

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER: MATRIMONIAL PART: PART NQK

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ALLAN KASSENOFF, :
 :
 Plaintiff, :
 -against- :Index No.:
 : 58217/2018
 :

CATHERINE KASSENOFF, :
 :
 Defendant. :
 :
 -----x

Excerpt of Trial Proceedings-Testimony
Westchester Supreme Courthouse
111 Dr. Martin Luther King, Jr. Blvd.
White Plains, New York 10601
July 22, 2020

B E F O R E: HON. NANCY QUINN-KOBA,
Supreme Court Justice

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Dr. Filova-Direct

1 (Whereupon, the following proceedings are an
2 excerpt of the Trial proceedings.)

3 (Whereupon, the witness enters the Courtroom and
4 takes the witness stands.)

5 THE COURT: All right. So you can proceed with
6 Dr. Filova.

7 MS. SPIELBERG: Thank you, Judge.

8 THE COURT: Dr. Filova, please raise your right
9 hand. Do you swear or affirm to tell the truth, the whole
10 truth and nothing but the truth?

11 A N N A F I L O V A, M.D., the witness herein, having been
12 first duly sworn by The Court, was examined and testified as
13 follows:

14 THE WITNESS: Yes, I do.

15 THE COURT: Thank you. I'm just going to ask to
16 keep your voice up because it's hard with the air
17 conditioner to hear.

18 THE WITNESS: And the mask.

19 THE COURT: Yes. Thank you. You may proceed,
20 Ms. Spielberg.

21 MS. SPIELBERG: Thank you.

22 DIRECT EXAMINATION

23 BY MS. SPIELBERG:

24 Q. Good morning, Dr. Filova, can you briefly tell the
25 Court your education and training?

Dr. Filova-Direct

1 A. So I was did my medical education in Soviet Union in
2 Russia. Graduated from medical school. Then I came to the
3 United States onto the medical school and I was trained in the
4 residency psychiatry at Mount Sinai Medical Center. Now, it's
5 called Icahn School of Medicine. They changed the name several
6 years ago.

7 Then I had a fellowship in substance abuse through
8 Mount Sinai and Columbia University. After graduation from
9 residency and then I had another fellowship that's called public
10 psychiatrist fellowship through Columbia University. And then I
11 was working for a number of years, I was working as attending
12 physician at Mount Sinai in the hospital for about six or seven
13 years.

14 Then I was working for St. Vincent Hospital here in
15 Westchester for partial hospitalization program to the director
16 of that program. And several years ago I switched to continue
17 to mostly private practice.

18 Q. Just try to keep your voice up a little bit. Ms. Most
19 is having trouble hearing you.

20 A. I'm sorry, it's difficult with the mask.

21 Q. I know. How long have you been in private practice?

22 A. Private practice, I started part time private practice
23 probably about 15 years ago as a part time and I switched to
24 full time about five years ago.

25 Q. And how long have you been -- has Mrs. Kassenoff been

Dr. Filova-Direct

1 a patient of yours?

2 A. Exactly one year she came to see me for the first
3 time. I think it was one of the first days of June 2019.

4 Q. How often do you see Mrs. Kassenoff?

5 A. So I see her usually the frequency around between
6 every one or two weeks. We plan on doing every one week, but
7 then a lot of other engagements for Mrs. Kassenoff.

8 And she had to see different other psychiatrists and
9 counselors. Sometimes it was happening every two weeks. But it
10 was on mutual agreement that when things like this were
11 happening, it was fine.

12 Q. And you said when she was seeing other psychologists,
13 in connection with the divorce?

14 A. In connection with the divorce. She saw Dr. Weiss, I
15 believe sometime in the fall of 2019. Then she saw Dr. Abrams
16 for awhile.

17 Q. Are you still treating her now?

18 A. Yes, I do still treat her. And recently we have been
19 seeing each other on the regular basis, for the last three
20 months basically, yeah.

21 Q. And you see each other remotely?

22 A. Now, yes.

23 Q. Prior to that it was in person?

24 A. It was in person prior to, yeah, prior to Covid.

25 Q. Prior to Covid?

Dr. Filova-Direct

1 A. Yes.

2 Q. And what topics did you discuss with Mrs. Kassenoff?

3 A. So it's mostly -- it started, of course, with
4 discussion of her divorce, the reason for divorce and how she --
5 her psychological state at the time of the divorce. Then we
6 talk about all the issues preceding the divorce and past
7 history.

8 And now we mostly, recently, it's mostly about her
9 reactions to legal situations, to legal frustrations to what is
10 happening around the divorce case. So we trying to work on
11 stability, maintain stability and her response, have a good
12 response.

13 Q. Did you review any materials in connection with your
14 treatment of Mrs. Kassenoff?

15 A. Some of them, not all of them. So I saw some, I saw
16 some of the videos that she gave me. In general, because I'm
17 clinical psychiatrist and it's not my task to do forensic
18 evaluation.

19 I'm trying to stay away from seeing other materials so
20 I can be objective and stay with my own opinion as possible.

21 Q. And did there come a time when you were asked to write
22 a letter with respect to Mrs. Kassenoff's psychological state?

23 A. So last year, last June, and I think the letter is
24 dated June 25th of 2019, I checked it yesterday.

25 I was asked to write a short letter identifying

Dr. Filova-Direct

1 whether she had, yes, whether she had the mental illness and
2 whether she was in any danger, potential danger, to self or
3 children.

4 Q. Is this --

5 A. That's the letter.

6 Q. -- the letter that you wrote?

7 A. Yes.

8 MS. SPIELBERG: Judge, this is Exhibit A for
9 identification, purposes.

10 Q. Is this an accurate representation of the letter that
11 you wrote?

12 A. Yes, that's the letter.

13 MS. SPIELBERG: Judge, at this time, I would like
14 to move Exhibit A into evidence.

15 MR. DIMOPOULOS: No objection.

16 THE COURT: In evidence.

17 Q. So you write that, in the second paragraph, the second
18 sentence is, her condition does not warrant prescribing any
19 psychotropic medications at this point.

20 She does not exhibit any features or problems relating
21 to mental health issues. She's not diagnosed with any actual
22 mental illness and she's been in therapy for probably related to
23 spousal and emotional physical abuse, divorce, separation from
24 the children. Do you still agree with this statement?

25 A. Yes, completely.

Dr. Filova-Direct

1 Q. Are you aware that Dr. Abrams in his forensic report
2 diagnosed Mrs. Kassenoff with an unspecified personality
3 disorder?

4 A. Yes, I'm aware, but I didn't consider report. Also, I
5 don't know how he base -- what he base his opinion on.

6 Q. Once you learned that he diagnosed her with an
7 unspecified personality disorder, did you consider that in your
8 further treatment of Mrs. Kassenoff?

9 A. I have to say that I was respectfully disagree with
10 his opinion, so no.

11 Q. Why do you disagree with it?

12 A. Yes. Mrs. Kassenoff definitely has some traits what
13 we call or maybe different personalities. Let me restart it.
14 She has different personality traits.

15 And in order to be diagnosed with personality
16 disorder, someone needs to exhibit steady course for many years
17 starting with early adolescent or early adulthood with difficult
18 dysfunctioning, difficult dysfunction according to culture or
19 societal.

20 I expect a level of function for that person,
21 according to the level of education and upbringing and usually
22 there is difficulties in their range of effective response made
23 in connections to people, employment. And we usually see like
24 ongoing traits of problems for that person.

25 And I didn't see any of this. And in my conversation

Dr. Filova-Direct

1 with Mrs. Kassenoff, yes, she had some difficults in life. Yes,
2 she had some issues. Yes, sometimes she can raise her voice,
3 but none of them constitute what we actually call personality
4 disorder. I don't see that that's the case.

5 Q. Were you aware that Mr. Kassenoff in his motion papers
6 at the beginning of this case allege that he believed that
7 Mrs. Kassenoff had borderline personality disorder?

8 A. Yes, I do know of this.

9 Q. Do you believe that she has borderline personality
10 disorder?

11 A. Absolutely not.

12 Q. At some point, did you offer an affidavit with respect
13 to Mrs. Kassenoff?

14 A. Yes, I did.

15 MS. SPIELBERG: Judge, I would like to show C
16 times eight for identification purposes.

17 (Whereupon, a document was displayed on the
18 screen.)

19 Q. Is this the affidavit that you submitted?

20 A. Yes, it is.

21 MS. SPIELBERG: Scroll down to the next page,
22 please. All the way down.

23 Q. Is that your signature?

24 A. Yes, it's mine.

25 MS. SPIELBERG: At this time, I would like to

Dr. Filova-Direct

1 move C times eight into evidence, Judge.

2 THE COURT: Any objection?

3 MR. DIMOPOULOS: No.

4 THE COURT: Exhibit C times eight in evidence.

5 Q. Paragraph Six of the affidavit, you said, "There is
6 nothing in the hours I have spent with Mrs. Kassenoff that leads
7 me to believe that she has a mental illness. Indeed, her
8 circumstances over the last several years have been unusually
9 difficult and nonetheless she has summoned her strength to cope
10 with them for the sake of herself and her children."

11 Do you still agree with that statement?

12 A. Yes.

13 Q. And this was signed in September of 2019; is that
14 correct?

15 A. Yes, that's correct.

16 Q. Since then, you've met with Mrs. Kassenoff
17 approximately every week or every other week?

18 A. Yes.

19 Q. And in the additional hours that you've spent with her
20 and since you learned that Dr. Abrams made this diagnosis, you
21 continue to believe that Paragraph Six is accurate; is that
22 right?

23 A. Yes.

24 Q. Paragraph Seven said, "Prior to our first meeting,
25 Mrs. Kassenoff had never been under the care of a psychiatrist

Dr. Filova-Direct

1 and there is nothing in her past indicating that she has a
2 history of mental illness."

3 Do you still agree with that?

4 A. I haven't heard otherwise. She didn't give me any
5 other information.

6 Q. Have you prescribed Mrs. Kassenoff with any
7 medication?

8 A. I did not.

9 Q. Do you believe she needs any medication?

10 A. She's currently on a medication prescribed to her by
11 her other medical doctors for other medical condition and that
12 is also anti-depressant, but it wasn't prescribed for
13 depression. It was described many years ago for medical
14 condition.

15 So she's on a small dose of anti-depressant. Is it
16 possible that it helps her a little bit in certain
17 circumstances, it's possible --

18 Q. What medical --

19 A. -- would I say she needs to be off it, no.

20 Q. I'm sorry to interrupt. What medical condition was
21 she prescribed it in connection with?

22 A. As I understand, it was for -- it's after the breast
23 cancer, after treatment for breast cancer, something that
24 exhibit a lot of hot flashes and sweating. So this particular
25 medication is used specifically to reduce sweating and hot

Dr. Filova-Direct

1 flashes.

2 Q. You write Paragraph 13, "Mrs. Kassenoff does not
3 exhibit any signs whatsoever of being an immediate danger to
4 herself or to her children. She presents as a very capable and
5 concerned mother, who is very aware of her children's needs,
6 interests and abilities."

7 Do you still agree with that?

8 A. Yes.

9 Q. At some point did you come to speak with Ms. Most?

10 A. Yes. I spoke with Ms. Most once in June of 2000 -- I
11 think it was June of 2019, at the beginning.

12 Q. What did that conversation consist of?

13 A. That conversation, so Ms. Most called me and asked
14 about my opinion about Mrs. Kassenoff mental illness. And I
15 said I didn't think that Mrs. Kassenoff had mental illness.

16 And then Ms. Most asked me if I were aware of some
17 actions of Mrs. Kassenoff that she felt were very much against
18 good intents of her husband, like she asked me if I were aware
19 if Mrs. Kassenoff enrolled kids in the Arabic language program
20 and at that moment I wasn't aware. I didn't know why she did
21 it, for example.

22 But again, we met several times so I didn't -- there
23 were a lot of areas that I wasn't aware. And then Ms. Most
24 asked me if I were aware of the supervision that Mrs. Kassenoff
25 was on the legal obligation to be supervised when she was with

Dr. Filova-Direct

1 the children. And at that moment I wasn't aware of that.

2 So Ms. Most asked me if I think that she should be on
3 that supervision. And I said that I don't think so because I
4 don't see any reasons to do so.

5 Q. Was it your understanding when you met with
6 Mrs. Kassenoff that you were to evaluate her mental health or
7 that you were to evaluate something in connection with
8 supervision?

9 A. No, nothing was talked about supervision. I was asked
10 for her mental health. And I think at the beginning it wasn't
11 very clear what our relationship because she came at the
12 beginning of the divorce situation. So we didn't know we were
13 going to stay together in this treatment for longer time.

14 So yes, I made my assessments of mental health. And I
15 was asked to assess by the previous lawyer, I was asked to
16 assess if Mrs. Kassenoff was in any danger to herself or her
17 children.

18 Q. At some point, did you have, at any point --
19 withdrawn. At any point, did you have communications with
20 Dr. Abrams?

21 A. Dr. Abrams sent me an email at the beginning of
22 March 2020, I think so. In the context of his email was he
23 asked me to comment on the course of treatment with
24 Mrs. Kassenoff.

25 And in his email he wrote if I have more specific

Dr. Filova-Direct

1 questions, I can call you later. He was aware that I was on
2 vacation at the time.

3 So I wrote him back, discussed the course of
4 treatment, basically what I said in my affidavit, that we
5 meet -- I meet with Mrs. Kassenoff every week or every other
6 week, that I don't think that she has mental -- yeah, that I
7 don't think she has mental illness and basically I stand by my
8 affidavit.

9 And if he has more specific questions, please contact
10 me. So he never contacted me again.

11 Q. I'm just trying to pull up that email. In the email
12 that you sent to Dr. Abrams, did you offer to speak with him if
13 he had any additional questions.

14 A. Yes, absolutely. And I was actually waiting for his
15 phone call because course of treatment is very wide description.
16 So I was wondering if he wants to know about my opinion about
17 the diagnosis, about any of the specifics. And I have never
18 heard from him.

19 Q. Did he ever call you?

20 A. No.

21 Q. Do you have an answering machine at your business
22 line?

23 A. Yes.

24 Q. Was there ever a message left for you?

25 A. No.

Dr. Filova-Direct

1 Q. Did he ever send you a follow-up email to schedule a
2 time to speak?

3 A. No.

4 MS. SPIELBERG: I'm just going to pull up the
5 email, Judge. And then I'm --I would -- I moved C, okay.

6 (Whereupon, a document was displayed on the
7 screen.)

8 Q. Is this the email that you wrote to Dr. Abrams?

9 A. Yes, it should be.

10 Q. Okay. So you wrote, "I think most of the information
11 that I can provide is summarized in my affidavit. My opinion
12 regarding her diagnosis has not changed since that."

13 Is that the affidavit that we just put on the screen?

14 A. Yes.

15 Q. Okay. And at the bottom you write, "I am away until
16 Friday, March 6. If you have any specific questions, please
17 email me or call me after March 6th."

18 Did you ever hear from him after March 6th?

19 A. No, no. I was a little disappointed --

20 MR. DIMOPOULOS: Move to strike, Your Honor.

21 THE COURT: Sustained. Did you already put this
22 into evidence?

23 MS. SPIELBERG: Yes, this is L times six that's
24 already in evidence.

25 THE COURT: All right.

Dr. Filova-Cross

1 Q. Do you believe that the treatment that you report in
2 this email is still the appropriate treatment for
3 Mrs. Kassenoff?

4 A. Yes.

5 Q. And you write, "I am not sure whether this is the
6 result of our sessions, or the whole situation, but Catherine
7 has emerged as a very resourceful and strong personality."

8 Do you still agree with that?

9 A. Yes.

10 Q. And the Effexor, is that the medication you were
11 referring to --

12 A. Yes.

13 Q. -- that she was prescribed in connection with her
14 breast cancer treatment?

15 A. Yes.

16 MS. SPIELBERG: I have nothing further.

17 THE COURT: Okay, Mr. Dimopoulos.

18 CROSS EXAMINATION

19 BY MR. DIMOPOULOS:

20 Q. Good morning, Dr. Filova.

21 A. Good morning.

22 Q. My name is Gus Dimopoulos. I represent Mr. Kassenoff.

23 A. Hello.

24 Q. During the course of your treatment, obviously
25 Mrs. Kassenoff talked a lot about this litigation, correct?

Dr. Filova-Cross

1 A. Yes.

2 Q. Did she tell you that she believed the attorney for
3 the children was bias?

4 A. Yes, she did.

5 Q. Did she tell you that she thought the attorney for the
6 children was corrupt?

7 A. No.

8 Q. Did she tell you that she thought the attorney for the
9 child was out to get her?

10 A. No.

11 Q. What did she tell you about her?

12 A. That she was biased, that she didn't like her. She
13 couldn't understand why and we talked about it.

14 Q. Did she tell you that she felt the Court was against
15 her, biased against her?

16 A. She felt the previous Judge was somehow biased against
17 her.

18 MS. SPIELBERG: What?

19 THE WITNESS: The previous Judge was somehow
20 biased against her.

21 Q. Did she tell you that she thought that Dr. Abrams was
22 biased against her?

23 A. Yes.

24 Q. Did she provide you any substantiation for her
25 beliefs?

Dr. Filova-Cross

1 A. We actually discussed it. And we -- she told me that
2 she was biased. Again, we talked about it in the discussion, we
3 were trying to figure out if it's true or not. And let's say
4 with Dr. Abrams and then discussion, we both agree that he
5 probably was staying neutral.

6 So I think in that one, we were able to differentiate.
7 So yes, it was the exactly the course of our discussions, that
8 she had these feelings that people were biased, biased against
9 her and trying to figure out how the reality is based on that.

10 Q. Did you -- to the best of your knowledge, based on
11 obviously what Mrs. Kassenoff tells you, what is the current
12 custodial arrangement that this Court has ordered that you know
13 of?

14 A. That I know of, that she is not supposed to see her
15 children without anyone present. That she is not -- and I think
16 it's for limited time -- that she not supposed to see them in
17 her previous residence.

18 Q. Has she told you that she's scared for the safety of
19 her children?

20 A. Yes, she did.

21 Q. What did she tell you specifically?

22 A. She told me that she's very scared for their mental
23 well being, that they don't get appropriate attention, that they
24 don't get appropriate attention to the mental and physical
25 needs.

Dr. Filova-Cross

1 She noted that one of her daughter, I think had some
2 scratches on her forehead that she felt needed to be addressed
3 better. She was concerned that -- I don't think she ever
4 expressed any concerns about the react to physical safety.

5 Q. Did she tell you that she believed her children were
6 scared of her husband?

7 A. Yes.

8 Q. Did she tell you why she thought that?

9 A. Because he can be loud. He can be aggressive. And
10 she felt that he was taking away their phones when it wasn't
11 appropriate. And they were afraid to raise their voice and tell
12 what they thought.

13 Q. In the context of a psychotherapeutic relationship
14 with the patient, do you agree with this statement: The patient
15 paints a picture and the picture is painted with the facts as
16 they give them to you.?

17 A. Yes.

18 MS. SPIELBERG: Objection, she's not an expert,
19 Judge.

20 THE COURT: Well, he's just asking her her
21 treatment of someone so.

22 Q. In the course of your treatment with Mrs. Kassenoff,
23 you didn't try to investigate or find out whether anything she
24 was telling you was true, correct?

25 A. It wasn't my task. I'm not a forensic psychiatrist.

Dr. Filova-Cross

1 Q. I agree with you. You're a psychiatrist. Your
2 patient tells you the facts as they he or she sees them?

3 A. Yes.

4 Q. And you attempt to help your patient, correct?

5 A. Yes.

6 Q. With Mrs. Kassenoff -- withdrawn. In the course of
7 your treatment with any patient, do you have reason to not
8 believe something they tell you or believe something they tell
9 you?

10 A. In the course of treatment with my patient will I have
11 situations -- I will have situations where I don't believe them.

12 Q. Is there anything that you can recall, as you sit here
13 today, that Mrs. Kassenoff told you that you don't believe?

14 A. No.

15 Q. So everything that she told you in the course of this
16 here, you believe?

17 A. I believe that the core of what she was telling me was
18 the truth. I understand that sometimes people exacerbate their
19 understanding their situation, that sometimes they feel that the
20 situation is more dangerous and unpleasant for them than the
21 case, but the core of the situation is probably there.

22 Q. Early on in this proceeding, you were shown a copy of
23 this letter that you wrote to the Court.

24 MR. DIMOPOULOS: Roy, can you do a side by side
25 of C times eight and the letter and the affidavit. Forgive

Dr. Filova-Cross

1 me.

2 MS. SPIELBERG: Just it's in a letter to the
3 Court. It was addressed to Lieberman.

4 MR. DIMOPOULOS: Correct.

5 Q. So Exhibit A is on the right. Dr. Filova, who told
6 you to write that letter? Who asked you to write that letter?

7 A. The previous, the first attorney for Mrs. Kassenoff.

8 Q. Mr. Lieberman?

9 A. Yes, Mr. Lieberman.

10 Q. Did he tell you what the letter was for?

11 A. He told me it was for the Court.

12 Q. For the Court?

13 A. Yes.

14 Q. Did he guide you on what information you should
15 include in the letter?

16 A. He asked me to comment on the mental illness and he
17 asked me to comment on the safety for herself and children. He
18 didn't tell me what to write.

19 Q. Of course not. In other words --

20 A. There were two issue that he asked me to address and I
21 think I addressed them.

22 Q. So you testified that on June 13th your course of
23 treatment with Mrs. Kassenoff began, correct?

24 A. Yes.

25 Q. Between June 13th and June 27th, do you recall how

Dr. Filova-Cross

1 many treatments, how many visits you had with her?

2 A. Probably four, because I think in the first couple
3 weeks she came twice a week.

4 Q. Is it customary for you to be able to diagnose or rule
5 out a diagnosis in four visits?

6 A. We are trained to do it in one week.

7 Q. Excellent.

8 A. So I think that four visits, yes.

9 Q. And at the time that she began treatment with you on
10 June 13th, did she tell you that she was under a Court Order
11 that she was to be supervised with her children at all times?

12 A. No, she didn't tell me that.

13 Q. Your letter was submitted to the Court in support of a
14 motion to vacate the supervision, do you know that?

15 A. No, I didn't know that.

16 Q. Now, I'm going to highlight, please Roy, the second
17 paragraph. Her condition does not warrant psychotherapy at this
18 point. She does not exhibit any features or problems related to
19 mental health issues. Okay?

20 A. Yes.

21 Q. If we can go back over to Paragraph Six of the
22 affidavit, which is many months later, this is almost verbatim.
23 It's a cut and paste, isn't it? You took the paragraph out of
24 your letter from June 27th and you pasted it in your affidavit
25 of September 17th?

Dr. Filova-Cross

1 A. Maybe. I don't remember doing it exactly. I don't
2 remember how I was writing it, but it's still the same
3 statement.

4 MS. SPIELBERG: Objection, Judge. It's not even
5 the same words. I'm don't --

6 A. I'm not -- even if I pasted it, it still all the same.

7 THE COURT: Let's just clarify. Whether it was
8 cut and paste or summarized --

9 THE WITNESS: I don't remember.

10 THE COURT: -- your feelings hadn't changed --

11 THE WITNESS: My feeling didn't change. That's
12 why I was comfortable even if I cut and paste.

13 THE COURT: Okay.

14 MR. DIMOPOULOS: Okay, Paragraph 13 in the
15 affidavit, Roy.

16 Q. "Mrs. Kassenoff does not exhibit any signs whatsoever
17 of being an immediate danger to herself or to her children. She
18 presents as a very capable and concerned mother, who is very
19 aware of her children's needs, interests and abilities."

20 When you say danger to the children, do you mean only
21 physical danger?

22 A. Immediate danger, yes. Basically, we're talking about
23 physical danger or very direct emotional danger.

24 Q. Let's discuss that concept. What, in your opinion,
25 would be direct emotional danger?

Dr. Filova-Cross

1 A. When someone constantly undermines the children needs,
2 when someone constantly undermines their abilities, when someone
3 constantly undermines their relationship with each other.

4 Q. Were you ever given any information by Mrs. Kassenoff
5 that she had done any of those things you just testified about
6 to any of her children?

7 A. Has she ever raised her voice --

8 Q. No, not my question.

9 A. -- she, of course, she did. Did she undermine the
10 abilities or educational needs, no, I never heard any.

11 Q. Did Mrs. Kassenoff ever tell you how she disciplined
12 her daughter Alley?

13 A. Yes. We had a lot of discussions about her daughter,
14 Alley.

15 Q. Did she tell you that she has since stopped doing that
16 to Alexandra when the course of your treatment began?

17 MS. SPIELBERG: Objection. Doing what?

18 THE COURT: Yes. Did she -- rephrase the
19 question, please.

20 Q. Did she tell you that she had changed the way that she
21 disciplined Alexandra as of June 13th, 2019 when you began
22 treating her?

23 A. Changed. She was spending much less time with them.
24 So of course it changed. She was much less involved in the
25 direct care. So we didn't, like, again, I'm not a child

1 psychiatrist. And what's happened specifically and how this
2 relationship work is not my area.

3 But she was spending less time with her children and
4 with constant -- someone constantly present there. So of
5 course, it somehow changed. But I never asked her specifically
6 so do you still give her time out. I never asked that question.

7 Q. Did Mrs. Kassenoff ever tell you that she hit her
8 children?

9 A. No.

10 Q. Did she ever tell you that she disciplined them by
11 making one or more of them sleep in the basement as a
12 punishment?

13 A. No.

14 Q. Did she ever tell you that she disciplined --

15 A. Sorry. Let me, I think there is a separate room on
16 the first floor or something, but as I understand, it's a room.
17 So sometimes she, I believe, once or twice we had a discussion
18 that she had to put her daughter, I think Alley, in that room
19 separate from other children.

20 Q. On the first floor somewhere?

21 A. Yes.

22 Q. Okay. Did she ever tell you that she used to spit in
23 her hand and wipe the spit on her daughter's face?

24 MS. SPIELBERG: Objection, that's a fact that's
25 certainly not in evidence.

Dr. Filova-Cross

1 THE COURT: Right, that's not in evidence.

2 Sustained.

3 Q. What did she tell you about how she used to discipline
4 Alexandra?

5 A. As I understand, Alexandra is a child with special
6 needs. So the child with special, significant special needs
7 with the mental health disorder. I believe it's oppositional
8 defiant disorder and attention deficit disorder. So she was
9 also talking about her behaviors in school and at home.

10 So kids with special needs do need very different
11 approach and very different way of disciplining them. So they
12 do need time-out.

13 They do need more supervision than they do for
14 homework. They do need to be put in a separate room, especially
15 if the other kids are there.

16 Q. Thank you. Did she ever tell you what she
17 specifically did to discipline her children?

18 MS. SPIELBERG: Objection, asked and answered.

19 THE COURT: She didn't answer the question. She
20 told generally.

21 A. No.

22 Q. So no?

23 A. I'm wondering what is your question specifically, that
24 yesterday she did this and this and this?

25 Q. Can you, as you sit here today, think of any specific

Dr. Filova-Cross

1 examples of how Mrs. Kassenoff disciplined her children that she
2 conveyed to you?

3 A. Put them in a time-out, in a separate room; taken away
4 some privileges at home and some sweets, I think, and computer
5 time.

6 Q. So she would take away sometimes the electronic
7 devices temporarily, correct?

8 A. Yes.

9 Q. She would put her children in a time-out sometimes?

10 A. Yes.

11 Q. And what was the third one, forgive me?

12 A. And I think not given dessert.

13 Q. Some desert?

14 A. Yes.

15 Q. Like if you don't do your homework, you're not going
16 to eat dessert?

17 A. Something like that. Again, we weren't focusing on
18 the discipline of the children.

19 Q. I totally understand.

20 A. Yeah.

21 Q. Do you know that Mrs. Kassenoff is Court Ordered to
22 undergo psychotherapeutic services?

23 MS. SPIELBERG: Objection.

24 THE COURT: Sustained.

25 Q. Were you told by Mrs. Kassenoff that she was treating

Dr. Filova-Cross

1 with you because she was ordered to do so?

2 A. Yes. I learned about it probably a week or two into
3 our treatment, that she was ordered to see a psychiatrist. And
4 at the beginning, we weren't sure for how long and then I think
5 something happened that she needed to continue.

6 Q. So there came a time when she stopped, right?

7 A. Yeah -- no, when she stopped? She didn't stop.

8 Q. It was continuous?

9 A. Yes.

10 Q. I thought that's what you said.

11 A. No. We didn't know how long she was going to be
12 ordered.

13 Q. Do you believe she would benefit from a higher
14 frequency of therapeutic sessions?

15 A. I don't -- I actually don't think that she is in need
16 of psychotherapy.

17 MR. DIMOPOULOS: Can you put up L times six,
18 please, Roy.

19 (Whereupon, a document was put on the display
20 screen.)

21 Q. In March, you thought that she did need more, you said
22 I believe, second paragraph, she would benefit from at least
23 weekly sessions. Second sentence --

24 A. Yeah.

25 Q. -- I believe she would benefit from at least weekly

Dr. Filova-Cross

1 sessions, but has been difficult to arrange and maintain due to
2 her involvement with other mental health professional,
3 Dr. Weiss, in the summer and the fall and later meeting with
4 you.

5 So your opinion changed from March until today about
6 her need for psychotherapy at this time, why?

7 A. Not really. It didn't change because yes, I think she
8 would benefit from more of weekly visits. And she had been
9 coming more for weekly visits. If you're asking me if she needs
10 to be seen even more, I don't think so.

11 Q. I thought, correct me if I'm wrong, I thought you said
12 that you don't think as a psychiatrist that she even needs
13 therapy?

14 A. As a psychiatrist, I believe that psychotherapy should
15 be completely by person needs and the very personal needs. I
16 think that she can benefit from additional support maybe, but
17 not to be enrolled in treatment that is required of her.

18 A lot of people, in general, when they go through
19 difficult situations divorces, hospitalizations, illness, they
20 would benefit from psychotherapy. And I think that my standard
21 about benefit from the psychotherapy doesn't mean that she
22 requires or needs it. I think I used it correctly.

23 Q. Do you regularly testify in Court?

24 A. No. It's my second time.

25 MR. DIMOPOULOS: Nothing further, Your Honor.

Dr. Filova-Cross

1 THE COURT: Ms. Most?

2 MS. MOST: Yes.

3 CROSS EXAMINATION

4 BY MS. MOST:

5 Q. Good morning, Dr. Filova. We spoke actually July 2nd
6 last year?

7 A. Okay, I remember it was over the summer.

8 Q. And isn't it true that you told me that you know that
9 Mrs. Kassenoff was only reporting what she thought was the best,
10 that she was presenting herself to be the best?

11 A. I don't think I phrased it that way. I don't think we
12 have exact reporting on that conversation. The conversation was
13 very much on the go.

14 But yes, in general, when our patients come to see us
15 for the first time, especially in the beginning with whatever
16 their situation, we all want to create the best impression and
17 we all trying to tell what they think they need to tell. And we
18 don't start with telling all the most unpleasant details are in
19 the marriage or anything else.

20 Q. But then when I spoke to you, you said to me you new
21 knew that there was more to the story than what she was telling
22 you?

23 A. Right. Because by that time I met with her about five
24 or six times. We had a lot of other things to discuss. So
25 again, like, it wasn't very structured forensic evaluation.

Dr. Filova-Redirect

1 So our sessions were going from discussing her
2 marriage, discussing her first marriage, discussing situation
3 with the children, Court requirements. So of course, there were
4 more things about her history and about the situation that at
5 the time I wasn't aware of.

6 Q. And it may be true that the patient only tells you
7 what they want to tell you?

8 A. It's not -- sometimes they tell us more. And again,
9 it's our job as a psychiatrist to see if it's very superficial
10 because patients with let's say delusions want to tell me that
11 people are going to kill them.

12 Am I going to believe it, probably not. Yes, of
13 course, we're all trying to tell others what we want to tell
14 them.

15 Q. So it's possible that there could be things about the
16 situation that you are not even aware of because Mrs. Kassenoff
17 is not telling you that; isn't that correct?

18 A. I think after a year, I was probably aware of most of
19 it -- maybe after a year I probably aware of most of the
20 situations. And again by June -- July 2nd, we met several
21 times. And of course, I didn't know all the details.

22 Again, you're asking me about if I were aware that she
23 enrolled them in Arabic lessons. No, I wasn't. Again, I got a
24 lot of detail that I'm not aware because we're not asking
25 specifically.

Dr. Filova-Redirect

1 Q. You wrote me back an email after we had a lengthy
2 conversation that you were not there to evaluate her parental
3 skills; is that correct?

4 A. Yes.

5 Q. During your treatment, have you ever evaluated her
6 parental skills?

7 A. No, I was not asked to do this.

8 Q. So you have no way of knowing, in fact, how
9 Mrs. Kassenoff parents her children; is that correct?

10 A. No. That is correct, yes. I have never been present
11 with her and her children.

12 Q. That is a correct statement?

13 A. Right.

14 MS. MOST: No further questions.

15 THE COURT: Ms. Spielberg?

16 MS. SPIELBERG: Just a few questions, Judge.

17 REDIRECT EXAMINATION

18 BY MS. SPIELBERG:

19 Q. You testified on cross examination that Mrs. Kassenoff
20 told you that she felt that Carol Most was biased. Do you
21 recall that?

22 A. Yes.

23 Q. After your conversation with Ms. Most, did you agree
24 with that?

25 A. Even this conversation?

Dr. Filova-Redirect

1 Q. Yes.

2 A. I don't have any, after this short conversation, I
3 don't have any basis.

4 Q. Was there anything that surprised you by your
5 conversation with Ms. Most?

6 A. No.

7 Q. When you were treating or -- withdrawn. Throughout
8 your treatment with Mrs. Kassenoff, you spoke with Dr. Weiss,
9 didn't you?

10 A. Yes.

11 Q. And what was your understanding of what Dr. Weiss'
12 role was?

13 A. Okay, so that was in the fall, right. I believe that
14 Dr. Weiss role was actually evaluate the parental skills. I
15 think Dr. Weiss role was more involved to evaluate the
16 relationship with the parent and children.

17 Q. So is it your understanding that Mrs. Kassenoff was
18 receiving separate counseling with respect to her parenting?

19 A. Yes.

20 Q. And that your role was with respect to
21 Mrs. Kassenoff's own handling of the circumstances, correct?

22 A. Absolutely.

23 Q. And under those circumstances, would you typically
24 spend time in your psychotherapy sessions with Mrs. Kassenoff
25 focusing on parenting?

Dr. Filova-Recross

1 A. No, usually not.

2 Q. Are you trained in your many years of training that
3 you testified to to evaluate whether a patient is telling you
4 the truth?

5 A. Yes, it's part of our training.

6 Q. And do you --

7 A. There is no specific. There is no specific training
8 for this.

9 Q. Do you have tactics or skills that you use to get more
10 facts if you believe a story is not being told to you in its
11 entirety?

12 A. Yes. It's basically the same. It's almost like
13 process of elimination, being much more supportive and friendly
14 atmosphere. I can say, but actually you told me last time that
15 this and this, so what actually happened with that situation and
16 we can see through this practice.

17 Q. If you had been told at the time about the
18 supervision, would it have changed your perspective or your
19 analysis of Mrs. Kassenoff?

20 A. No.

21 Q. Would it have changed the opinion that you put in your
22 letter to Mr. Lieberman?

23 A. No.

24 Q. Would it have changed anything that you put in your
25 affidavit?

Dr. Filova-Recross

1 A. No.

2 Q. As you sit here today knowing that Mrs. Kassenoff's
3 has been on some sort of supervision for a year, does that
4 change your opinion at all?

5 A. No.

6 MS. SPIELBERG: Nothing further, Judge.

7 THE COURT: Anything else, Mr. Dimopoulos?

8 MR. DIMOPOULOS: No recross examination, Your
9 Honor.

10 THE COURT: Ms. Most?

11 MS. MOST: Yes.

12 RECROSS EXAMINATION

13 BY MS. MOST:

14 Q. If I were to tell you that there has been a lot of
15 testimony over the last week and a half about Mrs. Kassenoff's
16 treatment, in particular of Alley who is the oldest child, that
17 has been classified as being cruel and sadistic. Would that be
18 something you would believe knowing what you know about
19 Mrs. Kassenoff?

20 MS. SPIELBERG: I'm going to object, Judge,
21 because to the characterization of a lot of testimony. I
22 believe only one witness testified to it.

23 MS. MOST: Actually, there were two.

24 A. If you can give me specific examples.

25 Q. So --

Dr. Filova-Re-redirect

1 THE COURT: She can't answer that. So rephrase
2 the question that you're requesting the witness to answer.

3 Q. So let me grab something. So as an example, Alley was
4 repeatedly told by her mother that she would send her back to
5 Florida?

6 MS. SPIELBERG: Objection, Judge. This goes
7 beyond the scope of my redirect.

8 THE COURT: I'll allow it. Just be very brief.

9 Q. Alley is the adopted child.

10 A. Yes, I know it.

11 Q. Do you think that that would be cruel?

12 A. I think it would be cruel.

13 Q. In fact, Mrs. Kassenoff told Alley that she was a
14 criminal like her birth mother and her real family was in
15 Florida, would that be cruel?

16 MS. SPIELBERG: Same objection.

17 THE COURT: Overruled.

18 A. If it was really what was said, it is.

19 Q. If I were to tell you there were several treatments
20 that were considered cruel, you would have no way of knowing
21 whether or not they were true?

22 A. Yes, I agree.

23 Q. Or that, in fact, Mrs. Kassenoff was guilty of that
24 conduct because she did not discuss any of that with you?

25 A. Yes.

Dr. Filova-Re-redirect

1 MS. MOST: No further questions.

2 MS. SPIELBERG: Just one question, Judge.

3 RE-REDIRECT EXAMINATION

4 BY MS. SPIELBERG:

5 Q. Even if she had discussed it with you or an
6 alternative version of those events, are you in a position to
7 evaluate whether any of these statements are true?

8 A. I'm not.

9 MS. SPIELBERG: Nothing further.

10 THE COURT: Anybody else?

11 MR. DIMOPOULOS: Thank you, Doctor.

12 THE COURT: Thank you, Dr. Filova.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness steps down from the
15 witness stand and exits the Courtroom.)

16 (The testimony of Dr. Filova was concluded.)

17 (This concludes the excerpt portion of the trial
18 proceedings.)

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Dr. Filova-Re-redirect

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C E R T I F I C A T I O N

Certified to be a true and accurate transcript
of the stenographic minutes of proceedings taken by the
undersigned, to the best of her ability.

Barbara Marciante

Barbara Marciante,
Official Court Reporter