

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF WESTCHESTER: CIVIL TERM

3 -----X
4 KASSEN OFF, ALLAN, : Index
5 Plaintiff : No.
6 -against- : 58217/2019
7 KASSEN OFF, CATHERINE, :
8 Defendant. :
9 -----X

10 Westchester County Court
11 111 Dr. M. L. K., Jr. Blvd
12 White Plains, New York
13
14 April 27, 2023

15 B E F O R E:

16 HONORABLE SUSAN M. CAPECI,
17
18 Supreme Court Justice

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BONNIE DUNEFISKY
Senior Court Reporter

Proceedings

1 THE CLERK: This is index number 58217 of 2019,
2 the plaintiff Allan Kassenoff against the defendant,
3 Catherine Kassenoff. Attorney appearances, please.

4 MR. DIMOPOULOS: For the plaintiff, good
5 afternoon, Dimopoulos Bruggemann by Gus Dimopoulos on
6 behalf of Allan Kassenoff, who is also in court with us
7 this afternoon.

8 MR. FRISCH: Your Honor, good afternoon. For Ms.
9 Kassenoff, Andrew Frisch. Ms. Kassenoff is present.

10 MS. HALL: Christina T. Hall H-A-L-L, attorney for
11 the subject child, Jo Jo. Good afternoon.

12 MS. CARTON: Good afternoon, your Honor. Good
13 afternoon, everyone. Robin Carton, attorney for the child,
14 Allie.

15 MS. COLIN: Good afternoon. Lisa Colin, attorney
16 for the child, Charlotte.

17 THE COURT: Everyone can be seated. I did say
18 that to the extent that there is going to be testimony here
19 about the parties' behavior and to the extent that may have
20 relevance for custody, the reason I wanted everyone here is
21 that everyone -- there is no necessity to he recall these
22 witnesses again. They will be incorporated by reference
23 into the custody trial. If there is something that we
24 can't deal with today, that's fine, but I don't see the
25 purpose of repeating something that's a relatively discrete

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1 period of time that can be accomplished today. I know
2 there are also witnesses that you want to deem as
3 subpoenaed by both of you. Is that an agreement?

4 MR. DIMOPOULOS: Yes.

5 MR. FRISCH: I don't disagree with that.

6 THE COURT: Every witness -- I don't know who is
7 here.

8 MR. FRISCH: There are three witnesses, and I
9 believe -- there are three witnesses who I believe have
10 been essentially jointly subpoenaed.

11 THE COURT: Okay. Now, is there anyone in the
12 courtroom that is a witness?

13 MR. FRISCH: There is an arguably one potential
14 witness, the person waving their hands. So we can exclude
15 her. I don't know that she'll testify, but to err on the
16 side of caution.

17 THE COURT: Ma'am, would you mind waiting outside.
18 Thank you.

19 MR. DIMOPOULOS: Your Honor, do you mind
20 identifying the members of the public?

21 THE COURT: Do you mind? We just want to make
22 sure they don't become a witness some other time. Do you
23 have any objection to that, Mr. Frisch?

24 MR. FRISCH: I have no objection.

25 THE COURT: Just give us your name so we know in

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1 the future you're not a witness. One at a time.

2 AUDIENCE MEMBER: Rory Doyle.

3 AUDIENCE MEMBER: Evegniya Fagan.

4 THE COURT: Spell the first name. Please.

5 AUDIENCE MEMBER: E-V-G-E-N-I-Y-A.

6 THE COURT: And Givens?

7 AUDIENCE MEMBER: F-A-G-A-N.

8 THE COURT: Thank you. And behind you?

9 AUDIENCE MEMBER: Susan Titus Glascoff.

10 THE COURT: Spell your middle and last name.

11 AUDIENCE MEMBER: Titus T-I-T-U-S G-L-A-S-C-O-F-F.

12 THE COURT: Thank you. Ma'am.

13 AUDIENCE MEMBER: Antonella Stampfl.

14 THE COURT: Last name, spell it please.

15 AUDIENCE MEMBER: S-T-A-M-P-F-L.

16 THE COURT: Okay, thank you.

17 MR. DIMOPOULOS: Can we have the name of the
18 potential witness who also left the courtroom?

19 THE COURT: Who is the one we excused from the
20 courtroom?

21 MS. KASSENOFF: Your Honor, her name is Carrie
22 Crist.

23 THE COURT: It's C-R-I-S-T?

24 MS. KASSENOFF: It's C-H-R-I-S-T.

25 THE COURT: There's a gentleman here. Is that

Proceedings

1 somebody that's a witness or not?

2 AUDIENCE MEMBER: No, your Honor.

3 THE COURT: Are you someone in support of one of
4 the parties? Could I just have your name, or you're just
5 an observer that has nothing to do with this case?

6 AUDIENCE MEMBER: Observer, your Honor.

7 THE COURT: Nothing to do with this case?

8 AUDIENCE MEMBER: No.

9 MR. DIMOPOULOS: Your Honor, it has everything to
10 do with the case. It's Mr. Jonathan Davidoff, who is the
11 husband of another client of mine and also the plaintiff in
12 one or two lawsuits against me, who has formally
13 represented Ms. Kassenoff on a pro bono basis and who
14 regularly e-mails me from time to time about this case.

15 THE COURT: So we have his name, Jonathan
16 Davidoff.

17 MR. DIMOPOULOS: I'd like him excluded, your
18 Honor. There's just zero purpose for him to be here
19 whatsoever.

20 THE COURT: Is he a witness? Otherwise, the
21 courtroom is open to the public. So --

22 MR. DIMOPOULOS: Okay.

23 THE COURT: Okay, let's get started.

24 MR. FRISCH: Just give me one second to get the
25 logistics set.

M. Angst - Defendant - Direct

1 THE COURT: Okay.

2 MR. FRISCH: Thank you, Judge.

3 MR. DIMOPOULOS: Could we just have a
4 representation that none of the parties present in the
5 courtroom today are going to be a witness today or in the
6 underlying divorce proceeding in the future?

7 THE COURT: Mr. Frisch, is that the case? There's
8 another person that's come in.

9 MR. FRISCH: That's correct.

10 THE COURT: There's another person that's come in.
11 Could we get your name, please?

12 AUDIENCE MEMBER: Catherine Rookasin.

13 THE COURT: Could you spell it?

14 AUDIENCE MEMBER: R-O-O-K-A-S-I-N.

15 THE COURT: Thank you.

16 MR. DIMOPOULOS: What was the first name?

17 THE COURT: Catherine.

18 MR. FRISCH: And if I could go out and get the
19 first witness.

20 THE COURT: Sure. Or tell the officers.

21 MR. FRISCH: It's Matthew Angst A-N-G-S-T.

22 THE CLERK: Do you swear or affirm any testimony
23 you give will be the truth, the whole truth and nothing by
24 the truth?

25 THE WITNESS: I do.

M. Angst - Defendant - Direct

1 THE CLERK: Please state your name and county of
2 residence.

3 THE WITNESS: Matthew Angst, Nassau County.

4 THE COURT: Could you spell your last name for us.

5 THE WITNESS: A-N-G-S-T.

6 THE COURT: And Matthew's with two T's?

7 THE WITNESS: Two T's.

8 THE COURT: Have a seat. Go ahead, Mr. Frisch.

9 MR. FRISCH: Are you okay if I remain seated?

10 THE COURT: Yes.

11 DIRECT EXAMINATION

12 BY MR. FRISCH:

13 Q. Mr. Angst, good afternoon.

14 A. Good afternoon.

15 Q. You're here pursuant to a subpoena; is that correct?

16 A. Correct.

17 Q. Mr. Angst, how are you employed?

18 A. I am the general manager of the Hommocks Ice Rink with
19 the town of Mamaroneck.

20 Q. And for how long have you had that -- for how long have
21 you been employed in that particular position?

22 A. February of 2022.

23 Q. You've been a manager for the past year and a half --

24 A. Year and change, yep.

25 THE COURT: Just make sure one person stops before

1 you answer. She's got to take it down.

2 THE WITNESS: My apologies.

3 Q. And before that what was your employment?

4 A. I was a general manager of an ice rink in Nassau
5 County, in Long Beach.

6 Q. In Long Beach?

7 A. Long Island.

8 Q. Very good. Thank you, sir. As an employee -- and I --
9 forgive me if I missed it -- you said you're the manager of the
10 rink?

11 A. Correct.

12 Q. As a manager of the rink in Mamaroneck, are you an
13 employee of the town of Mamaroneck?

14 A. Yes, I am.

15 Q. Essentially you're paid by the town, correct?

16 A. Correct.

17 Q. So I want to direct your attention to March 18, 2023,
18 but before I do, before that date had you ever had occasion to
19 call 911 or otherwise to seek police assistance with regard to
20 your job at the rink?

21 A. I've -- for the town I've called for police, but it was
22 an EMT. It was for medical assistance where someone fell or
23 something like that, but in my previous job down in Long Beach,
24 I've called the police for instances, non-medical, numerous
25 times.

M. Angst - Defendant - Direct

1 Q. And that was -- when you talk about your job in Long
2 Beach, that was also in connection with your being a manager of
3 essentially an ice rink there; is that correct?

4 A. Same exact situation. Just with a different
5 municipality.

6 Q. Thank you. Did you make a 911 call on March 18, 2023?

7 A. Yes.

8 Q. And --

9 MS. HALL: Judge, may we ask the witness to speak
10 into the mic?

11 THE COURT: Just keep your voice up.

12 THE WITNESS: Sorry.

13 Q. I also tend to speak quickly. So if I slow down, it
14 might help you slow down.

15 A. Yep.

16 Q. So on March 18, 2023 you made a 911 call, correct?

17 A. Correct.

18 MR. FRISCH: So, your Honor, I'd like to play what
19 I'll mark for identification for Mr. Angst as Defense
20 Exhibit, Defendant's Exhibit A. I think we do it by letter
21 if we're the defendant.

22 THE COURT: Okay.

23 MR. FRISCH: Subject to his -- subject to
24 connection and the witness identifying it.

25 THE COURT: Okay. You want us to mark it now or

M. Angst - Defendant - Direct

1 mark it later?

2 MR. FRISCH: We can do it later. And hopefully as
3 we go forward, I'll become more versed in this. Here we
4 go.

5 THE COURT: You might want to put the microphone
6 down to yours. Yes.

7 (Whereupon, an audio recording was played.)

8 THE COURT: Could everyone hear that? Okay.

9 Q. Mr. Angst, do you -- was that your voice on that call?

10 A. Yes.

11 Q. As best as you can recall, is that the 911 call you
12 made on March 18, 12023?

13 A. Yes.

14 MR. FRISCH: I offer it.

15 MR. DIMOPOULOS: No objection.

16 MS. HALL: No objection.

17 MS. CARTON: No objection.

18 MS. COLIN: No objection.

19 THE COURT: It's deemed in evidence.

20 MR. FRISCH: Thank you, Judge.

21 Q. By the way, do you happen to know the name of the
22 officer to whom you were speaking?

23 A. I don't, no.

24 Q. Was it an officer you later met that day, if you know?

25 A. I don't know. I mean I met a few officers that day,

1 but I don't know who was on the call.

2 Q. Fair enough. What preceded your calling -- so --
3 withdrawn.

4 One of the things you said in the 911 call that we just
5 heard is someone says there is a restraining order. Do you
6 remember saying that on the 911 call?

7 A. Yes.

8 Q. And you said and they're, quote, and they're arguing in
9 the facility and it's getting pretty nasty, I, we don't want to
10 get involved. They said there was a restraining order. Just if
11 someone could come down. End of quote. Do you recall saying
12 that on the 911 call?

13 A. I do.

14 Q. So could you tell the Court what preceded your calling
15 911? What happened before you made this call?

16 A. So I was inside the ice rink facility near the ice. I
17 don't recall exactly what I was doing at the time. Our cashier,
18 Joanne Schroder(ph) brought Mr. Kas -- I apologize, the last
19 name --

20 THE COURT: Kassenoff.

21 A. -- Kassenoff over to me. Apparently he went to the
22 cashier window and had a complaint. As the manager she brought
23 the complaint to me. I recall him saying that his wife or
24 ex-wife -- I don't really know the exact the words -- was
25 harassing him and his daughter, who were skating on the ice rink

M. Angst - Defendant - Direct

1 at the time, cursing and giving the finger. And he asked -- he
2 explained to me that there was a restraining order and he asked
3 me if I could have her leave the facility. I explained I
4 couldn't and that's, that's not my role, that I could call the
5 police if that's, if there was a restraining order involved. He
6 said at that point he didn't want to get the police involved,
7 didn't want to make it a big deal, and then that he had a
8 restraining order but it had expired. I said there's not much I
9 can do other than call the police. If she -- if the person he
10 was explaining about is yelling and screaming, I said I could go
11 and speak to them and explain to them that there's no yelling
12 and screaming or harassing any residents at the town.

13 I asked to be directed to the incident. He walked me
14 down further down to the ice rink where on the other end of the
15 sheet of ice where the daughter was getting a lesson. I
16 approached the woman. She had her back to me. As I walked up,
17 I said excuse me, ma'am. She turned around. She had, she had
18 her phone in her hand and she was very excited and her
19 ex-husband was behind me saying that he was harassing her -- I'm
20 sorry -- he was harassing her, and that they don't want to speak
21 to each other. At that point I said this is over my head, I'm
22 going to go call the police, and I went into the office and
23 called from the landline.

24 Q. Did police respond?

25 A. Yes.

M. Angst - Defendant - Direct

1 Q. And how long did it take for them to respond?

2 A. Approximately five minutes.

3 Q. And if you know, do you know if they, if when they
4 responded, they spoke to you first?

5 A. Yes. I waited for them in the entrance vestibule area.

6 Q. The entrance vestibule area, did you say?

7 A. Um-hm.

8 Q. Is that near your office?

9 A. Yes, it is.

10 Q. Is that within sight of the rink?

11 A. Part of the rink, not the entire facility.

12 Q. Do you recall what time, approximately what time you
13 made the 911 call?

14 A. I don't, no.

15 Q. If I said was it approximately 1:46 p.m. --

16 A. Yes. The public session is a one to four, 1:00 p.m. to
17 four p.m. session, and it was towards the beginning. So I would
18 assume that's fair.

19 Q. Had you ever seen Mr. Kassenoff, the person you now
20 know as Mr. Kassenoff, had you ever seen him previously?

21 A. No.

22 Q. Had you ever seen Mrs. Kassenoff before, the person you
23 now know as Ms. Kassenoff?

24 A. No.

25 Q. When you went to the rink after you spoke to Mr.

M. Angst - Defendant - Cross (Dimopoulos)

1 Kassenoff, did you see a commotion?

2 A. Just when I approached Mrs. Kassenoff and said excuse
3 me and then after, then I left and called the police, no, I
4 didn't go back inside the rink once the police were there.

5 Q. Did you hear anyone screaming?

6 A. No.

7 Q. Did you see -- there was a discussion about a child,
8 correct?

9 A. Correct.

10 Q. Did you see the child when you were inside of the rink?

11 A. I didn't know who the child was. At the time there
12 were multiple people on the ice and multiple children. So I
13 don't know who specifically they were speaking of.

14 Q. Give me one second, Mr. Angst.

15 A. Sure.

16 Q. Did you talk to anybody else before the police arrived?

17 A. No.

18 MR. FRISCH: That's all I have. Thank you, Mr.
19 Angst.

20 CROSS-EXAMINATION

21 BY MR. DIMOPOULOS:

22 Q. Mr. Angst, how are you? My name is Gus Dimopoulos. I
23 represent Mr. Kassenoff.

24 On March 18, 2023 did you witness any interaction
25 between Mr. Kassenoff and Ms. Kassenoff?

M. Angst - Defendant - Cross (Hall)

1 A. The only interaction I witnessed is after I spoke to
2 Mr. Kassenoff and she showed me where the incident allegedly
3 occurred.

4 THE COURT: Who's she?

5 THE WITNESS: The -- Mrs. Kassenoff. He walked me
6 to see Mrs. Kassenoff.

7 THE COURT: Okay.

8 A. I said excuse me to Mrs. Kassenoff, and as she turned
9 around, she was excited -- I wouldn't call it an argument --
10 saying that, you know, he was harassing me, I don't want to talk
11 to him, I don't want to see him or be near him, and that was it.
12 And then I walked away, called the police, and that was the only
13 incident that I saw.

14 Q. At the time when you had an interaction with Mrs.
15 Kassenoff, what, if anything, was Mr. Kassenoff saying or doing?

16 A. He didn't say anything during the interaction between
17 the two of them.

18 Q. And do you recall what Ms. Kassenoff said to you when
19 you spoke to her that day?

20 A. The only thing she said was she turned around and she
21 said he's harassing me, I don't want to speak to him, I don't
22 want to talk to him.

23 Q. And nothing else was spoken of, that you heard, between
24 these two people?

25 A. Correct.

M. Angst - Defendant - Cross (Hall)

1 MR. DIMOPOULOS: Thank you. Nothing further.

2 MR. FRISCH: Could I ask one question on redirect
3 or two questions?

4 THE COURT: I was going to let, see if the AFCs
5 have any questions. Ms. Hall?

6 MS. HALL: Sure.

7 CROSS-EXAMINATION

8 BY MS. HALL:

9 Q. Mr. Angst, on March 18, 2023, when is the first time
10 you became aware that there was any problem?

11 A. When Mr. Kassenoff approached me through introduction
12 from our cashier.

13 Q. What, if anything, did he say to you, Mr. Kassenoff,
14 when Mr. Kassenoff approached?

15 A. He first explained that his -- I believe he said his
16 ex-wife was harassing him and his daughter, who were ice skating
17 at the time, and that there was a restraining order and asked me
18 to have her removed from the facility.

19 Q. And when he asked you to have her removed, what did you
20 do immediately after that?

21 A. I explained I couldn't have anybody removed that is for
22 a restraining order. I could call the police if that was what
23 he was interested in. Then he went on, he explained he didn't
24 want to get the police involved, that the restraining order had
25 expired, and he just wanted Mrs. Kassenoff to stop harassing him

M. Angst - Defendant - Cross (Hall)

1 and his daughter while ice skating.

2 Q. And when you spoke to Mr. Kassenoff initially while you
3 were having this conversation, where were you positioned in the
4 ice rink?

5 A. Near the concession area, off the ice, but still inside
6 the rink facility, but near the concession area stand.

7 Q. And after speaking to Mr. Kassenoff, is it fair for me
8 to say that's when you and Mr. Kassenoff approached Mrs.
9 Kassenoff?

10 A. Correct.

11 Q. And where was Mrs. Kassenoff?

12 A. On the opposite end of the ice, sheet of ice towards
13 the skate rental area where the group lessons were being given.

14 THE COURT: On the ice itself, not in the stands?

15 THE WITNESS: It's right just in front of the
16 stands, not on the ice itself.

17 THE COURT: But not seated someplace?

18 THE WITNESS: Correct. She was standing along the
19 boards, like on the glass, watching what was going on on
20 the ice.

21 Q. And you previously testified that you had a brief
22 conversation with Mrs. Kassenoff, and Mr. Kassenoff was right
23 behind you, correct?

24 A. Correct.

25 Q. And at the time when you were having this conversation

M. Angst - Plaintiff - Cross (Carton)/Redirect

1 with Mrs. Kassenoff, Mr. and Mrs. Kassenoff said nothing to each
2 other?

3 A. Mrs. Kassenoff said -- I guess it was towards me or
4 towards him, I wasn't really sure -- that I don't want to speak
5 to him, he is harassing me, I don't want to talk to him. And
6 that was the only interaction. I don't know if she was
7 directing it towards me or Mr. Kassenoff, but that was the only
8 interaction.

9 Q. And then at that point in time you walked away and
10 called the police?

11 A. Correct.

12 Q. And when you walked away and called the police, did you
13 interact with Mr. or Mrs. Kassenoff after that?

14 A. Mr. Kassenoff came into my office with the police
15 officers at a later date to fill out the report and I was just
16 in the office while Mr. Kassenoff and the police were
17 discussing.

18 Q. And you already testified that you had no interaction
19 with the child, correct?

20 A. Correct.

21 MS. HALL: Thank you so much.

22 THE COURT: I just have one question. So the
23 cashier -- to your knowledge, Mr. Kassenoff went to speak
24 to the cashier and then the cashier brought him to see you?

25 THE WITNESS: Correct.

M. Angst - Plaintiff - Redirect

1 THE COURT: Thank you.

2 THE WITNESS: The cashier was a woman, but yes,
3 she.

4 THE COURT: Okay. Ms. Carton.

5 CROSS-EXAMINATION

6 BY MS. CARTON:

7 Q. Just one question, please, sir. Do you know whether
8 Mr. Kassenoff told Joanne, the cashier, that there was a
9 restraining order or --

10 A. I don't, no. I don't.

11 MS. CARTON: Thank you.

12 THE COURT: Ms. Colin.

13 MS. COLIN: No questions. Thank you.

14 REDIRECT EXAMINATION

15 BY MR. FRISCH:

16 Q. First question. You testified, I believe, in response
17 to Ms. Hall's questions that you went back to the office at some
18 point where reports were filled out; is that correct?

19 A. Correct.

20 Q. And you were in -- and that was in your manager's
21 office, correct?

22 A. Correct.

23 Q. And Mr. Kassenoff was with you, correct?

24 A. The police brought him into the office, correct.

25 Q. And how long was that? How long did that take? How

M. Angst - Defendant - Recross (Hall)

1 long did the group of you in the office --

2 A. Fifteen, 20 minutes.

3 Q. Is that inside of the rink?

4 A. It's in the facility, but it's not inside. No, the
5 doors -- you can't see the rink because the doors were closed.

6 Q. So during this 15, 20 minutes when the group of you are
7 in, I assume, your office?

8 A. Correct.

9 Q. What's happening on the rink is not visible to the
10 people in your office?

11 A. Correct.

12 Q. Next. Am I correct, is it your testimony that Mr.
13 Kassenoff said that the restraining order expired after you said
14 that you would have to call the police?

15 A. Correct.

16 MR. FRISCH: Thank you, Judge. I have nothing
17 else. Mr. Angst, thank you.

18 THE COURT: Did you give a statement to the
19 police?

20 THE WITNESS: Yes.

21 THE COURT: As part of the -- okay. Mr.
22 Dimopoulos, anything?

23 MR. DIMOPOULOS: Nothing.

24 MS. HALL: Judge, I just have a quick question.

25 RE-CROSS-EXAMINATION

M. Angst - Defendant - Recross (Hall)

1 BY MS. HALL:

2 Q. When is the first time that you became aware that there
3 was a restraining order at all? Was it through the cashier you
4 spoke to, Mr. Kassenoff?

5 A. Mr. Kassenoff. Mr. Kassenoff, when I first had the
6 conversation with Mr. Kassenoff.

7 Q. So just to be clear, when you first had the
8 conversation with Mr. Kassenoff, did he say there was a
9 restraining order?

10 A. Yes, at first.

11 Q. And then when you stated I'm going to get the police
12 involved, did he change that statement then and say the order of
13 protection had expired?

14 A. Correct. He said he didn't want to get the police
15 involved, the restraining order actually expired.

16 MS. HALL: Okay, thank you.

17 THE COURT: Anything further, Ms. Carton, Ms.
18 Colin?

19 MS. CARTON: Nothing further, your Honor. Thank
20 you.

21 MS. COLIN: Nothing further.

22 THE COURT: I have a question for you. Do you
23 have any cameras in the facility?

24 THE WITNESS: We do.

25 THE COURT: Do you normally have them on so that

P.O. Stapleton - Defendant - Direct

1 there would be footage of what happened?

2 THE WITNESS: Yes. There's a -- we have a TV
3 inside the office that scrolls through, I believe there's
4 about 20 cameras or so.

5 THE COURT: Around the rink?

6 THE WITNESS: Around the facility, correct.

7 THE COURT: Anything further? You can step down.

8 Thank you for coming, Mr. Angst.

9 (Whereupon, the witness was excused.)

10 THE COURT: Who is your next witness?

11 MR. FRISCH: Officer Matthew Stapleton.

12 THE CLERK: Do you swear or affirm any testimony
13 you give today will be the truth, the whole truth, and
14 nothing but the truth?

15 THE WITNESS: I do.

16 THE CLERK: Please state your name, title and
17 agency.

18 THE WITNESS: Officer Stapleton, town of
19 Mamaroneck police.

20 THE COURT: You may inquire, Mr. Frisch.

21 MR. FRISCH: Thank you, Judge.

22 DIRECT EXAMINATION

23 BY MR. FRISCH:

24 Q. Officer Stapleton, good afternoon.

25 A. Good afternoon.

P.O. Stapleton - Defendant - Direct

1 Q. Just for the record, your first name is Matthew,
2 correct?

3 A. Correct.

4 Q. Spelled with two T's?

5 A. Correct.

6 Q. For how long have you been a police officer?

7 A. Almost 10 years now.

8 Q. Is that all with the town of Mamaroneck?

9 A. Yes.

10 Q. And what did you do before that?

11 A. I was a sales representative.

12 Q. So this was your first work as a police officer in the
13 town of Mamaroneck?

14 A. Correct.

15 Q. Is there a police station in the town of Mamaroneck
16 where you typically work?

17 A. Yes.

18 Q. How far is it from the Hommocks skating rink?

19 A. I don't know.

20 THE COURT: If you know, approximately.

21 A. I would say under a mile and a half maybe.

22 Q. And is it your understanding that the rink is owned and
23 or operated by the town of Mamaroneck?

24 A. Correct.

25 Q. Are you familiar with a 911 call that was made to

1 police from the rink on March 18, 2023?

2 A. Yes.

3 Q. How are you familiar with it?

4 A. I received a call from the ice rink manager saying that
5 there was a domestic disturbance regarding a husband and wife,
6 child involved, and that there might be a restraining order
7 involved.

8 THE COURT: Did you receive the 911 call?

9 THE WITNESS: I did.

10 THE COURT: Oh, okay. You do a little bit of
11 everything.

12 THE WITNESS: I do.

13 Q. In any event so it was you who spoke directly to the
14 manager of the ice rink?

15 A. Correct.

16 Q. And do you recall, if you do, that his name is Matthew
17 Angst?

18 A. I think that was established later, but yes.

19 Q. In any event as a result of the call, did you and other
20 officers respond to the rink?

21 A. We did.

22 Q. How many officers?

23 A. I think two other officers and a supervisor.

24 Q. Was one of them officer Chabrier C-H-A-B-R-I-E-R?

25 A. It was, yes.

P.O. Stapleton - Defendant - Direct

1 Q. And another officer or supervisor was Nelson Flores?

2 A. Correct, supervisor.

3 Q. And the other officer, therefore, was William Rakas

4 R-A-K-A-S?

5 A. No. He was the desk officer that I was covering for,
6 so I took the call.

7 Q. I see. So how many were there -- so how many officers
8 and or supervisors responded to the rink, a total of how many?

9 THE COURT: Including yourself.

10 A. Four.

11 Q. Who was the fourth? Maybe I misunderstood.

12 A. Officer Randy Reif.

13 Q. Can you spell Reif for the court reporter?

14 A. R-E-I-F.

15 Q. Was this the first time you had ever responded to the
16 rink in your 10 years?

17 A. No.

18 Q. How many times?

19 A. I wouldn't be able to count. Many.

20 Q. But --

21 MS. HALL: Judge, the witness shook his head as
22 opposed to answering. The reporter can't take that down.

23 THE COURT: I'm sorry. Read back the question,
24 please.

25 (Whereupon, the requested portion of the record

1 was read by the court reporter.)

2 THE COURT: I'm sorry. You shook your head in
3 which direction? I was writing.

4 THE WITNESS: I don't recall.

5 THE COURT: Go ahead, Mr. Frisch.

6 Q. Prior to March 18, 2023, had you ever met my client
7 seated to my left, Mrs. Kassenoff?

8 A. Not to my knowledge, no.

9 Q. Had you ever met Mr. Kassenoff?

10 A. Not to my knowledge.

11 Q. Upon arriving at the rink, do you remember
12 approximately what time you arrived at the rink?

13 A. I don't.

14 Q. Was it in the early afternoon, about two o'clock; is
15 that fair?

16 A. I believe it was after two, that's fair.

17 Q. Upon arrival what did you and your fellow officers do?

18 A. I believe we met with the rink manager and he pointed
19 out Mr. Kassenoff on the ice. We were trying to establish, you
20 know, who was present, where everyone was, and I believe we
21 directed them to come off the ice and speak with us.

22 MS. FRISCH: So I want to show you -- and Judge,
23 I'm going to do this the old fashion way with paper -- I
24 want to show you a document which I will mark for
25 identification as Defendant's B.

1 THE COURT: Let's have that one marked now.

2 (Whereupon, the item previously referred to is
3 received and marked Defendant's Exhibit B for
4 identification.)

5 Q. If you could just take a look at it, Officer, and tell
6 me if you recognize what that is?

7 A. Yes. It's the blotter regarding that incident.

8 Q. When you say blotter, essentially is this the police
9 report associated with that incident?

10 A. Yes.

11 Q. And among other officers' names, your name appears on
12 it, correct?

13 A. Yes.

14 MR. FRISCH: I offer it as B.

15 MR. DIMOPOULOS: No objection.

16 THE COURT: It's deemed in evidence.

17 MS. HALL: Is it B or D?

18 THE COURT: B as in boy.

19 Q. Officer, I want to sort of ask you some questions about
20 the report, and I want to start on the very last page, which
21 would be, I think physical -- this is a five-page document,
22 correct? I know you have a double sided copy, but essentially
23 there's five pages of --

24 A. Correct.

25 Q. So I'm going to turn your attention to the fifth page.

1 Do you see on the bottom left a signature, very bottom left, PO
2 M?

3 A. Yes.

4 Q. Is that your signature?

5 A. Yes.

6 Q. And directly above your signature is someone else's
7 signature. Do you see that?

8 A. Yes.

9 Q. And both your signature and the signature above are
10 dated March 18, 2023, correct?

11 A. Yes.

12 Q. Is the signature -- and then above that is a statement
13 of Allan Kassenoff; did you see that?

14 A. Yes.

15 Q. And you signed this, according to the document, as a
16 witness, correct?

17 A. Yes.

18 Q. And so did you witness Mr. Kassenoff write this out and
19 sign it?

20 A. Yes.

21 Q. So I want to take you through it and ask you some
22 questions about it, and just to be complete, even though it may
23 take a few extra minutes, I'll read it:

24 "I was attending ice skating with my daughter Jo Jo.
25 Catherine Kassenoff showed up (as permitted by the matrimonial

1 court) and started harassing Jo Jo. Jo Jo and I just ignored
2 her. While Jo Jo was in her lesson, I was doing free skating or
3 free skate. Catherine proceeded to give me the finger as I
4 skated by. I got off the ice and asked her to stop harassing me
5 and Jo Jo. She started recording me and screaming, I am going
6 to get a restraining order!! I told her I was going to speak to
7 the manager, which I did. The manager proceeded to call the
8 police (which I didn't even know)"

9 Have I read that correctly as far as you can tell?

10 A. Yes.

11 Q. Okay. Fair to say you were not present when Mr.
12 Kassenoff had his initial conversation with the manager, Mr.
13 Angst, correct?

14 A. That would be correct.

15 Q. So you cannot give us direct firsthand testimony about
16 what was said in that conversation, correct?

17 A. Correct.

18 Q. All you can testify to is what you were told once you
19 arrived at the scene, correct?

20 A. Yes.

21 Q. And what Mr. Kassenoff wrote in his statement, correct?

22 A. Yes.

23 Q. All right. Now I want to show you on the upper right
24 of this same page, I want to direct your attention to two
25 portions, but first I want to direct your attention to two

P.O. Stapleton - Defendant - Direct

1 questions where there are check marks in the upper right, and
2 this is on the fifth page, not all the way at the top but maybe
3 85 percent of the way to the top. Do you see where it says "Is
4 suspect capable of killing you or children?" Do you see that?

5 A. Yes.

6 Q. And the check mark yes is there; do you see that?

7 A. Yes.

8 Q. Who checked that?

9 A. I'm not really sure. I think I did.

10 Q. And on whose information was it based?

11 A. Mr. Kassenoff.

12 Q. And then the one below says "Is suspect violently and
13 constantly jealous of you," and again, the check mark in the box
14 yes. Same question, do you recall who did that check mark?

15 A. I believe I did.

16 Q. Was it based on information provided by Mr. Kassenoff?

17 A. Yes.

18 Q. Now let me direct your attention to the very top, the
19 sort of the rectangular box where the first word is "early." Do
20 you see that?

21 A. Yes.

22 Q. Whose handwriting is that?

23 A. That's my handwriting.

24 Q. Now, before I go into more depth about it, do you see
25 the word "worst" there?

1 A. Um-hm.

2 Q. And if you go to the left of that one line down,
3 there's the word "first," correct?

4 A. Yes.

5 Q. Does the use of those words in this context meaning
6 anything to you?

7 A. Yes.

8 Q. Explain, please.

9 A. So with the new DIR form you're required to put for
10 past incidents the first, last and worst involving a domestic
11 dispute between the parties.

12 Q. And just so that the record is clear, what does DIR
13 stand for?

14 A. Domestic incident report.

15 Q. Got it. And so protocol, at least now, at least as of
16 March 2023, is to ask the complainant what's the first, what's
17 the first, what's the worst and what's the last, correct?

18 A. Yes.

19 Q. And first, worst or last incident of domestic, of a
20 domestic incident; is that right?

21 A. Yes.

22 Q. The information in this box, who provided that
23 information to you?

24 A. Mr. Kassenoff.

25 Q. If it says -- do you see where it says now --

1 withdrawn. Sorry to talk too fast. I'll slow down.

2 So it says early 2023 worst, arrested for OP violation.

3 Do you see that?

4 A. Yes.

5 Q. Was that information provided by Mr. Kassenoff?

6 A. Yes.

7 Q. Did you write this contemporaneous with him talking to
8 you?

9 A. Yes.

10 Q. And so he told you that Mrs. Kassenoff had been
11 arrested for an order of protection violation in early 2023,
12 correct?

13 A. Yes.

14 Q. He didn't say 2022 or 2021 or 2020?

15 A. He seemed unsure of the date, but he said that he
16 thought it was this year.

17 Q. He said he thought it was this year, meaning 2023?

18 A. Yes.

19 Q. Did he tell you -- withdrawn.

20 Fair to say that generally speaking, with police
21 reports and certainly with this type of police report, you do
22 your best to be careful and write down what the complainant
23 says, correct?

24 A. Yes.

25 Q. You try and be accurate and complete, correct?

P.O. Stapleton - Defendant - Direct

1 A. Yes.

2 Q. Did Mr. -- in completing this portion of the form, did
3 Mr. Kassenoff tell you that Ms. Kassenoff's arrest had been
4 vacated and the case dismissed?

5 A. I don't recall.

6 Q. Certainly you didn't write that down, correct?

7 A. No.

8 Q. And then it goes on to say, just in the interest of
9 completion, he says first P2 -- and who does P2 refer to? Is
10 that Mr. or Mrs. --

11 A. Ms. Kassenoff.

12 Q. Called Larchmont Police Department on P1, meaning Mr.
13 Kassenoff, correct?

14 A. Yes.

15 Q. For driving a family vehicle when she didn't want him
16 to, correct?

17 A. Yes.

18 Q. And so that was also information provided by Mr.
19 Kassenoff, correct?

20 A. Correct.

21 Q. And in response to your question, your questions, first
22 worse and last, correct?

23 A. Correct.

24 Q. This is what he said was the first, right?

25 A. Yes.

1 Q. When you first spoke to Mr. Kassenoff, where within the
2 rink or the rink facility were you located?

3 A. By the entrance to the ice.

4 Q. Sort of -- that's sort of the glass enclosure?

5 A. Yes.

6 Q. And how long did you speak to him there?

7 A. A few minutes.

8 Q. And where was Mrs. Kassenoff when you were having that
9 conversation with Mr. Kassenoff?

10 A. I don't know.

11 Q. What did you do after that conversation for a few
12 minutes with Mr. Kassenoff?

13 A. I tried to locate Ms. Kassenoff to interview her.

14 Q. And did you speak to her?

15 A. I did.

16 Q. And after you spoke to her, what happened next?

17 A. She left.

18 Q. She left the rink?

19 A. Yes.

20 Q. And then what happened?

21 A. Officer Chabrier completed -- and myself -- completed
22 the DIR and that was it.

23 Q. Got it. And so this police report -- withdrawn.

24 THE COURT: How is it the fact that she left, if
25 it did, affect how you prepared the DIR? I mean what I'm

1 asking is how did you come to the conclusion one is the
2 victim and one is the --

3 THE WITNESS: Well, I -- there's no crime that was
4 taking place, so we didn't really treat it as one's the
5 victim and one's the offender because there's no crime.

6 Q. By the way, going back to the top the rectangular box
7 on the top of page five, is it fair to say you don't recall
8 whether Mr. Kassenoff told you that the order of protection had
9 been vacated?

10 A. He did say that there was an order of protection but it
11 wasn't, was no longer in effect.

12 Q. And he told that to you, is that something you wrote
13 down anyplace in the report?

14 A. Myself, no. Officer Chabrier I believe did.

15 Q. Okay. So if you go -- and that's on page four,
16 correct? So if you go -- I'm sorry -- to -- if you go back to
17 the preceding page, page four, do you see that on the bottom?

18 A. Yes.

19 Q. And whose handwriting is that?

20 A. That's Officer Chabrier.

21 Q. And are you familiar with Officer -- are you familiar
22 with Officer Chabrier's role in this incident?

23 A. Yes.

24 Q. And the fact that he wrote this down?

25 A. Yes.

1 Q. And so, again, to be complete, it says "Responding
2 officer responded to a third party caller reporting a domestic
3 incident occurring inside of the above location. P1 states he
4 brought his daughter to the Hommocks ice skating rink for a
5 lesson. P1 states P2 gave the middle finger to him. P1
6 approached P2 to ask her to behave. P1 and P2 are in the
7 process of a divorce. P2 left the location and refused to give
8 any information. P1 states there was a restraining order that
9 is currently expired. P1 further states P2 is allowed to be in
10 public spaces that children are in." Is that what it says?

11 THE COURT: I think it says "at."

12 MR. FRISCH: Are at. Okay.

13 MR. DIMOPOULOS: Their children are in or at.

14 Q. As far as you know, that was accurate? I've read
15 accurately what Officer Chabrier wrote based on the information
16 he obtained as a part of this investigation?

17 A. Yes.

18 Q. And I may have asked you this before, and if I did, I
19 apologize for being repetitive, but you don't know what it is
20 that -- you were not present when Mr. Kassenoff first spoke to
21 the skating rink manager before police were, before police were
22 called, correct?

23 A. That's correct.

24 MR. FRISCH: Give me one second, Judge.

25 THE COURT: Yes.

P.O. Stapleton - Defendant - Cross (Dimopoulos)

1 Q. You are -- just one last thing. If you go to page two
2 of that document, Officer, and it starts -- this is the
3 paragraph that begins PO Chabrier?

4 THE COURT: That's C-H-A-B-R-I-E-R.

5 A. Page three.

6 Q. Is it page three? I stand corrected. Thank you,
7 Officer. Who wrote this?

8 A. Officer Chabrier.

9 Q. And it is based on information provided by Mr.
10 Kassenoff again, correct?

11 A. Correct.

12 Q. And just -- I'm not going to read the whole thing, but
13 the use of the word -- you see third line from the bottom,
14 there's use of the word "scream," that she was going to get a
15 restraining order. Do you see that?

16 A. I see it.

17 Q. And "scream," as far as you know, was the word that Mr.
18 Kassenoff related to the officer, correct?

19 A. I don't recall.

20 Q. And -- but to your knowledge, is the information in
21 this paragraph provided by Mr. Kassenoff as far as you know?

22 A. Yes.

23 Q. And then the last line, just to confirm, that it says
24 this, it says Mrs. Kassenoff stated she did not want to give any
25 information and proceeded to leave the location on her own free

P.O. Stapleton - Defendant - Cross (Dimopoulos)

1 will. Do you see that?

2 A. Yes.

3 MR. FRISCH: Give me one second, make sure I'm
4 through with this witness.

5 Officer Stapleton, I have nothing further. Thank
6 you.

7 THE COURT: Mr. Dimopoulos.

8 MR. DIMOPOULOS: One second, your Honor, please.

9 THE COURT: I'm sorry?

10 MR. DIMOPOULOS: Just one second.

11 THE COURT: All right.

12 CROSS-EXAMINATION

13 BY MR. DIMOPOULOS:

14 Q. Officer Stapleton, how many domestic incident reports
15 would you say you would estimate that you've been involved in in
16 your 10 years at Mamaroneck?

17 A. I don't know. Many.

18 Q. More than 50?

19 A. I would say between 50 and a hundred.

20 Q. And you have specific training in how to handle
21 situations that involve domestic disputes, correct?

22 A. Yes.

23 Q. And one of the things, correct me if I'm wrong, that
24 you have to assess when you are involved in an investigation
25 involving a domestic incident, is whether one party is fearful

P.O. Stapleton - Defendant - Cross (Dimopoulos)

1 of the other, correct?

2 A. Correct.

3 Q. In any of your interactions on this date did you
4 witness one or the other party being fearful of the other?

5 A. No.

6 Q. What, if anything, leads you to that conclusion?

7 A. Just their demeanor. They didn't seem -- neither
8 seemed afraid. They just seemed more upset than anything but
9 not fearful.

10 Q. With specific reference to Ms. Kassenoff, what did she
11 say or do that leads you to the conclusion that she was not
12 fearful on that day?

13 A. She just left. She didn't -- she seemed upset, but she
14 just left. She didn't want to provide much information and that
15 was it.

16 Q. When you -- in the course of your employment, if it is
17 your belief that a crime had been perpetrated as it relates to a
18 domestic incident, are you permitted to effectuate an arrest?

19 A. Yes.

20 Q. Do you have to get the approval of another supervising
21 officer before effectuating an arrest?

22 A. Yes.

23 Q. Did it ever cross your mind on this day to effectuate
24 an arrest of either party?

25 A. When, when the initial call came over for restraining

P.O. Stapleton - Defendant - Cross (Dimopoulos)

1 order, yes, but then once Mr. Kassenoff said that it had been
2 vacated, no.

3 Q. And when there's a question of whether or not a
4 restraining order exists as it relates to an investigation you
5 are making of a domestic incident, what, if anything, do you do
6 to make sure that a restraining order does or does not exist?

7 A. I would ID the parties and see if anything comes up on
8 E-Justice.

9 Q. You go to -- your police vehicle has a computer, right?

10 A. No.

11 Q. Where would you do that, sir?

12 A. You would do it over the radio.

13 Q. So you get their identification, you call back to the
14 station and then they could do a search, correct?

15 A. Correct.

16 Q. Was that done here?

17 A. No.

18 Q. Is there a reason why it wasn't done?

19 A. My supervisor said don't worry about it.

20 Q. Okay. And you said that Mr. Kassenoff appeared unsure
21 of the date of the prior OP and the arrest, correct?

22 A. Correct.

23 Q. What, if anything -- did he say anything that leads you
24 to believe that he was unsure?

25 A. He just, he was kind of stammering like I don't know,

P.O. Stapleton - Defendant - Cross (Dimopoulos)

1 was it 2022, no, it was definitely 2023. Things of that nature.

2 Q. Okay.

3 THE COURT: I have a question for you. You have
4 used a couple of different terminologies. Did he tell you
5 the order of protection was vacated or that it expired or
6 any other language?

7 THE WITNESS: I don't recall, but just that it
8 wasn't in effect anymore. That was definitely used.

9 THE COURT: Go ahead, Mr. Dimopoulos.

10 Q. When Ms. Kassenoff walked out of the ice skating rink,
11 did you or any of the other officers walk out with her?

12 A. No.

13 Q. She walked out by herself?

14 A. She walked to the vestibule area that leads to where
15 the exit is. That's as far as my last sight of her was.

16 Q. And when she walked out, do you recall how far you or
17 any of the other officers were from her?

18 A. I'm not sure. When do you mean? When --

19 Q. As she was -- as she was walking, proceeding to exit
20 the ice skating rink.

21 A. I was behind her, maybe a few feet.

22 Q. Any other officers with you behind her a few feet?

23 A. Yes, the supervisor for sure.

24 Q. Since the incident occurred, have you had, have you
25 been, have you or any other officer that you know of been

P.O. Stapleton - Defendant - Cross (Hall)

1 contacted about this incident or about this case?

2 A. Yes.

3 Q. Can you tell me who and when?

4 A. Ms. Kassenoff called while I was assigned to the desk
5 and then later that day, I believe it was later that day she
6 came in to headquarters wanting to give a statement.

7 THE COURT: That day meaning the day in question
8 that the alleged incident --

9 THE WITNESS: No. I believe it was the next day
10 or a day later. I'm not sure exactly.

11 Q. Okay. So did you speak with her when she came in?

12 A. I did briefly.

13 Q. What did she say to you?

14 A. Just she wanted a copy of the report, and she was going
15 over it saying that this isn't right and --

16 THE COURT: Going over the report and saying it
17 wasn't right?

18 THE WITNESS: The DIR.

19 Q. Do you recall what, if anything, about the DIR that
20 Miss Kassenoff claimed was not right?

21 A. I think the -- when the arrest occurred for the order
22 of protection.

23 Q. Okay.

24 A. I don't recall anything else.

25 Q. And did she ask that you make any changes to the DIR at

1 that point or any time after?

2 A. I don't recall.

3 Q. Did she visit the police office, the police station any
4 time after that?

5 A. I don't recall. Not to my knowledge.

6 Q. Did she ever call, other than visiting, other than that
7 one occasion?

8 A. Not to my knowledge.

9 MR. DIMOPOULOS: I have nothing further. Thank
10 you.

11 THE COURT: Ms. Hall.

12 MS. HALL: Yes, Judge.

13 CROSS-EXAMINATION

14 BY MS. HALL:

15 Q. You just answered on cross-examination that, that when
16 you assessed the situation, you did not believe that anyone was
17 fearful. The question that was asked was on that day you didn't
18 believe anyone was fearful on that day, correct?

19 A. Correct.

20 Q. However, when you came to the rink, did you observe the
21 actual incident that took place?

22 A. No.

23 Q. You came after, correct?

24 A. Correct.

25 Q. Would you be able to state that there was no fear at

P.O. Stapleton - Defendant - Cross (Hall)

1 the time the incident took place or just when you were there and
2 you observed them?

3 A. Just when I was there and observed them.

4 Q. So is that a correction as to the fact that there was
5 no fear on that day, just --

6 MR. DIMOPOULOS: Your Honor, objection.

7 THE COURT: Observed by you.

8 THE WITNESS: Observed by me.

9 MS. HALL: Thank you.

10 Q. You also indicated, when the judge asked you, that you
11 didn't assess anyone to be a suspect or victim because you
12 didn't feel there was a crime committed, correct?

13 A. Correct.

14 Q. But in the DIR that you filled out, you did insert a
15 specific person's name as a suspect, correct?

16 A. Correct.

17 Q. And who was that?

18 A. Ms. Kassenoff.

19 Q. And you did insert a certain person's name as a victim;
20 isn't that correct?

21 A. Correct.

22 Q. And who was that?

23 A. Mr. Kassenoff.

24 Q. Based on the training that you received, are you
25 required to complete a DIR if you feel a crime has not been

P.O. Stapleton - Defendant - Cross (Carton)

1 committed?

2 A. Yes.

3 Q. And why?

4 A. Anything involving a family, DIR.

5 Q. And based on your training, who are you supposed to
6 input as a victim?

7 A. Whoever -- well, if you look at the DIR, it says victim
8 P1, suspect P2. That's why we use P1, P2. I was treating the
9 parties as P1 and P2, not suspect victim.

10 Q. And where were you referring to -- for the record, were
11 you on page one, two? Which page?

12 A. Four.

13 Q. Okay.

14 THE COURT: Which page four, which page do you
15 think is page four?

16 THE WITNESS: The front page of the DIR.

17 THE COURT: Just show me. This page? Oh no.

18 THE WITNESS: The one before it.

19 Q. The page at the top left --

20 THE COURT: It's this page. Everyone can see
21 that?

22 MS. HALL: Yes.

23 Q. The page that on the top left says TMPD and on the top
24 right says 2112-23?

25 A. Correct.

P.O. Stapleton - Defendant - Cross (Carton)

1 Q. And on the last page, page five where you have suspect
2 name, Catherine Kassenoff, did you just put the name there as a
3 place holder?

4 A. Yes.

5 MS. HALL: Okay, thank you. Nothing further.

6 THE COURT: Ms. Carton?

7 MS. CARTON: Yes. Two questions, please, your
8 Honor.

9 CROSS-EXAMINATION

10 BY MS. CARTON:

11 Q. Officer Stapleton, am I correct that when you first
12 responded to the 911 call you believed there was a violation of
13 a current order of protection?

14 A. Correct.

15 Q. And am I also correct that you did not learn that there
16 was no current order of protection until you arrived at Hommocks
17 ice rink?

18 A. Correct.

19 Q. And you learned that information after a conversation
20 with Mr. Kassenoff, correct?

21 A. Correct.

22 Q. Did anyone else at the rink tell you that there was no
23 current order of protection?

24 A. No.

25 Q. With whom you engaged?

Proceedings

1 A. No.

2 MS. CARTON: Thank you, Officer.

3 THE COURT: Ms. Colin?

4 MS. COLIN: Nothing. Thank you.

5 THE COURT: Any redirect?

6 MR. FRISCH: No.

7 THE COURT: Just one other question. You didn't
8 happen to speak to the child, did you, when you arrived
9 there?

10 THE WITNESS: No.

11 THE COURT: And any of your other colleagues did
12 not as well?

13 THE WITNESS: No, not to my knowledge.

14 THE COURT: You can step down. Thank you,
15 Officer.

16 (Whereupon, the witness was excused.)

17 THE COURT: Mr. Frisch.

18 MR. FRISCH: Your Honor, we subpoenaed or we
19 jointly subpoenaed two officers, Officer Stapleton and
20 Officer Chabrier. I wasn't sure whether Officer Stapleton
21 could cover everything. From our perspective he did, so I
22 don't intend to call Officer Chabrier. Whether Mr.
23 Dimopoulos wants to keep him around, he's outside, is up to
24 Mr. Dimopoulos.

25 THE COURT: Would you have any other witnesses to

C. Kassenoff - Defendant - Direct

1 call?

2 MR. FRISCH: Yes.

3 THE COURT: Do you want to take this out of order
4 and you want to call the officer, or otherwise I'll let him
5 go. We'll do it out of order so he's not waiting in the
6 hallway.

7 MR. DIMOPOULOS: I think there's Stapleton and
8 Chabrier are both here. I saw Stapleton.

9 MR. FRISCH: That was Stapleton right here.

10 MR. DIMOPOULOS: I'm so sorry. There's only one
11 other officer, and that's Chabrier, correct?

12 THE COURT: Yes, but we can take him out of order
13 if you want to call him so he's not waiting in the hallway.
14 I don't know how much he has to offer. It might be very
15 short.

16 MR. DIMOPOULOS: It might be very short. Mr.
17 Frisch, do you want to go outside and talk about it for a
18 second? Can we just have two minutes?

19 THE COURT: Yes, we'll take a five-minute recess.

20 (Whereupon, a recess was taken.)

21 THE COURT: Do we need the other witness?

22 MR. DIMOPOULOS: Your Honor, we don't need the
23 other witness.

24 THE COURT: Does someone want to let him know he
25 could go?

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1 MR. DIMOPOULOS: I told him.

2 THE COURT: The sergeant's going to do that. Mr.
3 Frisch, your next witness.

4 MR. FRISCH: Mrs. Kassenoff.

5 THE COURT: Mrs. Kassenoff, you want to come up.

6 THE CLERK: Do you swear or affirm that the
7 testimony you give will be the truth, the whole truth and
8 nothing but the truth?

9 THE WITNESS: I do.

10 THE CLERK: Please state your name and county of
11 residence.

12 THE WITNESS: Catherine Kassenoff, Westchester
13 County, New York.

14 THE COURT: Mr. Frisch, you can inquire.

15 MR. FRISCH: Thank you.

16 DIRECT EXAMINATION

17 BY MR. FRISCH:

18 Q. Mrs. Kassenoff, has there ever been a restriction on
19 your attending public activities with your children?

20 A. Only when there were orders of protection that were put
21 in place ex parte by Mr. Kassenoff.

22 Q. You mean for example the one mile stay away that would
23 have made it, would have prevented you from attending public
24 activities with your children certainly within one mile of the
25 home, correct?

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1 A. Correct.

2 Q. Otherwise, have there been any restrictions on your
3 attending public activities of your children or with your
4 children?

5 A. No, I don't think so.

6 Q. Did the judge -- I should say did the Court ever make
7 clear that there was no such restriction apart from the
8 exception about which you just testified?

9 THE COURT: Which judge, because there's been five
10 here, unfortunately.

11 MR. FRISCH: That's why I said Court.

12 Q. Did any judge who has presided over this case ever make
13 clear that there was no such restriction except as you
14 explained?

15 A. Yes.

16 Q. Explain what you mean by that.

17 A. In approximately I believe it was the end of 2022 Judge
18 Capeci clarified in an order that there was no such restriction.

19 Q. Now, before March 18, 2023, did you attend public
20 activities from time to time of one or more of your children?

21 A. I'm sorry. In which time frame?

22 Q. Before March 18, 2023.

23 A. Yes.

24 Q. About how many times?

25 A. For each child multiple times.

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1 Q. Was Mr. Kassenoff always there?

2 A. Not always, but often.

3 Q. When he was not there, what was the nature of your
4 interaction with the children whose public activities you
5 attended?

6 MR. DIMOPOULOS: Your Honor, I'm just going to
7 object on the basis of relevance. I think this hearing
8 concerns a very specific day in question and should be
9 focusing on March 18th.

10 THE COURT: Mr. Frisch.

11 MR. FRISCH: Well, one of the statutes at issue, I
12 believe it's the harassment statute talks about course of
13 conduct, and so I think that's number one. Number two,
14 another argument for relevance is whether or not the
15 circumstances of March 18, 2023 represented a
16 misunderstanding or a one off or something isolated but in
17 fact in context it helps establish that this is a course of
18 conduct and it helps defeat any claim of mistake,
19 inadvertence, misunderstanding.

20 THE COURT: AFC's want to be heard at all?

21 MS. HALL: I take no position.

22 MS. CARTON: Same here, your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: Can I have the question back,
25 please?

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1 THE COURT: Yes.

2 (Whereupon, the requested portion of the record
3 was read by the court reporter.)

4 A. The interaction was incredibly different from when he
5 was present. It was positive, it was affectionate. It was much
6 more normalized than when he was present.

7 THE COURT: I don't want to get too far afield
8 here because I think this is like pulling a string well
9 into the custody portion of this, but go ahead.

10 Q. Let's turn to March 18, 2023. How did you know that
11 there was a public activity at the skating rink that day?

12 A. Because there is a joint calendar that Mr. Kassenoff
13 and I use to calendar events for the children and that was one
14 of the events that was calendared.

15 Q. Do you recall at approximately what time -- withdrawn.
16 Do you recall what time the activity was scheduled?

17 A. Yes, it was scheduled for 1:30 p.m.

18 Q. And what kind of activity was it supposed to be?

19 A. It's a skating lesson, a group skating lesson on the
20 ice at Hommocks park ice rink.

21 Q. And one of your children was scheduled to attend, that
22 is Jo Jo, correct?

23 A. Yes.

24 Q. Do you recall what time you arrived at the rink?

25 A. I arrived at approximately 1:15, 1:20, shortly before

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1 the lesson started.

2 Q. And upon arriving what did you do?

3 A. I looked around the interior of the rink to see where
4 Jo Jo might be, putting on her skates, getting ready to go into
5 the ice, and I eventually saw where she was with her father.

6 Q. What happened then?

7 A. I approached her father and her with a cake pop that I
8 had just purchased from Starbucks in a bag.

9 Q. What happened then?

10 A. I offered Jo Jo the cake pop and --

11 THE COURT: I'm sorry. You offered Jo Jo --

12 A. Yes, I offered Jo Jo the cake pop. Unfortunately, she
13 was not permitted to take the cake pop from me.

14 Q. So what was her reaction or what did you, did you
15 observe about her demeanor upon you offering her the pop?

16 A. She was excited to receive it initially, but then it
17 changed.

18 Q. Before it changed was she smiling?

19 A. She was smiling. She was, seemed excited, she
20 wasn't -- she seemed very just sort of happy to have a cake pop.
21 I think a lot of nine years old like to receive cake pops.

22 Q. Okay. So then what happened? You started to testify
23 about what happened after you offered it. You can proceed.

24 A. Sure. So her father was sitting right next to her, and
25 he immediately said to me you can't give her --

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1 MR. DIMOPOULOS: Objection. Objection.

2 Objection. Hearsay.

3 THE COURT: He's a party in interest, right?

4 MR. FRISCH: Yes.

5 THE COURT: Overruled.

6 A. Words to the effect of you can't give her that, you
7 can't bring outside food into the facility for her to eat, I try
8 to teach my daughter rules, not break them like you do.

9 Q. Where was Jo Jo at that time?

10 A. She was sitting right next to him.

11 Q. And when you say sitting, was there -- why was she
12 sitting? Was there a reason?

13 A. There was. She was putting on her skates and so
14 there's a bench where she was doing that.

15 Q. Did her demeanor change?

16 A. Immediately.

17 Q. How so? Please describe.

18 MR. DIMOPOULOS: Objection. How is it relevant to
19 this hearing on an order of protection, how Jo Jo's
20 demeanor changed?

21 MR. FRISCH: Because part of the -- at least in
22 one of the statements that Mr. Kassenoff made, he said
23 that -- and I believe it's in either page four or page five
24 of Defendant's B that Ms. Kassenoff started harassing Jo Jo
25 when she showed up.

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1 MR. DIMOPOULOS: But Jo Jo's not a movant in this
2 action, nor is she a respondent in this action, and her
3 emotions and behavior on that day are irrelevant.

4 MS. HALL: Judge, I would agree with counsel as
5 the motions --

6 THE COURT: Which counsel?

7 MS. HALL: I'm sorry. I would agree with counsel
8 that the emotions are irrelevant to these proceedings. I
9 understand we're incorporating the testimony into the
10 custody proceedings, so if the Court gave a little latitude
11 understanding that we are incorporating the testimony
12 that's also fine. I don't --

13 THE COURT: I'm going to sustain the objection. I
14 mean I think it's relevant, but I don't really want to be
15 doing the custody portion, although I suspect we will be
16 revisiting this portion of it. I'm sure she'll be
17 testifying during the custody, so if we could move on.

18 Q. After that interaction what happened next?

19 A. Soon thereafter, at about 1:30, 1:31 --

20 Q. Before we get to 1:31, I'm sorry, after that
21 interaction, did you remain where Mr. Kassenoff and your
22 daughter were sitting?

23 A. No, I didn't. I felt that I had been rejected with the
24 cake pop, so I said that's okay, she can have it later, and I
25 just walked away after a brief couple of moments where she stood

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1 up and said, you know, she stood up and I asked her if she was
2 excited to go on the ice, and the interaction lasted maybe just
3 five seconds, and then I walked away with the cake pop.

4 Q. And where did you go?

5 A. I went to the spot that I remained for the rest, for
6 the duration of the time, but until the police got there, which
7 was immediately to the left of the open door as you enter the
8 ice rink, the ice, the actual ice itself on the far like right
9 side of the rink there are multiple doors.

10 THE COURT: Are there seats there? There are
11 stands there?

12 THE WITNESS: There are. There are. But you --
13 but they're further back.

14 THE COURT: So were you standing when you went
15 there or you went to sit down?

16 THE WITNESS: I was standing.

17 MS. FRISCH: And so your Honor knows what I'm
18 going to go through a narrative of what happened and then
19 we'll go to the videotape so to speak and show pictures of
20 what Ms. Kassenoff is describing.

21 Q. When you got to that spot, so essentially you're
22 standing on concrete, correct?

23 A. Yes.

24 Q. And essentially you're standing outside of the rink,
25 correct?

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1 A. Outside of the ice.

2 Q. Outside of the ice, fair enough. And from where you're
3 standing -- withdrawn.

4 From the concrete that surrounds the ice, there are
5 multiple entrances onto the ice, correct?

6 A. Yes.

7 Q. And you were standing near one of the, one of the
8 entrances, correct?

9 A. Yes.

10 Q. Did you move from that spot from that moment until the
11 police arrived at a later point?

12 A. Not once.

13 Q. At any time did you scream to anyone about anything?

14 THE COURT: Scream?

15 MR. FRISCH: Scream.

16 A. Absolutely not.

17 Q. Did you use your phone? Did you have your i-Phone with
18 you?

19 A. I did.

20 Q. Did you use it to film anything?

21 A. Yes.

22 Q. Explain.

23 A. Well, initially I was filming my daughter skating
24 periodically doing different things during her group lesson, but
25 then that changed to filming what Mr. Kassenoff started to do as

1 a way to document his behavior.

2 Q. And we'll come to what you filmed in a moment. And
3 we'll -- withdrawn.

4 Did there come a time that he left the ice and with his
5 skates on approached you?

6 MR. DIMOPOULOS: Your Honor, objection to the
7 leading question. I understand you could lead a little
8 bit, but just to the extent we can control, less is better.

9 THE COURT: Okay.

10 Q. What happened next?

11 A. I'm sorry. Could you repeat it?

12 Q. Did there come a time after you testified that you
13 filmed Jo Jo on the ice, correct?

14 A. Yes, multiple times.

15 Q. After filming on the ice, did something happen off the
16 ice?

17 A. Yes.

18 Q. Explain.

19 A. Mr. Kassenoff had been doing loops around the ice rink
20 in front of me where I was standing, periodically coming to
21 stand directly in front of me between myself and Jo Jo, kind of
22 blocking my view. He did that a couple of different times. He
23 could have -- he could have been anywhere on the rink, but he
24 chose to stand immediately in front of me. On the most -- on
25 the time before right before he got off the ice he did exactly

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1 that. He turned around and he started laughing at me. He then,
2 within a few seconds after that, got off the ice through that
3 open door I just told you about and approached me on his skates.

4 Q. And we'll come to that. And you filmed him, you filmed
5 what happened at that point, correct?

6 A. At the point that he was both on the ice immediately
7 before he got off the ice and when he got off the ice.

8 Q. So we'll come back to that in a second. Did there come
9 a time that he left your presence?

10 A. Yes.

11 Q. Where did you understand or did you believe he was
12 going?

13 A. It was very clear where he was going because he said I
14 am going to report you, and then he walked away from me and he
15 walked towards the manager's office. I think he even said I'm
16 going to report you to the manager.

17 Q. When he walked away in that direction, where was your
18 daughter?

19 A. She was still on the ice as part of her lesson, and I
20 was still standing where I had been standing all along.

21 Q. Did there come a time that you yourself spoke to the
22 manager?

23 A. Very briefly, yes.

24 Q. And can you -- do you recall the exchange with the
25 manager?

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1 A. For the most part, yes.

2 Q. And so the record's clear, is the manager the
3 gentleman, Mr. Angst, who testified here earlier this afternoon?

4 A. That's him.

5 Q. What was the exchange you had with him that day?

6 A. He approached me after Mr. Kassenoff walked away, and
7 the two of them came back together and he came over to me and he
8 said this man -- something -- and these are not exact words, but
9 words to the effect of this man is reporting a domestic
10 incident, he is claiming that you are harassing him and his
11 daughter.

12 Q. Did you respond?

13 A. I did.

14 Q. In sum and substance, what did you say in response?

15 A. I said you mean our daughter? That's my daughter as
16 well. She's skating in her lesson, I'm just here to watch her
17 skate. And then I said if anyone, you know, is being harassed,
18 it's me.

19 Q. And what happened, and what happened then? Did Mr.
20 Angst remain in your presence?

21 A. No. He said we don't want to get involved, and he
22 walked away.

23 Q. In what direction did he walk?

24 A. He walked, he walked back to -- I think he went first a
25 little bit ahead of me toward the opposite direction of his

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1 office but then turned and walked back to his office.

2 Q. And when Mr. Angst walked back to his office, where was
3 Mr. Kassenoff?

4 A. He was right there with him.

5 Q. So are you saying that Mr. Kassenoff walked with Mr.
6 Angst back to his office?

7 A. I can't recall if they were standing sort of shoulder
8 to shoulder or whether Mr. Kassenoff was behind him or in front
9 of him, but they were together within a few feet of one another.

10 Q. And at that point as they were walking, are you -- is
11 it your testimony they were walking away from you toward the
12 direction of the manager's office?

13 A. That's correct.

14 Q. Where was Jo Jo at that point?

15 A. Jo Jo was still on the ice as part of her lesson, just
16 a few feet away.

17 Q. Did you remain in that same spot?

18 A. I did.

19 Q. What happened next?

20 A. I remained in that spot watching my daughter, our
21 daughter, and I did that for several minutes, and then I noticed
22 to my left, as I was watching Jo Jo, kind of to the right I
23 noticed to my left that officers were, police officers were
24 walking toward me with the manager and with Mr. Kassenoff.

25 Q. And so from the time that you may have -- if I'm

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1 repeating, if I'm asking something you already testified to, I
2 apologize. From the time that Mr. Angst and Mr. Kassenoff
3 walked away from you until the time police officers appeared,
4 can you approximate how much time elapsed?

5 A. It was a very short amount of time. It was less than
6 10 minutes.

7 Q. And during those 10 minutes, where was your daughter?

8 A. She was -- she remained on the ice the entire time.

9 Q. Did the police officers approach you?

10 A. They did.

11 Q. And what happened then?

12 A. They spoke to me and they asked me to go and speak with
13 them in the, what they called the office, and I believe it was
14 Officer Stapleton who was doing most of the talking. He also
15 asked me to identify myself.

16 Q. Did you?

17 MR. DIMOPOULOS: I'm just going to object to any
18 out of court statements made by the police officers.

19 MR. FRISCH: It goes to her state of mind. I'm
20 not admitting it for the truth of the matter asserted.

21 THE COURT: Overruled.

22 A. I'm sorry. Question?

23 Q. Did you identify yourself?

24 A. I did. I identified myself and I also identified Mr.
25 Kassenoff and I identified Josephina, my daughter.

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1 Q. What happened then?

2 A. I told the officers that I did not want to go and speak
3 with them in the office.

4 Q. And then what happened?

5 A. I mean I told them why. I said that I did not want to
6 have a spectacle in front of our daughter who was on the ice and
7 that I would prefer to raise the issues with the court that's
8 overseeing the divorce action.

9 Q. And what happened next?

10 A. They understood that, seemingly. They remained in the
11 vicinity of where I was. I also said to the officers that I was
12 uncomfortable with their presence because I thought it suggested
13 to our daughter that there was something wrong and that it would
14 make her also uncomfortable and also make her traumatized.

15 Q. And then what happened?

16 A. They remained for a period of time until the lesson was
17 over.

18 Q. And what did you do then?

19 A. I did not want to stay because the lesson was over and
20 for the reasons I just mentioned, and so I started to walk away
21 from the ice door and toward the exit of the ice rink.

22 Q. Had you been asked to leave?

23 A. Never.

24 Q. Did you believe you were free to stay had you wanted to
25 stay?

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1 A. Yes, I could have.

2 Q. Did anyone escort you out?

3 A. No.

4 Q. At any time during the events of March 18th about which
5 you've testified, did you scream?

6 A. No.

7 Q. Was there ever a commotion?

8 A. Not one that I created, no.

9 Q. Did you make any hand gestures to Mr. Kassenoff?

10 A. No.

11 Q. So now let me walk you through some of the exhibits,
12 and just bear with me, see if I could do this. Prior to coming
13 to court today, did you upload videos that you took that day
14 about which you testified?

15 A. From March 18, '23, yes, I did.

16 Q. And we've provided those to both counsel for Mr.
17 Kassenoff and the attorneys for the children, correct?

18 A. Yes, I did so via drop box.

19 MS. FRISCH: Your Honor, I'm just trying to find
20 the right one. Just bear with me. So let me show you --
21 forgive me if --

22 THE COURT: Can you see it from there?

23 THE WITNESS: Yes, I can.

24 Q. So do you recall this photograph?

25 A. I do.

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1 THE COURT: This is going to be deemed Defendant's
2 C.

3 MR. FRISCH: Yes, thank you, Judge. Thank you.
4 Appreciate that.

5 MR. DIMOPOULOS: Can we identify the photo just
6 for the purposes of my exhibit list?

7 MR. FRISCH: This should be --

8 MR. DIMOPOULOS: As it relates to the documents
9 that I was provided.

10 MR. FRISCH: It should be Exhibit A, which I think
11 is a PDF on the drop box.

12 Q. So do you see that the top of this says Hommocks park
13 ice rink 1:31 p.m.?

14 A. I do.

15 Q. And was this -- it says yesterday, but is this March
16 18, 2023?

17 A. That photograph was taken at 1:31 p.m. on March 18,
18 2023 with my phone.

19 Q. So that time stamp is accurate --

20 A. It is.

21 Q. -- to the best of your knowledge? And can you describe
22 what we see in this photograph?

23 A. Sure. So you see our daughter, Josephina, wearing a
24 blue sweatshirt, black leggings and her skates and her long
25 hair, next to her father, Mr. Kassenoff to her left. He's

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1 wearing a gray jacket and black pants with some -- with white
2 stripes and I believe you can see his skates as well.

3 Q. Got it.

4 A. And that is the entrance to the ice itself, is directly
5 to Mr. Kassenoff's left shoulder.

6 Q. And the spot from which you filmed, this is the spot
7 from which you testified you remained during the duration of
8 this until the police arrived, correct?

9 A. Yes.

10 MS. FRISCH: Your Honor, I'm going to go through
11 these and offer them all at once at the end if that's okay.

12 THE COURT: Sure.

13 MR. FRISCH: Now let me show you -- I believe this
14 is the PDF Exhibit C, and again, bear with me. So is this
15 also a photograph you took this day? This is I believe the
16 first photograph was marked for identification as C.

17 THE COURT: Want to do C1, C2?

18 MR. FRISCH: Yes. This is C2.

19 Q. So what's C2?

20 A. C2 is another photograph taken at 1:31 same day, and it
21 shows my position behind the glass and Mr. Kassenoff on the far
22 right-hand side of the image toward the orange cones on his
23 skates and you see him from behind.

24 Q. And let me just point out two things on this
25 photograph. Do you see in the upper left there's a clock, a

1 digital clock?

2 A. Yes.

3 Q. And either from this reproduction or from seeing it on
4 your phone, does it say 1:31?

5 A. It does. And that is the clock that is maintained
6 within the ice rink, that is, you know, that synchronizes with
7 my own.

8 Q. Do you have an understanding as to why the orange cones
9 are laid out the way that they are?

10 A. The orange cones, as far as I can tell, are to separate
11 the left side of the rink from the right side of the rink
12 because on the right side of the rink there will be -- there's a
13 lesson taking place and on the left side it's open to what's
14 called free skate where skaters are allowed to do loops as part
15 of a public session.

16 MS. FRISCH: So let's go to the next one, which is
17 here. I'm going to -- click on it. It's Exhibit D.

18 THE COURT: D or C3?

19 MR. FRISCH: I'm sorry. Beg your pardon. C3.
20 This is a video that's already started. So we'll call this
21 C3.

22 Q. And before I play it, what is C3?

23 A. Yes. C3 is one of the first videos, I guess the first
24 video that I took that day of Jo Jo at approximately 1:32 of her
25 skating toward the other end of the rink.

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1 Q. So now let me play it, and this is a video about 51
2 seconds, correct?

3 A. Yes.

4 (Whereupon, a video was played.)

5 Q. At the beginning of this video there was a man on the
6 right side of the cones. Do you know who that was?

7 A. I believe you're referring to her teacher.

8 Q. And then -- and the teacher and Jo Jo are on what we're
9 seeing is the right side of the cones where the lessons are
10 happening, correct?

11 A. Yes.

12 Q. And then at the end, who appeared at the end of the
13 video?

14 A. At the end of the video you can very clearly see Mr.
15 Kassenoff skating with his back toward us, wearing the same
16 clothing, weaving in on the, onto the other side of the cones.
17 So he's left the free skate area and he's now gone into Jo Jo's,
18 her lesson itself, and then you actually also see him
19 communicating with her.

20 Q. Now we'll go to C4, which is Exhibit E on the drop box.
21 Before I start, this is another video, correct?

22 A. Yes.

23 Q. All right.

24 A. With a time stamp.

25 Q. And you could see it's 1:33 p.m. in the video, correct?

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1 A. I think that's right. Just looking, craning my neck.
2 Yes.

3 MR. FRISCH: Let me play this one.

4 (Whereupon, a was video played.)

5 Q. For the record, what does that video show?

6 A. That showed Mr. Kassenoff sort of leaving the lesson
7 side of the rink and going to where the public is permitted to
8 be.

9 MS. FRISCH: Now let me show you what I'll mark
10 for identification as C5, which is Exhibit F on the PDF.

11 (Whereupon, a video was played.)

12 Q. And what does that -- describe what you're seeing in
13 that C5.

14 A. So in C5 this is about a minute or so after the video
15 we just looked at. Mr. Kassenoff has now positioned himself
16 immediately in front of me with his back turned toward me, and
17 he is, despite there being availability anywhere on the ice for
18 him to stand, but he positioned himself there, blocking my view
19 of our daughter and texting on his phone.

20 Q. And I think you can see the phone in his hand at some
21 point in this video; is that correct?

22 A. If you -- if we could play it again just to be sure.
23 It's not the next video, but yes, I think that's right.

24 (Whereupon, a video was played.)

25 Q. And by the way, can you state with any certainty

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1 whether Mr. Kassenoff initiated the texting or whether he was
2 responding to someone else?

3 MR. DIMOPOULOS: Objection. It's pure
4 speculation. We don't even know what he's doing.

5 THE COURT: Sustained.

6 MR. FRISCH: I asked if she could say with
7 certainty.

8 MR. DIMOPOULOS: She can't say with anything.

9 THE COURT: I don't know how she would know, but
10 I'm assuming the answer to that is no.

11 A. With certainty I would -- I can't tell.

12 Q. And now let me go to what will be C6, which is G on the
13 drop box.

14 (Whereupon, a video played.)

15 Q. All right. What do you see in this C6?

16 A. This is a minute or two after the last video we just
17 watched, and I believe -- and it, again, it's just Jo Jo skating
18 as part of her lesson on the right side of the cones.

19 MS. FRISCH: Now we'll go to H.

20 MR. DIMOPOULOS: C7?

21 MR. FRISCH: Correct. Thank you.

22 (Whereupon a video was played.)

23 Q. And what did we see in this C7?

24 A. So in C7 we just saw at 1:37 p.m. on that day Mr.
25 Kassenoff now turning from the ice and looking directly at me

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1 and making faces at me and laughing.

2 Q. And again, in this video, C7, he's on the left of the
3 cones, correct?

4 A. In the image, the still image you have, yes, he is on
5 the left of the cones, but between the two people that are in
6 that still image, he's the person on the right-hand side.

7 Q. Understood. And at this point, as far as you know, is
8 Jo Jo remaining on the right side of the cones?

9 A. She was. She didn't leave that side of the ice.

10 MS. FRISCH: Okay, thank you. And now we'll go to
11 I, which is, which we'll mark for identification as C8.

12 (Whereupon a video was played.)

13 THE COURT: Could everyone hear that?

14 MS. HALL: Yes, your Honor.

15 Q. Could you describe what we just saw on C8?

16 A. Sure. We just saw Mr. Kassenoff get off the ice and
17 with his skates on to the same place I've been standing
18 throughout this entire time and approach me, claiming that I'm
19 giving him the finger, and he's then told four times by me to
20 get away from me. Four times. He says your children don't even
21 want you here, twice. He then says -- I then say I'm going to
22 have to get an order of protection. He says I'm going to go and
23 report you to the manager. And he walks away in the direction
24 of the manager's office.

25 Q. And when he walked away in the direction of the

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1 manager's office, where was Jo Jo?

2 A. Jo Jo remained.

3 MS. HALL: Objection, Judge. Your Honor, I
4 noticed that we're going through a number of items, but
5 they're not in evidence, and as counsel is asking specific
6 questions about what's on the different things, I'm not
7 sure, just to make sure that the record is proper, if
8 counsel agrees to put them in evidence, but it's going
9 beyond just authenticating what it is.

10 MR. FRISCH: I was going to do it all at once, but
11 I'm happy to do it now for the ones that we've gone through
12 and --

13 THE COURT: Does anyone anticipate an objection
14 for these going in?

15 MS. HALL: No. We have gotten copies of them,
16 Judge, so I have no objections to them going in.

17 THE COURT: I anticipated he would do it at the
18 end, but I'll hear anybody now.

19 MR. FRISCH: Just to accommodate counsel's
20 concern, I'll move into evidence the ones we've seen so
21 far, which is C1 through C8, and then we can do it each one
22 at a time.

23 THE COURT: Any objection?

24 MS. HALL: No objection.

25 MR. DIMOPOULOS: Very briefly voir dire?

1 THE COURT: Go ahead.

2 VOIR DIRE EXAMINATION

3 BY MR. DIMOPOULOS:

4 Q. Is that -- Ms. Kassenoff, other than the videos C1
5 through C8, did you take any other videos or photos on March 18,
6 2023 of Mr. Kassenoff?

7 A. No, I didn't.

8 MR. DIMOPOULOS: No objection.

9 THE COURT: So there are no other photos that
10 you're introducing or videos?

11 THE WITNESS: Oh --

12 MR. FRISCH: Well, I think C1 -- there's more
13 coming, but this is C1 through C8 I think were videos and
14 some were photographs.

15 THE COURT: So the answer is not accurate, there
16 are other photos?

17 MR. FRISCH: There are other photos that have been
18 provided to counsel that we're about to go through.

19 THE COURT: So that --

20 Q. Why don't I just ask that question later, but as with
21 respect to, with respect to the videos you took on March 18,
22 2023, did you take any other videos of Mr. Kassenoff that you
23 did not produce and introduce in court today?

24 A. No.

25 MR. DIMOPOULOS: Thank you. No objection.

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1 THE COURT: So C1 through 8 is deemed in evidence.

2 MR. FRISCH: Now let me show you what is on the
3 drop box Exhibit K, but for identification I'll call it C9.
4 And just again, bear with me.

5 CONTINUED DIRECT EXAMINATION

6 BY MR. FRISCH:

7 Q. First of all, did you see -- before I scroll down --
8 that it said 2:02 p.m.? Did you see that?

9 A. I did.

10 Q. Is that an accurate, as far as you know, an accurate
11 time stamp of when we took this photograph?

12 A. Yes, it is.

13 Q. Describe what we're seeing here.

14 A. This is now me communicating with one of the -- I don't
15 know which officer that is but one of the officers, and over his
16 shoulder you can see Mr. Kassenoff on the ice rink.

17 Q. By the way, did you see Officer Chabrier outside before
18 we walked in, the officer with Officer Stapleton?

19 A. I'm sorry, I don't understand.

20 MS. FRISCH: Withdrawn.

21 Q. Before we walked into court this afternoon, did you see
22 the other officer who appeared here today in response to a
23 subpoena who was with Officer Stapleton?

24 A. I did see that gentleman, yes.

25 Q. Do you recognize this officer as the officer who was

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1 outside the courtroom earlier today?

2 A. I believe it was him, yes.

3 MS. FRISCH: So I'll offer C9.

4 MR. DIMOPOULOS: No objection.

5 MS. HALL: No objection.

6 THE COURT: Deemed in evidence.

7 Q. Now let me go to C10, which is Exhibit J on the PDFs.

8 And again, let me just start at the top. It says 2:02 p.m. Is
9 that an accurate time stamp as far as you know?

10 A. Yes, it is. It also says Hommocks park ice rink at the
11 top. Yes.

12 Q. And so if you look at the far left -- so this is taken
13 the prior -- this is C10, C9 was also 2:02 p.m., correct?

14 A. Yes.

15 Q. So this is taken at just about the same time, slightly
16 after the earlier one?

17 A. Yes. I'm not sure which came first. I believe the
18 first one you showed me was first and this is the second. I'm
19 pretty sure of that.

20 Q. Fair enough. What's on the far left of this
21 photograph? What do you see in the very far left?

22 A. So in the very far left you see a silhouette of a
23 person, and it is the police officer speaking to me, and you can
24 see his walkie talkie, one of the police officers -- there were
25 several -- sticking out of his back pocket.

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1 Q. And when you say there were several, were there other
2 officers present, in your presence when you took this
3 photograph?

4 A. Yes.

5 Q. And were they -- they're not in view of the camera,
6 correct?

7 A. That's right.

8 Q. They're off to the side?

9 A. They're off to the left-hand side.

10 Q. And as you sit here today, do you recall how many
11 officers in total were in your presence to your left when you
12 took this photograph?

13 A. It was either three or four. I'm not sure which, but
14 it was many.

15 Q. Now, you testified earlier that there's more than one
16 door or more than one entrance from essentially the concrete
17 that surrounds the rink, into the rink, correct?

18 A. Yes.

19 Q. So having -- withdrawn.

20 What's in the center of this photograph?

21 A. In the center of the photograph you very clearly see
22 the one of the many entrances to the rink and Mr. Kassenoff is
23 standing in the entryway with Jo Jo, standing and smiling sort
24 of slightly behind him on the ice.

25 MS. FRISCH: And with your Honor's permission, I'm

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1 going to enlarge or attempt to enlarge -- see if I could do
2 this. Looks like I can't, but in any event --

3 THE COURT: There you go.

4 Q. Do you see the face of your daughter in this
5 photograph?

6 A. I do.

7 Q. What's her expression?

8 A. She's smiling.

9 MS. FRISCH: And this was C10. I offer C10.

10 MR. DIMOPOULOS: No objection.

11 MS. HALL: No objection.

12 MS. COLIN: No objection.

13 THE COURT: Deemed in evidence.

14 Q. And now let me go to Exhibit -- I believe this is L.
15 I'm sorry. So this would be C11 for purposes of identification.
16 On the drop box it's Exhibit L. And this is also, the time
17 stamp on this is also 2:02 p.m., correct?

18 A. Yes. It's also at 2:02 in the same location that we
19 just saw.

20 Q. So describe what we're seeing here in relation to the
21 photograph that we just saw.

22 A. I believe my -- I used my camera first to show what Jo
23 Jo was doing with her father, who was also smiling and laughing,
24 and then moved my camera to the left to capture that I was still
25 being spoken to by at least two officers. At that point I think

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1 it was three or four.

2 Q. And the officer who's front and center is -- it says
3 Stapleton on his shirt -- the same gentleman who testified here
4 earlier this afternoon, correct?

5 A. Yes.

6 Q. Is it a fair inference that the officer who is
7 partially shown in this photograph is the officer whose walkie
8 talkie we saw in the one previous?

9 A. Yes, that's my memory of it.

10 MS. FRISCH: I offer C11.

11 MR. DIMOPOULOS: No objection.

12 MS. HALL: No objection.

13 THE COURT: Deemed in evidence.

14 Q. Earlier we saw a video or a photograph that showed Mr.
15 Kassenoff on the ice during Joe Jo's lesson. Do you recall that
16 we saw that?

17 A. We saw several, yeah.

18 Q. At the time, as far as you could tell, were there other
19 parents on the ice?

20 A. There were other parents on part of the ice but not on
21 the part that she was on.

22 Q. And what about Mr. Kassenoff, on the part of the ice
23 where he was, were there other parents present?

24 A. There were, yes.

25 Q. Was his conduct, as far as you could tell, different

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1 from the conduct of any of the other parents who were on the
2 ice?

3 A. His conduct was completely different. He was
4 constantly going over to check with Jo Jo. He was interfering
5 with the lesson. He was going from one side of the cones to the
6 other side of the cones. It's very similar conduct to what I
7 had seen in other situations with Jo Jo.

8 Q. When you say other situations, can you describe what
9 you mean by that?

10 MR. DIMOPOULOS: Objection, relevance.

11 THE COURT: Sustained.

12 MS. FRISCH: Your Honor, if I could be heard on
13 this. I think one of the -- again, for two reasons. First
14 of all, the statute, one of the relevant statutes talks
15 about a course of conduct, number one. Number two, one of
16 the things that I expect will be an issue is whether this
17 is a misunderstanding, a one off, as we might describe it,
18 and I think the other incidents and other things that have
19 happened over the past few years give context to this and
20 help explain what the inferences are from this that are
21 warranted.

22 MR. DIMOPOULOS: Your Honor.

23 MR. FRISCH: Let me just finish.

24 MR. DIMOPOULOS: I'm sorry. I thought you were
25 done.

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1 MR. FRISCH: I understand the Court doesn't want
2 to spend time today going through all the things on the
3 record that have preceded us and all the ex parte
4 applications and all of the other police reports. I get
5 that. However, I think some leeway should be afforded us
6 today to show the context of this even to a limited degree
7 even more so because the Court has indicated that this
8 proceeding today will be considered as part of the custody
9 hearing.

10 MR. DIMOPOULOS: Your Honor, if I may, what we saw
11 here was a video of Mr. Kassenoff skating over the cone by
12 about three inches for two seconds and then skating to
13 the -- and leaving. If we're going to try to draw an
14 inference between that two second video and the last four
15 years of litigation as it pertains to some speculation by
16 Ms. Kassenoff as to what that means, not only is it
17 irrelevant, it's speculation. It calls for expert
18 testimony. She has no idea what Mr. Kassenoff has in his
19 head or why he's doing. We're opening the door to all
20 sorts of testimony that's going to be given at the custody
21 trial.

22 THE COURT: The AFC's want to be heard?

23 MS. HALL: I take no position.

24 MS. CARTON: No, thank you, your Honor.

25 THE COURT: I understand what you're saying, Mr.

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1 Frisch, but I just don't want this to become the custody
2 trial. I imagine we're going to revisit a portion of this
3 at the trial itself, but I was hoping -- I don't think
4 we're going to be able to finish this today, so I'm going
5 to sustain the objection.

6 Q. Ms. Kassenoff, with regard to the events of March 18,
7 2023 about which you've testified today, about which you have
8 heard other testimony, did it cause you serious annoyance?

9 A. Yes, but even beyond that.

10 Q. Did it cause you alarm?

11 A. Yes.

12 Q. Did it cause you alarm when Mr. Kassenoff said he was
13 going to report you to the manager?

14 A. I was terrified.

15 Q. Did it cause you serious annoyance as well?

16 A. It did.

17 MS. HALL: Judge, I would just ask for a direction
18 to not lead the witness.

19 THE COURT: Sustained.

20 Q. What was your reaction when he said that in substance
21 your children don't want you here or your children don't want to
22 see you? What was your reaction to that?

23 A. I -- I became very -- I almost felt humiliated by his
24 commentary. I thought he was trying to provoke me and it was
25 designed to make me retreat. I felt like he wanted me to

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1 retreat somehow and be not part of their lives.

2 MS. FRISCH: One second, Judge.

3 Just for the record, I'm looking at my exhibit
4 list. I believe I moved into evidence, I have successfully
5 moved into evidence C1 through C11. Am I correct?

6 THE COURT: Correct.

7 MR. FRISCH: So let me now mark for identification
8 as Defendant's Exhibit D, and this is not on the screen.
9 This is the old fashioned way.

10 THE COURT: Okay. Before we do that, can you put
11 up C10 for me, that exhibit?

12 MR. FRISCH: Sure.

13 THE COURT: That was the silhouette of the officer
14 with the walkie talkie in the back pocket.

15 MR. FRISCH: That one.

16 THE COURT: Yes, thank you. I have a couple of
17 questions while this exhibit is up.

18 When that was taken, was that at the conclusion or
19 after the conclusion of Jo Jo's lesson?

20 THE WITNESS: Yes. Her lesson ended at two
21 o'clock.

22 THE COURT: Okay. And where is -- where Mr.
23 Kassenoff and Jo Jo are standing, where is that in relation
24 to the front or entrance of the building?

25 THE WITNESS: That is the exact opposite side of

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1 the rink where her lesson had taken place and closer to
2 where the office and the exit are.

3 THE COURT: Okay. Is that the -- if you know, is
4 that the only point of ingress or egress to the ice from
5 the concrete, or were there others?

6 THE WITNESS: There are many others.

7 THE COURT: Okay, thank you. That's it.

8 MR. FRISCH: So let me show you what I've marked
9 for identification as Defendant's D.

10 MR. DIMOPOULOS: What is it, sir?

11 MR. FRISCH: I'll give you a copy, and I have
12 extra copies.

13 THE COURT: We'll probably go another 15 minutes.
14 I want to give the reporter an opportunity to mark the
15 exhibits and we'll give a different date.

16 MR. FRISCH: I turned away for a moment. Is it
17 marked?

18 THE COURT: We'll deem it marked.

19 MR. FRISCH: Okay, thank you. This is D.

20 Q. Ms. Kassenoff, is this an e-mail that you received?

21 MR. DIMOPOULOS: I'm going to object to the
22 document going into evidence. This is an e-mail from me to
23 Ms. Kassenoff, copied to the AFC's. Unless Mrs. Kassenoff
24 is seeking an order of protection against me, I think it's
25 irrelevant for this proceeding.

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1 MR. FRISCH: Well, there's a number of reasons why
2 it's relevant. Number one, Mr. Kassenoff is cc'd on this
3 as well as Ms. Kassenoff. So to the extent there's an
4 inaccuracy here, Mr. Kassenoff being a lawyer, I'm certain
5 he'd want to alert the Court that his lawyer was advising
6 the Court of something that's not accurate. That's number
7 one. Number two, and I understand this is something we
8 will talk about or will be talked about in the future, but
9 there's an inference here that there's a strategy of, of
10 which what happened on March 18, 2023 is a part, and
11 there's an inference to be made that this e-mail is part of
12 that strategy.

13 MS. HALL: May I respond?

14 MR. DIMOPOULOS: There is an accusation, not an
15 inference.

16 MS. HALL: Your Honor, I had the opportunity to
17 review the item. The Court has not, as it's not in
18 evidence, and I join in the objection as I think -- I know
19 that counsel for the moving party did indicate that this
20 was, I believe, copied to the Court. Based on my review, I
21 don't see that the Court is on here, so this was not a
22 representation made to the Court. I don't know if
23 counsel's aware of that.

24 MR. FRISCH: I stand corrected, Counsel. Thank
25 you for that. I still offer it.

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1 MS. HALL: As such it would be statements from a
2 non-party who is counsel and hearsay.

3 THE COURT: I'm going to sustain the objection.

4 MS. FRISCH: So now let me show you what I'll mark
5 for identification as Exhibit E. Give me one moment,
6 Judge. And I hope I have enough copies to go around, but
7 here's one for the judge and one for the witness. If we
8 could deem this E.

9 THE COURT: Defendant's E.

10 Q. And Ms. Kassenoff, do you have that in front of you?

11 A. I do.

12 Q. Just to begin, is this an e-mail from Mr. Dimopoulos
13 that the recipients include the Court?

14 A. Yes.

15 MR. DIMOPOULOS: Your Honor, same objection
16 stands. This is the same objection as the last document.

17 THE COURT: Give me one second, please.

18 THE WITNESS: I said yes.

19 MR. FRISCH: There is a standing objection. Did
20 your Honor rule?

21 THE COURT: Not yet. Hold on. Do the AFC's want
22 to be heard on this?

23 MS. CARTON: Your Honor, I don't believe that
24 e-mails or correspondence from counsel are evidence, and so
25 I would object on that basis.

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1 THE COURT: Mr. Frisch, you want to answer?

2 MR. FRISCH: Yes, I do. Again, and this, again, I
3 think we can -- I think it's appropriate to raise this
4 today given that the subject matter is what we're talking
5 about today. However, what happened on March 18, 2023 and
6 what has happened since did not happen in a vacuum, it did
7 not happen in isolation. I take the AFCs' previous
8 objection or objection to the previous e-mail that the
9 Court wasn't copied on it, fair point. Well, this one was,
10 and it describes the incident in ways that are not, in our
11 view, at all accurate, and I think in determining whether
12 to sustain the application that Ms. Kassenoff has made and
13 whether as part of sustaining the application the Court
14 deems it appropriate to consider whether this is part of an
15 ongoing strategy, I think the Court should have evidence
16 about this e-mail.

17 THE COURT: Ms. Hall, you want to be heard?

18 MS. HALL: Judge, I'll join in the application
19 that this is not admissible evidence, as it is a statement
20 made out of court by counsel. If the Court were to allow
21 this, then we could call counsel on the stand to then ask
22 why did he feel the facts indicated X Y and Z.

23 THE COURT: I think there's a compromise to be
24 made here. I think it's relevant insofar as the
25 application for an order of protection. I don't think it's

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1 relevant as to custody, and I'll admit it for that limited
2 purpose. No one knows better than I the amount of
3 communication that goes back and forth in litigation by
4 letter on both sides here. Numerous representations made
5 by both sides. So there's no escaping that. So it's
6 overruled.

7 MR. DIMOPOULOS: What exhibit is it going to be?

8 MR. FRISCH: Defendant's E. So I'll let it -- the
9 document's in evidence. Let me ask you some questions.

10 Q. Ms. Kassenoff, on March 18, 2023 did you cause a scene?

11 A. No.

12 Q. Did you cause a commotion?

13 A. I did not.

14 Q. Was your behavior irrational?

15 A. I don't believe it was ever irrational that day.

16 Q. Were you escorted out of the facility?

17 A. No.

18 MS. FRISCH: Thank you, Ms. Kassenoff. Give me
19 one moment, Judge. Judge, how much longer do you intend to
20 go today?

21 THE COURT: Well, we're clearly not going to
22 finish today. Is there a breaking point or a stopping
23 point or --

24 MR. FRISCH: That would be a good breaking point
25 to be honest.

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1 THE COURT: Okay. You can step down, Ms.
2 Kassenoff. I can do this first thing Monday morning if
3 anyone else is available. I realize that's short notice.

4 MR. FRISCH: I'm on an airplane in the morning and
5 then in the afternoon I'll be in Brooklyn Federal Court.

6 THE COURT: I could probably do Wednesday, May
7 10th in the afternoon. This is got going to take more than
8 another half a day, will it?

9 MS. CARTON: I could do the afternoon, your Honor.

10 MR. FRISCH: May 10th is fine for me.

11 THE COURT: That would be great. I will change
12 whatever I have or be very short.

13 MR. DIMOPOULOS: I'm sorry. What time did you
14 say?

15 MS. COLIN: I have a three o'clock, but I'll
16 try --

17 THE COURT: We may be able to conclude it in an
18 hour. I don't know how much more there is, but if you
19 could reschedule, that would certainly be helpful.

20 MS. COLIN: I will certainly try.

21 MS. HALL: Yes.

22 MR. DIMOPOULOS: I'll make it good.

23 THE COURT: See everybody May 10th, 2:00 p.m.

24 MR. FRISCH: Your Honor, would your Honor
25 consider, in light of the need to extend this to another

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1 day, to enter a temporary order of protection pending
2 resolution?

3 THE COURT: I don't think May 10th is that far
4 off. Hopefully we could conclude this. So I'm going to
5 deny that application.

6 MR. DIMOPOULOS: Did you say May 3rd or May 10th?

7 THE COURT: May 10th.

8 MR. DIMOPOULOS: I'm so sorry.

9 THE COURT: I could probably do the morning if I
10 just have some criminal matters. I could blow right
11 through them.

12 MR. DIMOPOULOS: Your Honor, I am on trial with
13 Judge Fiore May 8th.

14 THE COURT: You want us to reach out to Judge
15 Fiore?

16 MR. DIMOPOULOS: No, because I was going to say I
17 have co-counsel on the case, so I'm just going to arrange
18 it so I don't have to be there for a couple of hours.

19 THE COURT: If you need us to reach out to Judge
20 Fiore -- off the record.

21 * * *
22 Certified to be a true and accurate transcript of the
23 stenographic minutes taken within.

24 *Bonnie Dunefsky*
25 BONNIE DUNEFKY
Senior Court Reporter