
4 zero response. She is no longer available Tuesdays, but she
5 does have time Monday evenings between 6 p.m. and 9 p.m. at
6 her offices. Her enclosed offices in Mount Vernon.

7 I would request an order specifically directing the
8 plaintiff to arrange for transportation of the girls to and
9 from Ms. LaMelle's office in Mount Vernon and cooperation
10 with the extant court ordered access. That's what I'm
11 asking for today.

12 There's already an order providing for it, but
13 there's nothing we can do without cooperation from the
14 plaintiff, because there is a TOP against Ms. Kassenoff.

15 THE COURT: And if I'm correct, you're seeking one
16 too somewhere along the line; is that correct?

17 MR. KORNFELD: That is correct, your Honor.

18 JUSTICE KOBA: Just so that we're clear: I did
19 issue the order directing that there be one hour of
20 supervised visitation. After that order came into effect, I
21 was brought to the attention by Ms. Most that the therapist
22 had recommended there not be any supervised access.

23 I then directed the parties to get a plan so that
24 we could ensure there would be supervised access, but it
25 wouldn't be damaging to the children as contrary to the

1 recommendation of their therapist.

2 Now, I don't know if you've received that plan,
3 Judge Lubell, but that was a concern that was raised because
4 it's being reported the children do not want to see their
5 mother.

6 I tried to arrange the birthday visit. I was told
7 that the therapists do not recommend visits with their
8 mother at this time. I said, I needed a plan to address the
9 children's concerns and the therapists' concerns while
10 working towards repairing the relationship between the
11 mother and the children and allowing access. I have not
12 received that plan since that direction.

13 MR. KORNFELD: Thank you, your Honor. I have, with
14 all due respect, a different recollection of the order of
15 events.

16 There had been on -- when we appeared before your
17 Honor, Justice Koba, on July 7th, when the TOP was first
18 issued and was reissued on July 9th on an ex parte basis,
19 there had been a carve out for the access.

20 Subsequently, we had suggested that there be
21 supervised access of a nontherapeutic nature surrounding one
22 or two of the girls' birthdays. And be supervised by a
23 police officer from Ossining who is familiar to the Court
24 and who is a trained supervisor, Emily Hirshowitz.

25 There had initially been agreement to that with

1 your Honor, and it was requested to be for the immediately
2 succeeding weekend. There was a statement by Mr. Kassenoff
3 that there were plans for that weekend and it was requested
4 to be made the following weekend. Everybody consented to
5 that.

6 Then on the eve of that supervised access, which
7 was going to take place at a pottery studio in Larchmont
8 supervised by a police officer, there was a letter by Mr.
9 Kassenoff's attorney saying that they withdrew their
10 consent. And then there was a follow-up letter by Ms. Most,
11 basically, joining in.

12 We had another conference with your Honor at which
13 point Dr. Abrams was brought into the conference and
14 Dr. Abrams said he could not issue an opinion. Ms. Most
15 represented to the Court that the children's therapists felt
16 any access needed to be therapeutically supervised. She did
17 not make a representation to the Court that there could not
18 be access.

19 She did make a representation to the Court in words
20 of substance that the girls have never been happier.
21 Thereafter, as I had been reaching out and Ms. Kassenoff had
22 been reaching out to find another supervisor, thereafter,
23 Ms. Most wrote to the Court, with some hearsay statements
24 from the girls' therapists opposing any access.

25 I was not aware that the Court thereafter requested

1 some kind of plan. I was not aware that the Court ever
2 responded to that letter. If that's the case, I apologize.
3 I never saw a response to that letter.

4 My understanding is that the extant orders are
5 there -- are for there to be supervised access. I do not
6 know how to formulate a plan. We cannot speak with the
7 girls' therapists. We are precluded -- my understanding is
8 we are precluded from having any access with or to the
9 girls' therapists.

10 THE COURT: Mr. Kornfeld, may I?

11 MR. KORNFELD: Oh, I'm so sorry.

12 THE COURT: Do you mind if I interject an inquiry?

13 MR. KORNFELD: Yes, your Honor. Please.

14 THE COURT: It appears to me at the immediate
15 moment that Ms. Most has made certain representations
16 relative to the therapists of the children. That raises my
17 level of inquiry.

18 And the only way that I can receive that
19 information is either in the form of a report or some type
20 of recommendation, which is reflective of the therapists'
21 opinion. In the face of a conflict or a difference of
22 opinion or a misunderstanding, the only way for the Court to
23 render a determination, or at least respond to your
24 immediate request of today, is to have some kind of
25 information from the therapists.

1 Now, according to Ms. Most, I am not, or Judge Koba
2 or the Court, is not going to have anything until the
3 therapists have received the compensation that she is
4 entitled to.

5 MS. MOST: Well --

6 THE COURT: Is that accurate or inaccurate,
7 Ms. Most?

8 MS. MOST: Inaccurate; because Judge Koba did issue
9 a court notice. And the court notice asked for a plan. And
10 what I understood was by -- I think it was by August 26th,
11 I'm not exactly positive. I didn't get -- and Judge Koba
12 asked for something from the therapist and that was why
13 indeed I did send to the Court -- I couldn't get it by that
14 Friday, I sent it on Monday, of something -- a statement
15 from both therapists.

16 So that was my response, Judge Koba, because I
17 thought that's what I was being asked to do.

18 THE COURT: You have statements from the
19 therapists?

20 MS. MOST: Yes, your Honor. And then as to the
21 therapists' fees; your Honor, that has already been ordered
22 by Judge Koba on I think it was July 12th. The fees are now
23 close to \$50,000 for both therapists. They haven't been
24 paid in a year. Judge Koba ordered it to be paid from the
25 E-Trade account.

1 I, myself, have sent many e-mails to counsel. I
2 know that -- I believe that Mr. Kassenoff sent the release
3 to Mrs. Kassenoff on more than one occasion. And it is my
4 understanding that she has refused to sign to release the
5 money.

6 So these therapists have to get paid. It's like
7 they're working for nothing now. It's not reasonable. They
8 did respond when I requested something, but Ms. Kassenoff
9 has to sign off on that. So, in a sense, I did respond to
10 Mr. Kornfeld's letter about Claudette LaMelle and said to
11 him -- you know, he expects everybody to jump when he sends
12 an e-mail.

13 I've sent three or four or maybe more e-mails about
14 getting the signoff for the payment of therapists, which is
15 so important for these girls. They need their therapists
16 and they're doing well. So to lose a therapist when there's
17 an order in place, I just don't understand.

18 MR. DIMOPOULOS: Your Honor, it's worse. It's
19 worse.

20 THE COURT: Can I have a moment?

21 MR. DIMOPOULOS: Of course.

22 THE COURT: Have a seat. For one, I have been
23 familiar with this matter since it walked in the door
24 starting with an order to show cause before Judge Everett.
25 And I've been familiar with this matter in my capacity as

1 the supervising Judge throughout it's existence, so there's
2 nothing anybody's going to say that's going to surprise me
3 or that I wouldn't expect.

4 If there's an issue of payment and Judge Koba's
5 order reflects that it is to be done, is there any reason
6 that it is not being done? Mr. Kornfeld, you're her
7 attorney; I want to hear from you.

8 MR. KORNFELD: Your Honor, I am her attorney with
9 respect to custody matters. Mr. Wiederkehr is her attorney
10 with respect to financial matters. I would have to defer to
11 him to answer that question.

12 THE COURT: Okay. Mr. Wiederkehr, let me hear from
13 you.

14 MR. WIEDERKEHR: Your Honor, I am familiar with the
15 July 12th order. It resulted from motion practice that
16 occurred prior to my being represented by Ms. Kassenoff.
17 She has raised concerns with respect to the status of these
18 treatment providers and the fact that she finds it to be
19 abhorrent that they are advocating against any semblance of
20 reunification or feeling to exist.

21 THE COURT: Are you calling it advocacy or opinions
22 as a professional treatment?

23 MR. WIEDERKEHR: Advocacy is loosely used, but I
24 guess it's interchangeable with opinions.

25 THE COURT: Not to me it's not.

1 MR. WIEDERKEHR: Nevertheless, Judge, I am familiar
2 with the order. I understand its mandate and I will address
3 it with Ms. Kassenoff immediately. If there is any issue
4 whatsoever, I will raise it, but I am familiar with the fact
5 that there is an extant order that directs certain action,
6 but, Judge if I may, forgive me here, your Honor, I am
7 familiar with the order and I understand its mandate and I
8 will act accordingly.

9 If Ms. Kassenoff has an exception, I will
10 communicate it, but I just -- I think it's important for
11 this conference and the application that's being made, I was
12 present for that May hearing that was presided over by
13 Justice Koba.

14 And it was prompted by allegations raised on behalf
15 of the plaintiff that Ms. Kassenoff was wildly inappropriate
16 and that all access should be suspended immediately. And
17 Ms. Chava White -- C-H-A-V-A White, was the supervisor who
18 was present at this supposed free-for-all that warranted
19 immediate judicial intervention and suspension of access.

20 And I can tell your Honor and I ask to the extent
21 that Judge Koba presided over it to tell me if I'm wrong,
22 but I inquired of Ms. White, and I asked her pointedly:
23 What exactly did Ms. Kassenoff do wrong? Didn't she act
24 appropriately?

25 And Ms. White was unequivocal; Ms. Kassenoff did

1 act appropriately. And the only thing that even came out of
2 this whole debacle was the fact that one of the children
3 wanted to leave and texted her father. And, Ms. Kassenoff,
4 who eagerly anticipated this access, was very upset by it.
5 She was shocked by it.

6 And then there were allegations, and, again, this
7 case is so fraught with allegations. The allegations raised
8 were that Ms. Kassenoff went wild on the supervisor yelling
9 and screaming at her and cursing at her behind closed doors.
10 And they played the tape. It was so inaudible that the idea
11 that it could be characterized is a farce.

12 That being said, I said on that day, Judge, I said
13 to Judge Koba, I said, with all due respect to everyone
14 involved, treating the symptoms and not the disease is a
15 mistake. May we please convert to independent,
16 therapeutically supervised visitation to allow these
17 children an environment to communicate freely with a level
18 of confidence and air out the issues that are causing them
19 to feel this way. That was May.

20 To the Court's credit, direction was made, give me
21 a plan, because I need to see some progress.

22 THE COURT: Why have there been so many different
23 supervisors, Mr. Wiederkehr?

24 MR. WIEDERKEHR: Judge, it depends who you ask, but
25 the answer is is that Ms. Kassenoff has been clear in her

1 position that allegations that have been raised and claimed
2 against her have not borne out based upon the claims made.

3 THE COURT: Does your client come to the table with
4 clean hands, Mr. Wiederkehr?

5 MR. WIEDERKEHR: I don't think anybody in this
6 family comes to the table with clean hands, Judge. This is
7 a family that shares in certain dysfunction, but the result
8 is is that a mother who was historically the primary
9 custodial parent for these children has now been wrested
10 away from them entirely.

11 And the dynamic that exists between the parties
12 makes things worse. Which is why three or four months ago I
13 respectfully requested to transition, to put a professional
14 one-on-one between mother and daughter so that we could get
15 past that.

16 And if the children had concerns or were upset that
17 they could get a level of confidence and comfort that they
18 were protected in an environment where they could say what
19 they felt and they could then heal, but, instead, the
20 response has been consistent, no.

21 I have to tell you, I've rarely seen a judge say,
22 give me a plan. Therapeutic supervised visitation to make
23 things better and that -- nothing happened. So that's why
24 we're here. And I can tell you that's what has permeated
25 this matter; extraordinary allegations which when the light

1 of day shines upon them, scatter.

2 Chava White was supposed to be smoking gun to say
3 that Ms. Kassenoff was out of her mind and that she was the
4 reason this fell apart. And yet, Ms. White took the stand
5 and said, verbatim, what did Ms. Kassenoff do that was
6 inappropriate? Nothing.

7 THE COURT: I am not, Mr. Wiederkehr, going to
8 relive prior testimony or whatever went on. I am here and
9 we all are here today at the request of Mr. Kornfeld, and to
10 effectuate one specific thing, other than, in my discretion,
11 to obviate or to deal with certain housekeeping. I can tell
12 you now that the applications for contempt will more likely
13 than not be referred to trial.

14 MR. WIEDERKEHR: Judge ---

15 THE COURT: I am talking, Mr. Wiederkehr.

16 MR. WIEDERKEHR: My apologies.

17 THE COURT: The one thing that is going to happen
18 is that everybody on this case is going to demonstrate
19 control. And when I say, control, control of yourself,
20 especially, the parties. And going through all of the
21 affirmations, of all of the extant motions; they are
22 repetitive, redundant, cumulative, dare I say, and it stops
23 today.

24 If it doesn't, then you will see a side of this
25 judge that nobody in this room has ever seen.

1 MR. DIMOPOULOS: If I may, your Honor?

2 THE COURT: No.

3 With regard to your request, Mr. Kornfeld, I'm
4 going to make a decision from the bench today.

5 I am in possession, by nature of the attorney for
6 the child, of two documents, one from a Carolyn McGuffog --
7 did I pronounce correctly?

8 MS. MOST: Yes.

9 THE COURT: And, Susan Adler, which I am not
10 disclosing to counsel, because I do not want these appearing
11 in some untort place, whether it's on the internet, whether
12 it's on NYSCEF, which is another thing we're going to have a
13 discussion about today.

14 I'm going to have a discussion with Judge Koba.
15 I'm going to take a look at the order to show cause, which
16 is motion sequence number 32, which remains unsigned. It
17 was only filed on September 7th.

18 MR. KORNFELD: Your Honor?

19 THE COURT: And I do not know what the outcome is
20 going to be. I do not.

21 MR. KORNFELD: Understood. May I just briefly for
22 one second to let your Honor know: The two letters that
23 your Honor had referred to were filed on NYSCEF by the
24 attorney for the children.

25 THE COURT: These were?

1 MS. MOST: Yes, your Honor.

2 THE COURT: Okay.

3 MR. KORNFELD: It is NYSCEF number 1574. I will
4 not quote from them at all. I would note that the letter
5 from Dr. Adler is dated August 25th --

6 THE COURT: Correct.

7 MR. KORNFELD: -- 2021, which is three days before
8 I -- sorry -- five days before I notified Ms. Most that we
9 had found a therapeutic supervisor.

10 THE COURT: All I'm saying is, first off, if these
11 documents, if these two relating to the children appear
12 anywhere, someone's going to jail.

13 MR. KORNFELD: Not a chance, your Honor.

14 THE COURT: Someone will go to jail. I will deem
15 it contemptuous on its face. I will not go to willfulness.
16 I will issue a warrant for immediate incarceration.

17 Make sure your clients understand that this judge
18 does not play when it comes to children.

19 MR. KORNFELD: We understand that, your Honor. All
20 I wanted to direct the Court's attention to was the very
21 next to last line of the letter from Dr. Adler.

22 THE COURT: That there should be a plan in place to
23 reinstitute. I'm not arguing with you, Mr. Kornfeld.

24 MR. KORNFELD: Thank you. That's all I'm trying to
25 do, your Honor.

1 THE COURT: But it does not happen immediately
2 because there are certain -- the body of the note from
3 Dr. Adler, I received it, I've read it, I've digested it.
4 It does not mean that because of one little additional line
5 I'm going to make an immediate change drastically today.

6 I've heard from the attorney for the children, I've
7 heard from Mr. Dimopoulos, and all I can say is Judge Koba
8 and I will review your papers. We will take a look at what
9 we're going to do and how it's going to be handled, whether
10 through Judge Koba or through me, because now that you're in
11 the trial ready part, this case is under my domain.

12 That does not obviate certain things that Judge
13 Koba will be more apt to handle because of her involvement
14 previously to certain motion practice.

15 MS. MOST: Your Honor, if I could just point out
16 that the reason it was dated the 25th, it was actually due
17 to the Court on the 26th. It did not have the letter from
18 Dr. McGuffog until Monday.

19 THE COURT: Ms. Most, it's here, okay. Number one,
20 I have an application which is yet to be signed; motion
21 sequence 31 to remove the defendant from NYSCEF. I don't
22 need an order to show cause from that. Your client is
23 represented by counsel, Mr. Kornfeld. Your client is to
24 cease and desist the uploading of anything with regard to
25 NYSCEF.

1 Until she is pro se, which may be, I don't know.
2 There seems to be myriad of attorneys that have passed
3 through the defense table, but Ms. Kassenoff is to no longer
4 utilize NYSCEF for any purpose. Am I clear?

5 MR. KORNFELD: Your Honor was first clear and now
6 -- I'm sorry. When you say -- my client understands the
7 directive that she's not to upload anything to NYSCEF and
8 she will not.

9 My only question is: Is your Honor also directing
10 that she can not review documents that have been posted to
11 NYSCEF when you say, not for any purpose? That's my only
12 question for clarity.

13 MR. DIMOPOULOS: Your Honor, I've been on this case
14 a long time.

15 THE COURT: Yeah. Me too, Mr. Dimopoulos.

16 MR. DIMOPOULOS: I know, but the words in this case
17 mean so much. If she is prohibited from uploading, she will
18 then download, and say, he said upload, so I can download.
19 Okay. She should be removed entirely from NYSCEF.

20 THE COURT: Are you willing to accept that for your
21 client as well?

22 MR. DIMOPOULOS: He's not on. He's never been on.
23 He never will be on.

24 THE COURT: Let me say something: I'm not making
25 findings of fact, but, one, your client is an attorney, and

1 yet your client has taken the liberty to ex parte e-mail the
2 Court.

3 It appears to me, Mr. Kornfeld, that maybe rules
4 may not matter. And, quite frankly, your client subjects
5 herself to a referral to the Appellate Division if she
6 continues to disregard court orders, whether it's orders of
7 protection.

8 Now, I also know you have a motion with regard to
9 an order of protection against the plaintiff. I'm not
10 making any findings of fact today. I can only state what's
11 before me.

12 These people are attorneys, and quite frankly, if
13 they want to act on their own, then they're subject to
14 whatever the Court may dictate or deem appropriate in the
15 exercise of its discretion.

16 I don't know why, but I do know, because, quite
17 frankly, in many cases, the only thing that changes is the
18 caption and counsel. And I'm not unfamiliar with your
19 history in this bar, Mr. Kornfeld, or Mr. Dimopoulos or
20 Ms. Most or Mr. Wiederkehr.

21 But the nonsense between the two parties stops here
22 and it stops today. I don't really care if the parties are
23 happy with a decision or a ruling or unhappy. This Court is
24 not in the happy business.

25 But you start affecting the lives of children, then

1 you've opened up a door to this Court that you will regret.
2 And if you think I'm kidding, or if you think that this is
3 just balderdash, then push the envelope and test the waters.

4 But getting your toes into those waters will result
5 in incarceration. I will be on this case until it goes to
6 trial. There will be nothing that is going to cause me to
7 either be removed or recused. Try all you want.

8 THE DEFENDANT: Your Honor, may I ask a question of
9 the Court?

10 THE COURT: No. No. You have an attorney, Ms.
11 Kassenoff. If you wish to ask your attorney something, then
12 do so.

13 MR. KORNFELD: My -- I earlier sought some degree
14 of clarification regarding your directive and I understood
15 your directive, and I'm not playing games. And I heard what
16 Mr. Dimopoulos said. There are two things -- to my
17 understanding, there are two things you can do on NYSCEF;
18 you can look at the stuff on there and copy it and you can
19 post things on it.

20 THE COURT: Let me make it easy.

21 MR. KORNFELD: My client will not post anything.
22 I'm being completely candid.

23 THE COURT: Let me make it easy, Mr. Kornfeld; both
24 the plaintiff and the defendant are precluded from NYSCEF.
25 Period, paragraph, end of story. If they want anything

1 that's been uploaded, they can get it from counsel. Period,
2 paragraph, end of story.

3 So constitutes decision and order of the Court.
4 Any violation of this order will be deemed contemptuous on
5 its face.

6 Everybody is responsible for their own actions and
7 when they violate orders of the Court or act
8 inappropriately, especially, when both of them are
9 attorneys, I expect a higher standard of conduct. And I am
10 not seeing it.

11 And the breach of your ethics and your code of
12 responsibility, if it's violated, will result in an
13 immediate referral to the department that they were admitted
14 in. Two can play at that game.

15 Is there anything else that you wish to bring to
16 the Court today? Mr. Dimopoulos, you've been waiting
17 patiently. I'll hear from you.

18 MR. DIMOPOULOS: Thank you. And I guess this
19 inquiry is for Judge Koba, because we've been corresponding
20 on this. I'm just wondering if I can get a period of time
21 with which to comply to the length requirement; is it 202.8
22 for my opposition. If I can have a week to do that, Judge
23 Koba?

24 JUSTICE KOBA: That's fine.

25 MR. DIMOPOULOS: Okay. That's one issue. And,

1 your Honor, I really do have to ask for the Court's guidance
2 on -- I don't know the answer. There is a request from Mr.
3 Kornfeld for permission to move to disqualify Dr. Abrams. I
4 have read the post and the letter that Ms. Kassenoff has
5 been sending removing Dr. Abrams from the panel for future
6 appointments.

7 I researched the issue. I have not been able to
8 find anything, one way or the other. It is my opinion that
9 the fact that he is precluded from being appointed for the
10 time being on future cases does not prohibit him from acting
11 as the forensic and providing an update from this Court.

12 I would certainly imagine that if he testified at
13 the trial, anything, any gripes or otherwise could be the
14 subject of cross-examination.

15 It has long been Mr. Kassenoff's and my hope that
16 the only way for there to be some semblance of normalcy in
17 this family or otherwise is to get to trial and remove this
18 case from this courthouse.

19 And I think that -- and I don't expect your Honor
20 to have an answer now, just perhaps some guidance. I mean,
21 if we were to entertain that motion, forget the months long
22 delay, adjudicating it and briefing it and then the decision
23 and the potential appeals, in my opinion, Dr. Abrams should
24 be providing us with his updated report and we should be
25 proceeding to trial, but I'm just looking for guidance from

1 your Honor on that topic.

2 THE COURT: I don't have that guidance at the
3 immediate moment. Anything else you want to say, Mr.
4 Kornfeld?

5 MR. KORNFELD: We have a different perspective on
6 this.

7 THE COURT: I didn't see that coming.

8 MR. KORNFELD: Okay. Well, you were finally
9 surprised in this case.

10 THE COURT: I'm sorry?

11 MR. KORNFELD: You were finally surprised in this
12 case. You said you wouldn't be.

13 MR. WIEDERKEHR: Judge, may I?

14 THE COURT: Go ahead.

15 MR. WIEDERKEHR: I would ask -- first, with respect
16 to the counsel fee --

17 THE COURT: Not dealing with counsel fees today,
18 Mr. Wiederkehr.

19 MR. WIEDERKEHR: No. No. No. My apologies. I
20 was unclear. Counsel just asked of Judge Koba if he may
21 have a week to refine his papers. We, obviously, would be
22 entitled to a reply. If I may speak with counsel off the
23 record and --

24 THE COURT: What a concept.

25 MR. WIEDERKEHR: -- we can e-mail.

1 THE COURT: What an idea.

2 JUSTICE KOBAS: You two can speak and give me a new
3 briefing schedule.

4 MR. WIEDERKEHR: Thank you. Which ties into my
5 actual issue I wanted to raise: I think that the custody
6 matter is to be determined as to how it's to proceed as --

7 THE COURT: When you say, custody, you mean the
8 overall determination of custody or the modified access?

9 MR. WIEDERKEHR: No. The larger picture of custody
10 relative to Dr. Abrams' participation, what path that is
11 going to take in terms of completing his uploaded report
12 being disqualified, et cetera, but, your Honor, there was an
13 application for trial ready order advanced by the plaintiff
14 which was issued and then a note of issue filed by the
15 plaintiff.

16 Financial discovery is complete. I would prefer
17 not to make a formal application for bifurcation. I do not
18 see what basis would exist to hold up a determination of the
19 finances based upon custody. So I'm asking the Court to --

20 THE COURT: I can't deal with finances without
21 custody, Mr. Wiederkehr, wouldn't you agree? Because there
22 may be financial obligations depending upon the Court's
23 determinations of custody.

24 MR. WIEDERKEHR: I see it differently, your Honor.
25 I think that to the extent that the parties income is

1 determined in the findings of fact by the Court --

2 THE COURT: Then settle it.

3 MR. WIEDERKEHR: I wish we could, Judge. But all
4 I'm saying is that in the context of a financial trial, the
5 parties income for CSSA and spousal support purposes would
6 necessarily be determined and then would be applied to a
7 child support determination.

8 I just would -- I'm loathed to consider the idea
9 that if custody is somehow hung up in the next six to
10 eight months potentially, and then finances would not be
11 addressed until after that, notwithstanding the plaintiff
12 requesting a trial ready order and filing a note of issue.

13 There are equitable distribution issues to be
14 determined. There is money that will inevitably be due to
15 the defendant for various claims that have been raised in
16 this proceeding when discovery is complete.

17 So I would ask that if nothing else, the Court
18 consider bifurcating so that at least that part of this case
19 may be disposed of. If I heard correctly, it was just a
20 matter of moments ago that counsel said that the matter
21 needs to be concluded, the parties need to get out of court
22 so they may begin to heal. And we have the opportunity to
23 bifurcate.

24 THE COURT: Let me ask you a question, Mr.

25 Wiederkehr: We've known each other a long time.

1 MR. WIEDERKEHR: Indeed.

2 THE COURT: In your opinion, will these parties
3 ever get out of this court?

4 I know the answer, Mr. Wiederkehr. I'm not going
5 to put you on the chopping block on this one. Your
6 application is taken under advisement.

7 MR. WIEDERKEHR: Thank you, Judge.

8 MR. DIMOPOULOS: Your Honor, can I just say briefly
9 on that application that Mr. Wiederkehr and I have spoken
10 about this. And I want to advise counsel to carefully look
11 at Mr. Kassenoff's net worth statement when he signs it this
12 week.

13 If this keeps going on, there will be no money left
14 for anybody; not Mrs. Kassenoff, not Mr. Wiederkehr, not Mr.
15 Kornfeld, not Mr. Dimopoulos, not Ms. Most. There will be
16 no money left.

17 THE COURT: Mr. Dimopoulos, I've seen the
18 statements of net worth. As I have said from the moment Mr.
19 and Mrs. Kassenoff came into this courthouse -- have a seat
20 -- I have been through every judge that has been involved in
21 this case.

22 I have seen every attorney that has berated in and
23 out of this courthouse relative to this case. I have heard
24 all of the arguments by you, Mr. Dimopoulos, by you,
25 Ms. Most, and the barrage of attorneys that Mrs. Kassenoff

1 has hired and retained and whatever.

2 All I can say is: I have seen various things going
3 on in this case and these parties have such problems that
4 they cannot get out of their own way, which is why I
5 precluded Mr. Wiederkehr from answering the ultimate
6 question: Will Mr. and Mrs. Kassenoff ever get out of this
7 courthouse? I say, no.

8 The nature of the manner in which they treat each
9 other and conduct themselves has now broken their three
10 girls. Both of them are equally responsible, though, if I
11 have to make a determination of who may be more responsible,
12 that will affect my custodial determination if I'm the one
13 charged with that responsibility.

14 I don't know if this case is Humpty Dumpty or not.
15 And I don't mean to be disrespectful in using that analogy.
16 And as Billy Joel has said, we didn't start the fire. And
17 Mr. and Mrs. Kassenoff are nothing more than two gas cans.

18 If you tell me otherwise, then maybe you're really
19 not viewing the picture as it is, but I will tell you, from
20 all of the e-mails that I have seen, from all of the matters
21 and documents that have been uploaded to NYSCEF to all of
22 the references to social media and the denigration of each
23 other is sickening. It stops today.

24 If it does not, and I am apprised, informed or
25 educated or any other word you choose to associate with it,

1 that either Judge Koba's or my orders are violated, I
2 promise you that I will deem it contemptuous on its face. I
3 will go past willfulness and directly to incarceration
4 without a hearing.

5 There have been violations upon violations upon
6 violations. That is all I need to say.

7 Motion sequence number 32 and your application, Mr.
8 Kornfeld, are received by the Court, and you will be guided
9 accordingly.

10 As far as the other applications that are currently
11 extant, Judge Koba and I will review them. If we refuse to
12 sign them, we will, if we don't, you will be given an
13 explanation why not.

14 I just want to ask everybody one question: Mr.
15 Dimopoulos, is your client under control; yes or no?

16 MR. DIMOPOULOS: 100 percent.

17 THE COURT: Mr. Kornfeld, is your client under
18 control?

19 MR. KORNFELD: In all relevant respects, yes, your
20 Honor.

21 THE COURT: Keep it that way. All directives and
22 rules placed on the record this date will constitute the
23 decision and order of the Court and are hereby deemed so
24 ordered without the necessity for signature.

25 Cost of the transcript is directed to be borne

1 equally amongst the parties subject to any reallocation as
2 determined by the Court or by stipulation of the parties
3 with a copy to be electronically transmitted to the Court.
4 So ordered.

5 Mr. Dimopoulos, anything else?

6 MR. DIMOPOULOS: I was hoping to get what I had to
7 say right before that last part.

8 I believe Mr. Wiederkehr's comments on the
9 authorization to pay the therapist was vague. I just want
10 to reiterate: Judge Koba has issued a written order; it's
11 to come from an E-Trade account, your Honor. It provided
12 little detail.

13 THE COURT: I got it.

14 MR. DIMOPOULOS: Just a deadline for her to sign
15 the authorization is all I need.

16 THE COURT: Then I will tell you, Mr. Dimopoulos,
17 if there are violations of orders, then the party violating
18 it will be held accountable by me and the decisions and
19 orders that emanate from this Court will be made in
20 consideration of everybody's actions or inactions or
21 feausance, malfeausance, nonfeausance. Call it whatever you
22 want.

23 MR. DIMOPOULOS: Your Honor, with all due
24 respect --

25 THE COURT: It is up to you to make sure your

1 clients understand what I do.

2 MR. DIMOPOULOS: I just feel bad for the
3 therapists. They're continuing to treat these girls owed
4 like 50-grand. I've never heard of such a thing.

5 They understand what they're dealing with and the
6 trouble they're handling and they have not done what --

7 THE COURT: Mr. Wiederkehr, you will contact me by
8 tomorrow with a copy to all sides.

9 MR. WIEDERKEHR: Yes, Judge.

10 THE COURT: If Judge Koba's order dictates that the
11 therapists who have not been paid for over a year is to come
12 from the E-Trade account and your client withholds consent
13 and the Court deems it unreasonably -- she's a lawyer, Mr.
14 Kassenoff is a lawyer. I think they understand what I have
15 said.

16 If they choose not to, then the Appellate Division
17 of the department whichever they were admitted in will not
18 be appreciative of hearing of attorneys directly violating
19 Court orders. That's it. That's all I have to say on the
20 matter.

21 If I don't hear from you by tomorrow, Mr.
22 Wiederkehr, one way or another, then this Court will take
23 sua sponte action. So constitutes decision and order of the
24 Court. We are in recess. Thank you.

25 MR. KORNFELD: One little thing; small one:

1 Previously -- I just heard your Honor say that the
2 transcript will be divided evenly between the parties.
3 Previously it had been ordered by the plaintiff and shared
4 with the defendant subject to reallocation.

5 I would respectfully request that that continue
6 through today.

7 THE COURT: Denied.

8 MR. KORNFELD: Thank you.

9 * * * * *

10 THIS IS TO CERTIFY THAT THE FOREGOING
11 IS A TRUE AND ACCURATE TRANSCRIPTION
12 OF THE ORIGINAL STENOGRAPHIC RECORD.

13

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15 _____
Michael A. DeMasi, Jr.

16 Senior Court Reporter

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