

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

3 -----X

4 ALLAN KASSENOFF,

5 Plaintiff,

6 v.

Index #:58217-19

7 CATHERINE KASSENOFF,

8 Defendant.

9 -----X

10 June 7, 2019
Westchester County Courthouse
111 Dr. M.L.K., Jr. Boulevard
White Plains, New York 10601

11 BEFORE: HON. DAVID EVERETT,
12 Supreme Court Justice

13 APPEARANCES:

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22
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25

1 D E T E C T I V E L I S A
2 P O M P I L I O, called by the Defense as a
3 witness, assigned to the Larchmont Police
4 Department was duly sworn, examined testified
5 as follows:

6 THE COURT: Please state your name,
7 rank and command.

8 THE WITNESS: Lisa Pompilio,
9 Detective with the Village of Larchmont Police
10 Department, L I S A, P O M P I L I O.

11 DIRECT EXAMINATION

12 BY MR. LIEBERMAN:

13 Q Detective, you are here pursuant to
14 subpoena?

15 A Yes.

16 Q You were served yesterday?

17 A Yes, I was.

18 Q How long have you been employed at
19 Larchmont Police Department?

20 A Seven years.

21 Q When did you first become a police
22 officer?

23 A March of 2013.

24 Q Only department you worked with is
25 Larchmont?

1 A Yes.

2 Q Where did you go to the academy?

3 A Orange County Police Chief Police Academy
4 New Windsor New York.

5 Q When did you achieve the rank of
6 detective?

7 A February of 2015.

8 Q And in the course of your training,
9 whether it be at the academy or subsequently, have
10 you ever been trained in the interview process of
11 children who have been abused or have witnessed
12 abuse?

13 A Yes, I have.

14 Q Where did you receive that training and
15 when?

16 A Through several training courses at the
17 Westchester County Police Academy has offered, as
18 well as through my academy.

19 I am also a asserted youth detective as well
20 as the school S R O.

21 I am also a licensed teacher in the State of
22 New York.

23 Q In particular, in terms of interviewing
24 children under -- strike that.

25 Have you had training in dealing too young to

1 understand the meaning of an oath?

2 A Yes.

3 Q And was that training includes in the
4 agencies you just identified?

5 A Yes.

6 Q And did you receive any certificates or
7 documentation evidencing that you have been so
8 trained in interviewing children who are not of
9 sufficient age to understand the meaning of an
10 oath?

11 A Just my police academy certification, my
12 S R O certification.

13 But I want to make it clear I am not a New
14 York State licensed forensic interviewer. They
15 are two, confusing different things.

16 Q And now in the course of your duties as a
17 detective in Larchmont and S R O officer, have you
18 had occasion, prior to this May, have you had
19 occasion to interview children who are not of
20 sufficient age to understand the meaning of an
21 oath?

22 A Yes, I have.

23 Q Did you apply the techniques that you
24 were taught at these various classes and academies
25 in doing so?

1 A Yes, I have.

2 Q And is that one of your job duties, one
3 of your job descriptions as a detective in
4 Larchmont, that is to interview children of that
5 age?

6 A Yes, it is.

7 Q Have you ever testified before in a
8 courtroom?

9 A Yes, I have.

10 Q Have you ever testified concerning
11 statements made to you by children who are not old
12 enough to understand the meaning of an oath?

13 A No, I have not.

14 Q Have you ever interviewed a child who is
15 not of sufficient age to understand the meaning of
16 the oath which resulted in the pursuit of criminal
17 charges?

18 A Yes, I have.

19 Q And in that case or cases was there
20 reliance made by your agency upon your interview
21 of that child?

22 A Yes, there was.

23 Q Did any of those cases so -- actually go
24 to the fact that an individual was charged with a
25 crime?

1 A Did it end up in court is what you are
2 asking me?

3 Q Yes.

4 A Yes, it has.

5 Q Do you recall the result of that case?

6 A The suspect or the defendant did. They
7 were charged in Court and there were subsequent
8 actions afterwards.

9 I believe there was -- it was a sexual assault
10 case and there was a registry made after that.

11 Q You said you are an S R O?

12 A Yes, I am.

13 Q Where?

14 A Chatsworth School in Larchmont.

15 Q What are the ages?

16 A Kindergarten through fifth grade and they
17 do have a special needs pre K.

18 Q So some of the children at that school,
19 you would agree, are not of sufficient age, to
20 understand the meaning of an oath?

21 A Yes. I am also the S R O at the Temple,
22 French American School and at the Larchmont Avenue
23 Church and at Saint Johns School.

24 Q So there are eight days a week in
25 Larchmont?

1 A Yes, there are.

2 Q Directing your attention to Friday May 17
3 of this year, were you employed?

4 A Yes, I was.

5 Q Were you working that day?

6 A Yes, I was.

7 Q Were you working at the school?

8 A No, I was not. I was working at my desk
9 working.

10 Q Did there come a time you received a
11 request to attend one of the schools?

12 A Yes, I did.

13 Q And approximately when was it?

14 A It was in the morning around, I believe,
15 10:00 a.m., I received a telephone call from
16 Detective Sergeant Gata from the Village
17 Mamaroneck Police Department, G A T A.

18 Q Based on that call what action, if any,
19 did you take?

20 A Myself and my lieutenant, Lieutenant
21 Sanchez we responded to One Harbor Island Park
22 where they have a recreational school on the
23 grounds there in the harbor.

24 We were advised that there was a five-year old
25 female who had made accusations and those

1 accusations occurred at 161 Beach Avenue in the
2 jurisdiction of Larchmont

3 So even though she was reporting it at the
4 school, the incident did not occur within the
5 jurisdiction of the Village of Mamaroneck.

6 Q That's why you were called?

7 A Yes.

8 Q When you arrived, who, if anyone, greeted
9 you?

10 A The detective from the Village of
11 Mamaroneck were already on the scene along with
12 the detective sergeant, one of which is their
13 youth detective who is also an S R O. They met us
14 at the door.

15 I was introduced to the school staff. We had
16 some conversation amongst us, and then once the
17 children were dismissed, when there were several
18 left, they brought out Josephina. This way I
19 didn't walk into the classroom and also parents
20 didn't see me. We were off into another area of
21 the school.

22 Q Josephina, the parties' daughter?

23 A Yes.

24 Q Had you ever met her before?

25 A No, I had not.

1 Q Did you come to learn that she has a
2 nickname?

3 A We did discuss several things that day;
4 yes.

5 Q Joe Joe?

6 A Yes.

7 Q Did there come a time then you
8 interviewed Joe Joe?

9 A I did. I had a -- I wouldn't call it an
10 interview but it was more just simple questions,
11 age appropriate questions to elicit information
12 from her.

13 Q And was your lieutenant with you when you
14 did this?

15 A No. It was myself and Josephina and the
16 teacher. She sat in the chair because she was
17 doing some work on the computer.

18 Q When you arrived did you see anyone from
19 Child Protective Services present?

20 A No, they arrived after I did.

21 Q Did they arrive before or after you
22 conducted the interview with Joe Joe?

23 A After.

24 Q How long did you interview Joe Joe?

25 A 15 minutes. I would say the first seven

1 or eight minutes was simple banter: How old are
2 you? What do you like to do? What's your
3 favorite color? Do you have any pets; very
4 simple, very informal.

5 Q Why do you do that?

6 A To get them comfortable. I don't want
7 them to feel that I am a threat.

8 A big part of what I do, when you go to the
9 school, is so that kids see my face. This way if
10 I am at their home, it's not always a bad thing.
11 They associate me with being something that is
12 safe.

13 I am not, you know, just a cop. I am not a
14 bad guy. But they associate me with being safe
15 and somebody that they can come to.

16 Q Did you identify yourself as a police
17 officer?

18 A I am wearing basically what I am wearing
19 now; shirt, pants, shield, and my sidearm.

20 Q Do you know if she ever seen you before
21 at the school?

22 A I believe she said she had seen me at the
23 school before just in passing because she has a
24 sibling that's there.

25 THE COURT: Because what?

1 THE WITNESS: In passing because
2 she has a sibling at the Chatsworth School.

3 Q Who is that sibling?

4 A That is Alexandra.

5 Q And have you met and spoken with
6 Alexandra orally before?

7 A No, I have not.

8 Q Did you get a sense after that first
9 seven or eight minutes of questioning to get her
10 comfortable that she was comfortable talking with
11 you?

12 A Yes, very comfortable.

13 Q Was she freely answering your questions?

14 A I didn't even have to initiate. She
15 started the conversation.

16 Q Did there come a time in that
17 conversation that you asked her any questions
18 about her mother or father?

19 A I did, yes.

20 Q Can you tell us how that came about and
21 what you asked?

22 A So, based off the information that I had
23 received from the detective sergeant and the
24 school personnel when I arrived, after asking
25 Josephina about her favorite color and things she

1 liked to do, what her favorite games are, her
2 favorite dolls, I asked how things are at home,
3 who she lives with, do you have any siblings and
4 once I asked who you live with and do you have
5 siblings, that opened up the floodgates.

6 Q What do you mean?

7 THE COURT: Hold -- what information
8 had you been -- had you received that made you
9 decide to go forward with the interview?

10 In other words, what had you been
11 told were the allegations at this point; just
12 allegations? What were you -- why you went to
13 the next.

14 THE WITNESS: So she, Josephina,
15 went to the teacher on her own and told the
16 teacher that she was afraid to go home. She
17 was afraid of her father. She didn't know if
18 her father was picking her up or the
19 babysitter. But either way she did not want
20 to go home.

21 That prompted the teachers to ask
22 some questions: "Why are you afraid" and she
23 told the teacher that her father had kicked
24 her sister. She also told the teachers
25 that --

1 THE COURT: Which sister did?

2 THE WITNESS: Alexandra, her father
3 had kicked Alexandra.

4 She also told the teachers that
5 prior to the kicking there was also an event
6 where mom had been hit in the eye with a plant
7 and it was so badly swollen, that her sister
8 actually had to help her mom drive, was giving
9 her directions navigating the road for her.
10 She was afraid and fearful for her mom.

11 THE COURT: So now you are
12 speaking -- you dropped them off?

13 THE WITNESS: Once I asked
14 Josephina who she lived with, she started to
15 tell me the same thing, that she was afraid to
16 go home. She made very specific references to
17 the incident that occurred when Alexandra was
18 kicked.

19 Q Can you tell us exactly what she said?

20 A Sure. I do have detective notes and
21 supplements that are verbatim.

22 You want me to take them out and read to you
23 exact notes?

24 Q If you took verbatim from the child --

25 THE COURT: If it's verbatim I will

1 allow it.

2 MR. LIEBERMAN: I would be fine with
3 that as well.

4 THE WITNESS: I do.

5 Q Do you have copies of those?

6 A This is the copies that I was ordered to
7 bring.

8 MR. LIEBERMAN: Can I have that
9 marked as Defendant's A?

10 (Whereupon, the above-referred to
11 item was duly marked Defense Exhibit A for
12 identification.)

13 Q Detective, we are showing what you
14 produced and as marked as Exhibit A?

15 Can you tell us what that is?

16 A So this is a packet of reports that the
17 Larchmont Police Department has taken.

18 My detective notes are also included in here
19 but detective notes are separate. They are not
20 anything that comes into the detective office, is
21 not fileable. So I had to go and pull the reports
22 that were requested in addition to my detective
23 report.

24 MR. DIMOPOULOS: Pardon me. Can I
25 have -- can I please have a copy of the

1 subpoena the witness received and a copy of
2 the reports?

3 Q I am aware of your detective notes. You
4 are aware of reports you have as well?

5 I will ask those be marked separately. Only
6 detective notes be deemed Exhibit A if that's
7 okay, your Honor. I will ask Exhibit A be limited
8 just to the detective notes. I don't know what
9 the other reports are.

10 THE COURT: Why don't we do this:
11 Why don't you separate them?

12 MR. LIEBERMAN: I will ask you to
13 look at the reports now to see if we can if
14 you even want to use them.

15 MR. DIMOPOULOS: Are there more than
16 one copy?

17 THE WITNESS: You do not have my
18 detective supplements.

19 MR. DIMOPOULOS: The subpoena says
20 there should be any and all records, the
21 totality of the documents that the detective
22 brought to court today, are they somewhere so
23 I could review subpoenaed material?

24 THE COURT: I am not in possession.

25 (Short recess taken.)

1 Q I am going to ask this be marked as
2 Exhibit B which is the 5-17 incident report.

3 (Whereupon, the above-referred to
4 item was marked Defense Exhibit B for
5 identification.)

6 (Witness shown.)

7 Q Detective, I have given you Exhibit A and
8 B. Let's get back to where we were on Exhibit A.
9 You indicated you took verbatim notes you had
10 with the child?

11 A Yes.

12 Q Please tell us what was said in response
13 to the questions you posed?

14 A I will start -- "reporting detective
15 interviewed the child, Josephina Kassenoff, date
16 of birth 8-10-2013, who stated the following:
17 Number one, she lives with her mom and dad, sister
18 Charlotte and Alexandra and their dogs. She is
19 afraid of her father." This is number two. I
20 apologize.

21 "She is afraid of her father because he said
22 'you should all go to hell.' She watched him kick
23 her sister Charlotte. After he kicked her, he
24 kept yelling and I ran upstairs and hid in my
25 mom's room while she was napping." Semi colon,

1 "and hit her mother so hard in the eye that she
2 needed to see a doctor.

3 She further stated that her sister had to
4 sit in the front seat of the car with their mother
5 and help her see the street and lights because her
6 eye was so swollen she couldn't see.

7 Number three, Josephina further told the
8 reporting detective she was very scared for her
9 mom.

10 Number four, she hides in the bathroom or
11 closet when she hears the sound of her father's
12 flip flops or shoes on the floor.

13 Number five, she stated her father needs to be
14 taking medicine but he has not been. He yells and
15 curses at us.

16 Number six, her father was yelling at her and
17 grabbed her left arm so hard she had marks and
18 bruises

19 Reporting detective looked at the left upper
20 arm and saw a slight small circular bruise which
21 appeared to have been several days old.

22 Number six, when her father was yelling at
23 Alexandra and kicked her, Charlotte was very upset
24 and left the house to walk to school. She, meaning
25 Josephina, further stated that she and her sisters

1 were hiding in the bathroom with their mother
2 Catherine Kassenoff, and Alexandra told her that
3 their father had kicked her quote 'at first mommy
4 didn't want to believe it, but then I told her I
5 was there and I saw it and that I was scared' end
6 of quote.

7 Number seven, Josephina asked the reporting
8 detective 'do you think my daddy is going to kill
9 her or hurt us real bad?'

10 When asked why she would think such a thing,
11 Josephina responded quote 'because he said we
12 should all go to hell' end of quote.

13 Number eight, Josephina stated several times
14 that she did not want to go home with her father
15 or with the babysitter if her father was going to
16 be there."

17 I further wrote that I found Josephina to be a
18 sweet little girl who is very well spoken and
19 extremely smart

20 Throughout the interview Josephina was
21 consistent with her facts. She was clear, concise
22 and easily recalled all facts with no hesitation
23 and then the next part goes on to me telephoning
24 mom.

25 Q Now, during the course of the interview

1 of this child, what questions or efforts did you
2 make to ascertain that she was being candid with
3 you, that she was telling the truth?

4 A I rephrased several of my questions to
5 see if I elicited the same response, which I did.
6 Her responses did not change.

7 Like I stated, there was no hesitation. She
8 didn't have to sit and try and recall. She was
9 very open.

10 Like I said earlier, it was truly like a
11 floodgate. She just wanted to give me the
12 information and I saw such a relief in her 'cause
13 at first she was shaking and she was fidgeting.
14 The longer we spoke the more comfortable she
15 became.

16 Q And based on that and the questions posed
17 and the answers --

18 MR. LIEBERMAN: County attorney.

19 Q Based on the questions posed, the answers
20 received, your training, your experience, did you
21 make a determination as to whether Joe Joe was
22 being truthful?

23 A Yes, I did.

24 Q What was that determination?

25 A I know from my training and my teaching

1 certification that there is a certain age where
2 children have the ability which is age appropriate
3 to make up a story and be consistent with that
4 story developmentally a five-year old does not
5 have the ability to make up a story and
6 consistently recall those facts without getting
7 tripped up.

8 We find that with a five-year old, six-year
9 old, the facts are sometimes, I want to say,
10 marked up and crazy when they are making up
11 stories because they are trying to give you a fake
12 story, but at the same time they are trying to
13 recall what it was they told you.

14 Where a ten-year old or 11-year old has the
15 developmental ability to make up a lie and
16 remember consistent what it is that they gave you.

17 So based on that and her language skills, her
18 ability to tell me explicitly what happened, I
19 felt she was being truthful.

20 Q And as a result of your finding and
21 interviewing of this child -- strike that.

22 Had you been made aware at that time that
23 Allie had made any report on the prior Tuesday to
24 CPS?

25 A I found out after I had interviewed

1 Josephina in two ways: One, it was brought to my
2 attention by CPS because once I finished, CPS had
3 been there and they brought it to my attention
4 prior to CPS getting there. I had contacted the
5 principal at the Chatsworth School.

6 Q Who is that?

7 A That's Katie Anderson. We have a very
8 good working relationship. So I called just to
9 quickly ask her one -- was 'cause now I had found
10 out that Alexandra had been kicked so I didn't
11 know if I was going to have to go and interview
12 her, so I called the school to find out if she had
13 been in school that day and in that conversation
14 Katie said, "well was this because of the report
15 that the school made?"

16 So, now I had confirmation that CPS was
17 involved because of the report that the school
18 made.

19 Q And after the interview process was done
20 what other actions or steps did you take regarding
21 this?

22 A So I immediately contacted Mrs.
23 Kassenoff. I called her. I explained to her who
24 I was, where I was, that I was with her daughter,
25 that her daughter was safe and happy, but

1 concerned and afraid and I needed for her to
2 respond to the school because we had not released
3 her daughter to the babysitter who was there to
4 pick her up.

5 Q Did she come?

6 A Immediately.

7 Q When she arrived did you interview her?

8 A I did an informal interview.

9 Q Did you share with her any of what you
10 said to us today?

11 A No. I waited for CPS. Mom was
12 immediately asking to see Josephina, very
13 concerned. She expressed that her daughter had
14 been through a lot and now I had interviewed her,
15 the school had questioned her prior to me coming
16 there. She was very very concerned about her
17 well-being.

18 I told her her daughter was with the teacher
19 listening to the graduation song. Once CPS
20 arrived, had the opportunity to ascertain what was
21 going on, we were going to make a decision going
22 forward. Then I would allow her to see her
23 daughter. But she continued to keep asking.

24 Q Did you become aware CPS went in to
25 interview Joe Joe?

1 A Yes, I did.

2 Q Do you recall who that was?

3 A There were two women on site; Mrs.
4 Younger and Mrs. Reid.

5 Q Did they both go in and interview her?

6 A We all did. I actually followed in. I
7 stood back towards the door. But again I use this
8 as an opportunity to listen to the information
9 that was elicited what we did was Mrs. Kassenoff
10 was very hesitant to allow CPS to go in and
11 question her daughter. She was very concerned
12 about the emotional stability of her daughter.

13 A At that point in time we all questioned her.
14 We sat together out in the lobby. We came -- we
15 finally came to an agreement that CPS would be
16 allowed to ask a set number of questions and we
17 discussed what those questions would be prior to
18 going in.

19 Q Did you find her concerns to be fair?

20 A Yes.

21 Q And who went in the room then with the
22 two CPS workers?

23 A Myself and Mrs. Kassenoff.

24 Q And the CPS workers allowed her in the
25 room for that?

1 A Yes.

2 Q Did Mrs. Kassenoff participate in any of
3 the questions of her daughter?

4 A She kissed her daughter hello and she
5 said these women, like Detective Pompilio, have a
6 couple of questions for you and you can answer the
7 question.

8 Q And CPS, did either of the two people
9 from CPS ask questions of Joe Joe?

10 A One woman did, Mrs. Reid.

11 Q And did you hear the questions and hear
12 the answers?

13 A Yes, I did.

14 Q And in hearing those questions and
15 answers did anything alert you to the possibility
16 -- strike that.

17 Did those questions and answers confirm with
18 you your assessment of Josephina's credibility or
19 not?

20 A Yes, they did. They were the exact same
21 responses and they worded their questions
22 differently.

23 Q How long did you interview Joe Joe
24 yourself with the teacher in the room?

25 A Maybe 15 minutes.

1 Q And how long did CPS interview for?

2 A Three minutes.

3 Q After the interview was done were you
4 present for a meeting between Mrs. Kassenoff and
5 CPS?

6 A Yes.

7 Q Do you know who else was present for that
8 meeting?

9 A Yes. Myself, my detective lieutenant,
10 Detective Maresca from the Village of Mamaroneck
11 Police Department and the teachers were -- one
12 teacher was with Josephina in the room playing the
13 graduation song and the other one popped out for a
14 moment and then went back in, but she wasn't truly
15 there for our conversation.

16 Q The two CPS workers?

17 A Two CPS workers.

18 Q Did there come a time that you heard
19 anyone indicate to Mrs. Kassenoff that she needed
20 to take action against Mr. Kassenoff for what had
21 just occurred?

22 A Yes.

23 Q And what was that?

24 A CPS. So we, as you have -- we have, I
25 believe, it's 16 prior reports where the police

1 have either attempted to make contact with CPS at
2 the Kassenoff home or we have responded to the
3 home.

4 One of those cases I was directly involved in
5 outside of the incident that occurred last week.
6 But part of CPS's concern was, one, that there
7 were several open cases, that they had not been
8 given any access to the children to interview the
9 children which is standard procedure, and we were
10 explaining that to Mrs. Kassenoff.

11 THE COURT: What is that standard
12 procedure?

13 THE WITNESS: When CPS reports are
14 made, as we are mandated reporters, CPS must
15 do home visits.

16 So when the state takes in an
17 accusation and it's given to a caseworker,
18 they have to respond to the home. They have
19 to see the children. They need to make sure
20 the children are safe.

21 THE COURT: Did they in fact, in
22 those cases, get to see the children?

23 THE WITNESS: In none of the
24 incidents, all of which are documented in our
25 reports, we have gone there and they had not

1 been. Either no one answered the door or no
2 one was home.

3 We don't know if no one was home
4 and not answered. It is not our job to
5 accuse. We went with CPS. No one answered
6 the door. We document it.

7 Q So, we don't know if the failure to have
8 previously interviewed the children and any of
9 these 15, 16 other incidents was due to Mr.
10 Kassenoff, Mrs. Kassenoff or somebody at CPS just
11 not following up?

12 A I don't know. I know there was a
13 discussion between the CPS workers and Mrs.
14 Kassenoff. I am not privy to CPS reports. They
15 share some information, but I never get reports.
16 But I know that there was conversations between
17 CPS and Miss Kassenoff previously.

18 Q And on that day did Miss Kassenoff
19 consent to CPS interviewing the children?

20 A She did. It wasn't easy, and by no fault
21 of her own, she was concerned about us
22 interviewing Josephina and seeing -- uprooting and
23 really causing chaos into what was already a
24 chaotic situation for those kids.

25 Q But she allowed --

1 A She did allow it. Yes, she did.

2 Q Let's got back to my original question.

3 A Absolutely.

4 Q Did CPS in any manner, shape or form
5 advise my client that she needed to seek out
6 judicial relief against Mr. Kassenoff?

7 A They specifically told her if she did not
8 go with them to Family Court in New Rochelle, they
9 were going to seek taking the children from them.
10 They were going to get an order to take the
11 children and they were going to get the order of
12 protection after taking the children from her.
13 Absolutely.

14 THE COURT: Did Mrs. Kassenoff
15 indicate to you in the course of your
16 discussions whether she was aware of the
17 allegations that Joe Joe had made to you?

18 THE WITNESS: She was aware of the
19 allegations. And I wrote in my notes she did
20 say to me that, and I am going to read it to
21 you verbatim, "at the time -- at this time
22 reporting detective began an informal
23 interview of Mrs. Kassenoff. She advised a
24 reporting detective that there were marital
25 problems but that she was hoping they could

1 have worked it out. She confirmed Josephine's
2 story about being hit in the eye by a plant by
3 her husband Mr. Allen Kassenoff, date of birth
4 5-25-1973 and that she was driving with the
5 help of her daughter in order to receive
6 medical attention.

7 Again, Mrs. Kassenoff repeated that
8 she had hoped they could have worked past
9 this. She continuously asked to see her
10 daughter and was generally concerned about
11 her. She said 'my daughter has been through
12 so much. This is traumatizing and I just want
13 to hug her.'"

14 Q Was there any indication that my client
15 had been made aware that Allie had claimed or --
16 strike that.

17 Is there any awareness on her part of this
18 incident before you told her about it, that is
19 the --

20 A Yes, she had found out, I believe, it was
21 a night or two before, her and the girls were in
22 the bathroom together and Alexandra brought it to
23 her attention. I had read that through what
24 Josephina had told me. And at first Mrs.
25 Kassenoff didn't believe her. That's what

1 Josephina told me, and then Josephina said "mommy
2 I saw it. I saw her get kicked." That's when she
3 realized Alexandra was telling the truth.

4 MR. LIEBERMAN: Can I see the notes,
5 Exhibit A?

6 Q The questions that were agreed upon
7 between Miss Kassenoff and CPS, did you find any
8 aspect of what she was requesting to be designed
9 to insulate her?

10 A No. She wanted them to ask questions
11 that were simple, concise and specific, but didn't
12 upset Josephina any more. She wanted to make sure
13 that they didn't go more into depth outside of the
14 scope of where we had already gone, which I didn't
15 think at that time was unreasonable. They needed
16 to hear -- the CPS worker specifically said they
17 needed to hear what I heard.

18 Q And there came a point where Miss
19 Kassenoff provided you a copy of the order of the
20 protection from the Family Court?

21 A I believe that, because I had left for
22 the day, it was dropped off by the social worker.

23 Q Now, there were 16 prior reports that you
24 are aware of that CPS was involved, right?

25 A I am not sure how many of those CPS, yes,

1 truly.

2 Q 16 that your department --

3 A Yes, sir.

4 Q In considering the credibility of the
5 allegations that Joe Joe had made, had you or did
6 you review any of those prior reports?

7 A All cases where children are involved,
8 because I am the youth detective, come across my
9 desk.

10 Q You are familiar with that?

11 A I was familiar with the Kassenoffs.

12 Q Had you previously interviewed either Mr.
13 Or Mrs. Kassenoff?

14 A No, I had not.

15 Q Do you know if any of the members of your
16 department had ever interviewed Mr. Kassenoff?

17 A No, there were DIR's done, yes.

18 THE COURT: What is a DIR.

19 THE WITNESS: DIR domestic incident
20 report which we are mandated to complete when
21 we respond for a domestic dispute.

22 Q And of those reports that required your
23 department to respond to the Kassenoffs, do you
24 recall if they were all calls from one party,
25 calls from both parties, and if I showed you the

1 reports, would that refresh your recollection?

2 A Yes, sir.

3 MR. LIEBERMAN: Judge, I will return
4 to the detective each of her originals
5 together with Defendant's Exhibit A.

6 Only thing I am holding on to the
7 to is the second narrative.

8 THE WITNESS: And I have B.

9 Q Look at B and the balance of unmarked
10 reports.

11 THE COURT: All set?

12 A Yes.

13 Q Can you answer the question?

14 A It appears to be four, where Mrs.
15 Kassenoff reported, there are three where we
16 initiated because CPS came and I have two from Mr.
17 Kassenoff plus one with him where we served the
18 show cause order.

19 Q I am returning your other narrative.
20 Give me one second please.

21 Is your investigation still open?

22 A Yes, it is, sir.

23 Q I really appreciate you getting here on
24 such short notice. I am done with your questions.
25 I am sure they will have some questions.

1 A Okay no problem.

2 THE COURT: Mr. DiMopoulos?

3 CROSS EXAMINATION

4 BY MR. DIMOPOULOS:

5 Q Good morning Miss Pompilio. I, too, thank
6 you for being here on such an important matter?

7 In your training and your experience do you
8 find it useful to know when you are interviewing a
9 child certain background information about the
10 parents and the parenting and what's going on in
11 the house, those types of things?

12 A Sometimes. But when I -- my
13 responsibility is for the safety of the child. I
14 don't get involved in -- unless we are called
15 there on a domestic, again if we go and there are
16 children, my responsibility is for the children.
17 Children can't fend for themselves. So I sit and
18 listen to what the children have to say. I take
19 my report, if CPS is not already involved, I take
20 the next step and I make that report to CPS and
21 then I let CPS work through what needs to be
22 worked through.

23 My responsibility is the safety of the
24 children.

25 Q Duly noted. But we are talking now

1 globally, not specifically this case just yet. If
2 there were, in any case, if there was an abusive
3 parent, hypothetically, in a home and the child
4 from that home were to report something to you, do
5 you think knowing that there was an abusive parent
6 at home would be helpful to your investigation?

7 MR. LIEBERMAN: Objection to the
8 form, your Honor.

9 THE COURT: It wasn't really a clear
10 question.

11 Q In the process of interviewing a child
12 that has made a statement, such as the one Joe Joe
13 made, if you were to know that one of the parents
14 at home was abusive to that child, either
15 emotionally, verbally or otherwise, would that
16 information be helpful to you in determining that
17 child's report or that credibility or your
18 followup?

19 A I would do an interview of parents.
20 However, I didn't. At that point I didn't need to
21 move quickly and do the interview with both
22 parents because CPS was already involved. So my
23 interviewing of either party, be it this case or
24 any other case, at this point in time would be
25 based on what CPS needs.

1 Q So if am understanding you, you felt that
2 because CPS was immediately involved, that you
3 didn't really have to further investigate by
4 speaking to the alleged victim or the father or
5 anything like that?

6 MR. LIEBERMAN: Objection. Excuse
7 me. Objection; relevance and form.

8 THE COURT: I am going to allow it.

9 THE WITNESS: We sat at his house
10 waiting that evening for him to come in order
11 to serve him.

12 At that point in time my partner
13 would have done an informal interview the way
14 we did an informal interview with Miss
15 Kassenoff.

16 My partner sat there for two hours.
17 We didn't see him come home.

18 Q Did you call him?

19 A When we serve an order of protection we
20 don't call another party.

21 Q What about -- did you know that Mr.
22 Kassenoff on the day you tried to serve him was
23 actually in Korea?

24 A He was home that day.

25 Q What day was that?

1 A That was on Friday. That was -- Friday
2 was the date that it was, on Friday.

3 MR. LIEBERMAN: I can't answer.

4 THE WITNESS: It was Friday. I am
5 not really asking. I am thinking out loud.

6 I am going to look at my report. It
7 was on the 17th. It was Friday. So we were
8 told that he was home that day and I verified
9 that with Josephina that he was home.

10 Q So the 17th, you had this information,
11 did you ask Mrs. Kassenoff to provide with Mr.
12 Kassenoff's phone number?

13 A We already had it.

14 Q Why didn't you call him and ask him what
15 happened?

16 A Because we can't -- we can't alert
17 another party to what's going on. CPS, they were
18 going to get an order of protection, you have to
19 understand when we get reports and there is
20 domestic violence and there is times where
21 children can get hurt, we don't alert the other
22 party. I am not going to have it on me at the end
23 of the day if something happens.

24 We have certain procedures and protocol we
25 follow. We knew the order of protection was

1 coming and he needed to be served. That's what I
2 had to do.

3 At that point in time it wasn't my role to
4 contact him and interview him.

5 Q Are you certain that there was an order
6 of protection issued by the Family Court on
7 May 17th?

8 MR. LIEBERMAN: Just note my
9 objection I don't think there was a question
10 and answer to that effect.

11 I think it is a misstatement of
12 what the question and answer were on direct as
13 to date.

14 Q What date?

15 THE COURT: I will let you rephrase.

16 Q What date, the order of protection you
17 were serving or sought to serve on Mr. Kassenoff,
18 what was the state of?

19 THE COURT: Date of the order?

20 THE WITNESS: It is May 17, 2019.

21 Q Do you have a copy of that?

22 A I do.

23 MR. DIMOPOULOS: Can I just see
24 that, Judge?

25 Q Now, Joe Joe reported to you that she was

1 aware or witnessed an incident where her father
2 threw something at the mother, is that correct?

3 A That is correct. She said her sister had
4 been outside with them.

5 Q Which sister?

6 A Alexandra.

7 Q What did she tell you about that
8 incident? What did she say?

9 A That there was yelling and screaming and
10 arguing, that she explained it as a plant. But
11 when I spoke to Mrs. Kassenoff it wasn't a plant.
12 It was like dirt and root and whatever had come
13 up, that he had thrown it at her at close range
14 and she had sustained.

15 So I didn't tell her exactly what I knew so I
16 wanted to see if the information that Josephina
17 gave me was correct and she was surprised that I
18 knew and she was very forthcoming and said "yes,
19 that's what happened but it wasn't a plant it was
20 root and dirt."

21 Q Did Joe Joe tell you she was there and
22 saw that?

23 A She just said he hit her mother so hard
24 in the eye she needed to see a doctor.

25 She further stated that her sister had to sit

1 in front seat of the car with their mother and
2 help her see the street and lights because her eye
3 was so swollen she couldn't see.

4 Q That's the --

5 A She did not say she physically saw it.

6 Q But she saw her mother's swollen eye,
7 correct?

8 A That's what she said.

9 Q What if I told you that I have a text
10 message from Catherine Kassenoff to her friend
11 sent after that incident with the plant that says,
12 if I had --

13 MR. LIEBERMAN: Objection, Judge.

14 This is where we get into the --

15 MR. DIMOPOULOS: No, Your Honor. It
16 is a hypothetical question.

17 MR. LIEBERMAN: No. No.

18 You can't. He is about to divulge
19 attorney/client privilege communication.

20 THE COURT: Counsel, Mr. Kassenoff,
21 I don't really appreciate that.

22 I will allow -- I want to hear the
23 question then you can voice your objection.

24 Q If you knew that Miss Kassenoff, after
25 that happened, made a statement to a friend of

1 hers that read, "if I had a mark or a bruise or
2 something it would be easy, but he will lie and
3 then I am in a he said/she said with corroboration
4 from a liar."

5 MR. LIEBERMAN: Objection, Judge.

6 THE COURT: What's the question?

7 Q What if I told you that Miss Kassenoff
8 herself admitted that it was not a mark or bruise
9 on her face? Would that affect your determination
10 of credibility of Joe Joe of that event?

11 THE COURT: Hold on a second.

12 What's your objection?

13 MR. LIEBERMAN: Several: First off,
14 that's an attorney/client privilege
15 communication and notwithstanding the snickers
16 from counsel's table, Miss Monaco is an
17 attorney. Miss Monaco has a history of
18 matrimonial practice. Miss Monaco doesn't
19 need a formal retainer agreement to have an
20 attorney/client privilege communication. You
21 don't need anything in writing if someone
22 speaks with an attorney who is also a friend,
23 but is an attorney who is receiving legal
24 advice that is privileged.

25 Number two, I didn't get to address

1 this when we first started, the claim about
2 being locked out of the Google account; what
3 he did was, because he had apparently it was
4 able --

5 MR. DIMOPOULOS: Does the witness
6 need to be here for this?

7 MR. LIEBERMAN: I was the one who
8 objected. But she heard first part. She
9 ought to hear the rest of it.

10 THE COURT: I don't think it will
11 affect your testimony.

12 MR. LIEBERMAN: He illegally
13 accesses, in violation of federal law -- I
14 just had this issue before Judge Lubell. He
15 went in and took her text messages, put aside
16 it is an attorney/client privilege
17 communication. He has no authority to take
18 her text messages, whether they are stored on
19 a cloud or on her phone. He has no authority
20 whatsoever to do that. It is an illegally
21 seized bit of information; A.

22 B, it's completely out of context.
23 It is wholly outside of context to say this.
24 There is no indication in there that
25 corroborates what counsel is saying. There is

1 no context from my client as to the back and
2 forth. It's a conversation with her and an
3 attorney that is evolving. You don't know if
4 it is part hypothetical, you don't know if it
5 is all the facts at once. It is a blip, a
6 snippet. That's how this whole thing was put
7 together.

8 This snippet is from illegally
9 obtained evidence.

10 MR. DIMOPOULOS: May I respond to
11 illegally obtained evidence? Okay.

12 This text message was on a laptop
13 that belonged to the family that was open in
14 the marital residence.

15 MR. LIEBERMAN: Text message on a
16 laptop.

17 MR. DIMOPOULOS: Number two, this
18 friend of hers that is an attorney is the most
19 preposterous argument I have ever heard --
20 crime fraud exception --

21 THE COURT: Let's tone this down a
22 little bit. I don't think you have to ask
23 this question from this witness because I am
24 the trier of facts here.

25 What I suggest you to do, you don't

1 have to tie this witness here now. I will
2 consider the arguments of both sides. I am
3 the one who should be considering what you are
4 trying to say, if I could consider it at all.

5 MR. DIMOPOULOS: Can I ask a
6 hypothetical; has nothing to do with the text
7 message?

8 Q If the detective knew that Miss Kassenoff
9 did not have a bruise anywhere on her face that
10 day, would it affect her determination of the
11 credibility of Joe Joe?

12 MR. LIEBERMAN: What day?

13 MR. DIMOPOULOS: The day after Joe
14 Joe --

15 THE COURT: I am going to grant Mr.
16 Lieberman's objection.

17 I will sustain it.

18 Q Now, Detective, you are an SRO at the
19 Chatsworth School, correct?

20 A Yes.

21 Q You said you know Katy Anderson. Do you
22 also no assistant principal Sharfstein?

23 A Yes, I do.

24 Q When you spoke about this incident, and
25 Allie specifically, did they tell you Allie had

1 any issues at school?

2 A I already know Allie had issues at
3 school. They didn't know to tell me in that phone
4 conversation.

5 Q How did you know?

6 A I know, as the school SRO, it is my job
7 to know when there are issues. Part of what I do
8 is that I work very well with Katie Anderson, that
9 we share certain information, that if there wasn't
10 myself in place, we wouldn't have the information.

11 THE COURT: For the record Katie
12 Anderson is the principal.

13 THE WITNESS: The principal of the
14 school.

15 So because we have such a good
16 working relationship where I will call her or
17 she will call me, we share information. I
18 know that a CPS report previously had been
19 done by the school in records to Alexandra.

20 THE COURT: What was the nature of
21 that report?

22 THE WITNESS: The nature of the
23 report was that she had bruising on her face.
24 The allegation was found to be not valid and
25 the result being that -- and this was also

1 part of my conversation with Josephina, that
2 Alexandra has some emotional issues and lies a
3 lot.

4 So these are things that I need to
5 know when the school finds out and then my
6 information that I had from Katie was
7 corroborated by a five-year old child who had
8 the same exact information.

9 So if you are asking me do I find
10 her credible, yes, absolutely.

11 Q Can I ask you a question? Did Joe Joe
12 tell you that her father kicked Allie?

13 A She told me Alexandra, that's the one at
14 Chatsworth School, yes.

15 Q She kicked Allie the child?

16 THE COURT: He --

17 Q Sorry. He. The report was that Joe Joe
18 reported to you that her father kicked Allie,
19 correct?

20 A Yes.

21 Q And then your report says -- the report
22 of 5-17?

23 MR. LIEBERMAN: Marked as B.

24 Q Defendant's B, in the narrative section,
25 it says that Joe Joe watched him, Mr. Kassenoff,

1 kick her sister sharp?

2 A That was a mistake on my part.

3 Q Pretty big mistake?

4 MR. LIEBERMAN: Objection.

5 THE COURT: Sustained.

6 MR. LIEBERMAN: I ask the comment be
7 stricken.

8 THE COURT: Stricken.

9 Q Which child -- which child did Joe Joe
10 say Mr. Kassenoff kicked?

11 A Alexandra.

12 Q Your testimony is this is the
13 typographical error?

14 A Yes.

15 Q Larchmont Police Department familiar with
16 Mr. Kassenoff's behavior towards Alexandra at
17 home?

18 MR. LIEBERMAN: Objection.

19 THE COURT: Why don't you rephrase
20 that? I mean the whole department or have
21 there been reports?

22 Q Are you familiar with Miss Kassenoff's
23 treatment of Alexandra in the home?

24 A Unless I had been there for a call or one
25 of these reports specifically states something

1 along those lines, then no.

2 THE COURT: Is there anything in the
3 reports that indicates that there were
4 responses by the Larchmont Police Department
5 relative to anything happening to Alexandra?

6 THE WITNESS: There was one and
7 that's the case that I referred to saying that
8 it was found to be a false allegation.

9 THE COURT: Who made the allegation?

10 THE WITNESS: Alexandra.

11 THE COURT: Did she make that?

12 THE WITNESS: To the school
13 personnel.

14 THE COURT: Who was the allegation
15 against?

16 THE WITNESS: Mrs. Kassenoff.

17 Q Did you find it necessary -- why didn't
18 you interview Allie about the incident?

19 A Because CPS was involved.

20 Q Have you come to learn that CPS has
21 interviewed Allie?

22 A I have a telephone call to return back to
23 CPS, but I am here.

24 Q Do you know that CPS last called my
25 client three times about this incident? Do you

1 know that information?

2 A I know they said they reached out to all
3 parties throughout the course of all of these
4 reports.

5 Q Do you know that? Do you know that my
6 client has called them three times and they
7 haven't called him back? Do you know that, yes or
8 no?

9 A No.

10 MR. LIEBERMAN: Objection.

11 THE WITNESS: No, I wouldn't know
12 that.

13 THE COURT: I will allow it.

14 MR. LIEBERMAN: Actually withdraw
15 the objection.

16 THE COURT: Objection sustained.

17 Q There is a report from 6-26-2018. You
18 said earlier that every report that involved
19 children in the Larchmont P D would somehow be run
20 by you, correct?

21 A Yes.

22 Q There is a report from that day?

23 A What was the day.

24 Q Two six -- 6-26-2018?

25 A Tuesday? 88310 incident number top

1 right-hand corner?

2 Q Yes.

3 A Do you remember specifically?

4 THE COURT: That's a yes?

5 THE WITNESS: Yes.

6 Q Can you review and refresh your
7 recollection.

8 A Absolutely. Yes, I remember reviewing
9 this.

10 Q Okay. Can you tell me about what
11 happened?

12 A So --

13 MR. LIEBERMAN: Objection, your
14 Honor.

15 THE COURT: I will allow it.

16 Mr. DiMopoulos?

17 Q Do you remember what happened?

18 A I wasn't there, but I can tell you what
19 the officer say happened.

20 Q Do you know that it was a fight between
21 Miss Kassenoff and Allie about a candy bar?

22 MR. LIEBERMAN: Objection, Judge.

23 The document's not in evidence. She just said
24 she wasn't there.

25 MR. DIMOPOULOS: I thought you put

1 it in.

2 THE COURT: So the objection is
3 sustained. Everything else stricken.

4 Q Detective to -- your investigation is
5 still open. What if anything does your department
6 need further from either of these parties?

7 A Unfortunately right now it is an order of
8 protection investigation and discussing what
9 direction we are going in, I can't do.

10 Q I am sorry?

11 A It is an order of protection
12 investigation and I cannot discuss in what
13 direction we are moving.

14 THE COURT: Let me ask you: Is
15 this something that your -- an investigation
16 that the Larchmont Police Department is
17 currently actively pursuing or CPS the main
18 actor?

19 THE WITNESS: They are the main
20 actor. But our next directive will go off of
21 some of the information that we get back from
22 CPS.

23 MR. LIEBERMAN: Respectfully note my
24 objection to your Honor's question.

25 Q You said you had a phone call to return

1 to CPS, correct?

2 A Yes.

3 Q Which CPS investigator called you?

4 A I called them and they called back.

5 Q Who do you understand to be the person
6 leading the investigation on behalf of CPS?

7 A Miss Reed. That's the woman I have been
8 dealing with, the caseworker. But it changes all
9 the time. It is CPS.

10 Q And I didn't ask you whether or not you
11 interviewed Charlie?

12 A You did not ask me, no.

13 Q I didn't ask you. Have you?

14 A No, I have not.

15 Q Do you intend on interviewing Mr.
16 Kassenoff?

17 A It is an active investigation. I can't
18 disclose the next direction we are going.

oOo

19

20 THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE
21 AND ACCURATE TRANSCRIPTION OF THE ORIGINAL
22 STENOGRAPHIC RECORD.

23

24

CAROL KUCZINSKI
Senior Court Reporter

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