

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 23, 2020

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

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Det. Pompilio-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 COURT OFFICER: Place your left hand and remain
6 standing. Thank you.

7 THE COURT: Do you swear to tell the truth, the
8 whole truth and nothing but the truth?

9 L I S A P O M P I L I O, the witness herein, having been
10 first duly sworn by The Court, was examined and testified as
11 follows:

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Thank you. Could you state for the
14 record your full name and your business address?

15 THE WITNESS: Absolutely. My full name is Lisa,
16 L-I-S-A, Pompilio, P-O-M-P-I-L-I-O. I'm a Detective with
17 the Village of Larchmont Police Department, that's located
18 at 120 Larchmont Avenue, Larchmont, New York 10538.

19 THE COURT: Thank you. Ms. Spielberg, you may
20 proceed. I would just ask Detective to keep your voice up
21 because the air conditioner makes it difficult to hear,
22 plus the mask.

23 THE WITNESS: Absolutely, Your Honor.

24 MS. SPIELBERG: Thank you.

25 DIRECT EXAMINATION

Det. Pompilio-Direct

1 BY MS. SPIELBERG:

2 Q. Good morning, Detective Pompilio.

3 A. Good morning.

4 Q. I am not going to go through your background
5 information. The testimony that you gave in this proceeding
6 about a year ago is before the Court and in an effort to
7 streamline this hearing, we're just going to go from then on,
8 okay?

9 A. Absolutely.

10 Q. Okay. What, if anything, has happened since you last
11 testified in Court with respect to the Kassenoff family, to your
12 knowledge?

13 A. There have been multiple things that have occurred. I
14 know that Katherine had moved out of the home. There was
15 sharing of time in between in the home with the two parents.

16 Q. I'll be more specific. The Court is well aware of all
17 of that stuff.

18 A. Okay. I had an incident on a morning with Alexandra
19 where I was working. And the desk officer came to the phone, to
20 the back office, and said that there is one of the Kassenoff
21 children at the front window in her pajamas and she stated that
22 she had run away from home.

23 Q. Did you then speak with her?

24 A. I did speak with her.

25 Q. And how did she appear to you?

Det. Pompilio-Direct

1 A. She was distraught, visually upset. She had been
2 shaking for a little bit. I happen to have a repour with them.
3 I'm the school resource officer. So I know the children from
4 the school. I had met the children previously when we had gone
5 to the home. So she knew who I was.

6 She sat there for awhile. It took me probably a good
7 20 minutes or so just to calm her down in order to be able to
8 have a conversation and extract any information from her as to
9 why it was and what brought her to headquarters at a little
10 before 9:00 that morning.

11 Q. Do you remember what the date was?

12 A. Off of the top of my head, I do not recall, no.

13 Q. Do you have anything in your possession that would
14 refresh your memory?

15 A. I do. Do you mind if I look through?

16 MS. SPIELBERG: That's up to the Judge.

17 THE COURT: You can review your records to
18 refresh your memory.

19 THE WITNESS: Thank you, Your Honor.

20 (Whereupon, the witness reviews documents.)

21 A. It was on March 31, 2020.

22 Q. Who was she with?

23 A. She was by herself.

24 Q. Did she have anything with her?

25 A. She had a light coat. She was in her pajamas and I

Det. Pompilio-Direct

1 believe she had a backpack with her.

2 Q. What did she say to you?

3 A. She stated that she had run away. She was upset from
4 the night before. Her father had been yelling. They refer to
5 him being on the phone with someone yelling.

6 They were frightened. He had yelled at them. And
7 that she wanted to run away the night before, but she waited for
8 him to fall asleep. And then she ran away that morning before
9 he had woken up.

10 Q. Did she -- withdrawn. Do you have experience with
11 taking statements from children?

12 A. Yes.

13 Q. Did she tell you whether anyone had told her to run
14 away from home?

15 A. No, she did not.

16 Q. Did you formulate, form an opinion, as to whether
17 somebody had manipulated her and instructed her to come to the
18 police station?

19 A. I asked a lot of questions. So as I said, I'm the
20 School Resource Officer. I'm the Youth Detective. I'm trained
21 to interview and speak to children. The emotions that she had
22 and the fear that she had told me that she didn't run away
23 because she had been in trouble or she was looking to get out of
24 doing something.

25 She was shaking. It wasn't just the emotion that you

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1 can see on her face, but it was also the emotions behind her
2 eyes. All the things that we look for, all the cues, were all
3 there. So to me, I felt that it was legitimate. I contacted
4 CPS as a result of my conversation and interaction with her.

5 Q. Did you do anything further to investigate?

6 A. I did not reach out to either parent. I believe the
7 desk officer that morning had had interaction with
8 Mr. Kassenoff. But I did not reach out to either parent. I
9 then received a telephone call in the midst of trying to figure
10 out what was going on, make sure that Ally was safe.

11 I received a telephone call from the law guardian
12 that's assigned to the three children. But I did not return her
13 call at that moment because I had other things going on.

14 Q. Had you ever -- did you speak to her at any point?

15 A. I spoke with her afterwards, yes, because she called
16 the office a second time.

17 Q. Did Ally return home that day?

18 A. Ally did return home that day. I believe she was with
19 us for an hour and a half to two hours. I had contacted CPS. I
20 spoke with CPS. I made sure that they were aware of what was
21 going on and that they were comfortable with me sending her back
22 home before I just released her.

23 Q. How far away is the police station from the Kassenoff
24 home?

25 A. I can walk there in probably four minutes, if not

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1 less. Driving, it's probably half a minute drive.

2 Q. And do you know what, if anything, came from the CPS
3 investigation?

4 A. The last I spoke with the case worker handling it, it
5 has still been open and it's not a closed case.

6 Q. What did Ally say, if anything, about going home?

7 THE WITNESS: May I refer back to my notes
8 because she was pretty specific?

9 THE COURT: Yes.

10 THE WITNESS: Thank you, Your Honor.

11 (Whereupon, the witness reviews documents.)

12 A. So as per my notes and my conversation with Ally --

13 Q. Yes.

14 A. -- she stated to me -- so I'm going to go back a
15 sentence so you know what led up to it. She stated, she waited
16 until early morning to run away while her father was still
17 asleep. Alexandra was extremely upset, crying and shaking. She
18 kept saying she didn't want to return to her father. She stated
19 her father was screaming and cursing while on the phone with his
20 friend.

21 She further stated her father doesn't allow her to
22 call her mom and that she sneaks calling her all the time. So
23 to answer your exact question, she stated that she did not want
24 to return home to the father.

25 MS. MOST: Can you just restate, you said she

Det. Pompilio-Direct

1 something calling her?

2 THE WITNESS: She stated that she sneaks calling
3 her mother all the time.

4 MS. MOST: Thank you.

5 Q. Did anybody contact Mrs. Kassenoff, to your knowledge?

6 A. I don't recall if her and I had a conversation right
7 away, but I did reach out to her shortly thereafter just to see
8 if anything had occurred that I didn't know about. But also to
9 make her aware of what had happened.

10 And that is something that I do with any case where
11 there are children involved. I always make sure both parents
12 are aware of what happened.

13 Q. At what point do you do that?

14 A. With her, with this instance, I don't recall exactly
15 when her and I had a conversation. Because that day was --
16 there was a lot going on.

17 I had multiple conversations with Ms. Most, trying to
18 deal with CPS back and forth. I don't recall exactly at what
19 point I spoke to Mrs. Kassenoff.

20 Q. What did Ms. Most say to you?

21 A. Ms. Most wanted to come in and speak to me about what
22 had occurred and the children. She said that she had
23 information for me that she needed to speak to me about. I was
24 very uncomfortable. But being I had already made a CPS report,
25 I felt it was important then for me to listen objectively so I

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1 was able to do my job effectively to what it is that she had to
2 say.

3 Q. What did she tell you?

4 A. So when she came into headquarters, I subsequently had
5 a conversation with the desk officer. And she had relayed some
6 information to the desk officer as well. But when she came into
7 my office and sat, I felt it was very one-sided. It made me
8 more uncomfortable with the situation.

9 Q. When you say it's one-sided, what do you mean?

10 A. It didn't matter what I said, because I look at this,
11 and I explained this to Mrs. Kassenoff before. I don't look at
12 this as a divorce, this is Mr. and Mrs. My responsibility is
13 for the safety of the kids. And I don't care what is going on
14 outside of it, I want to make sure that the girls are safe.

15 Everything that I put before her, she quickly knocked
16 down when I was referring to Mrs. Kassenoff. She kept referring
17 to, you know, you don't have any information on any medical
18 reports that were done, any psychologist reports.

19 I don't need to have that. My responsibility is
20 solely for the safety of the children. And everything I felt
21 was just one-sided. I was very uncomfortable.

22 Q. After Ms. Most relayed her concerns to you, did you
23 change your opinion with respect to whether or not Ally had been
24 instructed or manipulated to come to the police station that
25 morning?

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1 A. No, I did not. I sat with her and even in my
2 conversation with her and her one phrase that she kept repeating
3 over and over and over to me, which is the same phrase that she
4 had also stated to the desk officer, was that Mrs. Kassenoff was
5 gas lighting the girls.

6 Q. Do you know what gas lighting means?

7 A. I had an idea, but I looked it up just to make sure
8 that I was understanding it correctly. It's basically
9 manipulating was my understanding of it.

10 Q. Do you agree that Mrs. Kassenoff is gas lighting the
11 girls?

12 A. No, I don't believe so.

13 Q. Had there been any further incidents with the
14 Kassenoff children that you're aware of?

15 A. Not that I'm aware of, no.

16 Q. How many times has Ally been to the police station
17 that you know of?

18 A. I believe, to my knowledge, two. The time that she
19 ran away and then another time when Mrs. Kassenoff had come to
20 headquarters and she had the girls with her.

21 Q. So would you expect her to know where the police
22 station is?

23 A. It's a small village. We're right across from the
24 library. Yes, everybody knows where the Police Department is.
25 We're attached to the Fire Department. Police cars park right

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1 out in front. There is always a police car out front.

2 It's such a close distance. When you're going into
3 the park, you walk by the Police Department. There is Halloween
4 parades. There is always functions. It's reasonable to say
5 that even a kindergartener would know where the Police
6 Department is.

7 MS. SPIELBERG: I have nothing further. Thanks
8 for coming out for us.

9 THE COURT: Mr. Dimopoulos.

10 CROSS EXAMINATION

11 BY MR. DIMOPOULOS:

12 Q. Since June 2019, how many conversations have you had
13 with Katherine Kassenoff?

14 A. Since June 2019?

15 Q. Correct.

16 A. I couldn't give you a number, many.

17 Q. Do you keep records of them?

18 A. Of every single phone call and every single email, no.
19 I've printed everything out, but I don't log every single
20 telephone conversation, unless there is pertinent information.

21 If she's just calling for a follow-up, no. But if
22 there is something that occurs where I need to get information
23 from her, then I log it. Any email or text message is printed
24 out and put in the file.

25 Q. Let's talk about prior to March 31, 2020, how many

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1 conversations on the telephone, in your best estimate, would you
2 have had with Mrs. Kassenoff from June 2019 to March 30th, 2020?

3 A. I would say, I would guesstimate, anywhere between 50
4 and 75.

5 Q. How many emails would you say that Mrs. Kassenoff sent
6 you from June 2019 to March 30th, 2020?

7 A. Probably about 15 to 20, but I also asked for
8 information that she was forwarding to me.

9 Q. Did you receive any videos or audio recordings from
10 Mrs. Kassenoff from June 2019 through March 30th, 2020?

11 A. Yes, I did.

12 Q. During this entire time there was not, correct, an
13 open investigation in the Larchmont Police Department?

14 A. That is incorrect, I have two open investigations.

15 Q. Okay. Tell me about them. What is the first one?

16 A. Unfortunately, I cannot get into them at this point in
17 time. They are sealed cases because they are open
18 investigations. Although, I did bring them with me because I
19 did receive a Judicial Subpoena, but any case in a Detective
20 Division is a closed case, not even open to a FOIL request.

21 Q. Okay. Detective, during these two open investigations
22 that are sealed and that you cannot talk about, have you ever
23 had one conversation with that gentleman over there? Do you
24 even know who that is?

25 A. Yes, that's Mr. Kassenoff.

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1 Q. How do you know him?

2 A. Because I've been to the house and served Subpoenas
3 and orders of protection and I testified in Court prior to and
4 he was there.

5 Q. So have you ever had a conversation with him about
6 these open investigations?

7 A. No, I did not.

8 Q. Have you ever sought his testimony or his statement in
9 any of these open investigations?

10 A. No, we do not until we're ready and we feel that we
11 have everything that we need --

12 MR. DIMOPOULOS: Your Honor, I would ask to
13 strike all portions of Detective Pompilio's testimony that
14 are not responsive to my questions.

15 THE COURT: Okay, Detective, please just answer
16 yes or no to those questions.

17 Q. I'll ask it again. Have you ever sought a statement
18 from Mr. Kassenoff?

19 A. No.

20 Q. Have you ever sought testimony from Mr. Kassenoff?

21 A. No.

22 Q. One time we met last June, you were investigating an
23 alleged kick that Ally Kassenoff sustained, correct?

24 A. When she was kicked, is that what you're referring to?

25 MS. SPIELBERG: Objection, Judge, outside the

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1 purview of my direct.

2 THE COURT: Okay, well, this is cross examination
3 and keep it limited because she did limit her direct to
4 June 2019 until the present time.

5 MR. DIMOPOULOS: I will.

6 Q. Detective Pompilio, since that incident in May of
7 2019, have you sought to speak to my client, Mr. Kassenoff, for
8 any reason whatsoever?

9 A. No.

10 Q. Have you sought to speak with Alexandra Kassenoff
11 about that incident since May of 2019?

12 A. No, I have not.

13 Q. But you did speak to the five-year old right, Joe Joe?

14 MS. SPIELBERG: Objection, Judge.

15 MR. DIMOPOULOS: Withdrawn.

16 Q. On March 31st, 2020, you must have known that my
17 client was awarded temporary sole legal and physical custody of
18 the children, did you not?

19 A. No, I did not.

20 Q. Do you mean Mrs. Kassenoff didn't tell you in the 50
21 phone calls and 15 to 20 emails she sent you --

22 MS. SPIELBERG: Objection, Judge. The witness
23 put the date on the record and that Order came out days
24 after. There is no testimony that they had contact --

25 MR. DIMOPOULOS: It's a question, Your Honor.

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1 THE COURT: There is no indication that there was
2 50 phone calls between March 27th and March 31st.

3 MR. DIMOPOULOS: I'm not indicating that there
4 were. How about I rephrase it.

5 THE COURT: You said 50 phone calls. It seems to
6 imply that --

7 MR. DIMOPOULOS: I'll rephrase it.

8 Q. Were you ever notified that my client was awarded
9 sole, legal and physical custody of the children?

10 A. No.

11 Q. Not even after this event?

12 A. After the event, I was told; not prior to. There
13 would be no reason for me to know.

14 Q. Did you know that my client had delivered a copy of
15 the March 27, 2020 Order awarding him sole, legal and physical
16 custody and exclusive occupancy of the marital residence to the
17 front desk of the Larchmont Police Department prior to
18 March 31st, 2020?

19 A. No. Again, there would be no reason for me to know
20 unless we had to go to the home for something. And at that
21 point in time, especially having knowledge of the family and the
22 issues that were going on, I would have asked.

23 But when something comes into the desk, the desk
24 officer automatically puts them into a binder that's behind the
25 desk, and it sits there. Otherwise, I would have no knowledge

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1 unless someone directly called me or told me.

2 Q. Detective Pompilio, I've been to the Larchmont Police
3 Department. The front desk is approximately 15 by 15. They are
4 very small offices. The entire office is probably no larger
5 than 2,000 square feet; is that correct?

6 A. That is correct.

7 Q. You're telling me that in a case that you've been
8 involved in for about a year, right, in a case that you have
9 been involved in, in which there are two open investigations,
10 you're telling me that the person at the front desk of the
11 Larchmont Police Department received an Order of the Court and
12 that they didn't contact the Detective who was in charge of the
13 investigations in this case?

14 A. Yes, because Detective --

15 MR. DIMOPOULOS: Motion to strike as
16 unresponsive.

17 THE COURT: Move to strike everything after the
18 word yes.

19 Q. What was the substance of your phone conversations
20 with Mrs. Kassenoff, these 50 phone calls, what did you guys
21 talk about?

22 A. We talked about lots of different things.

23 Q. Like?

24 A. She had sent me -- I asked for certain things. She
25 provided me with documents. I've asked her how she is. She's

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1 called to see what progress we made with some of the cases that
2 I'm working for her.

3 Q. You're working for her?

4 A. Yes.

5 Q. Is Mrs. Kassenoff the Mayor of Larchmont?

6 A. No.

7 MS. SPIELBERG: Objection.

8 THE COURT: Overruled.

9 Q. Why are you working for her, Detective Pompilio?

10 A. Because she is the complainant in an incident and she
11 came in and filed the complaint, that is my job.

12 Q. Your job is to investigate crimes. You're a
13 Detective, your job is not to work for a complainant, is that
14 accurate or inaccurate?

15 A. That's inaccurate. My job is to work for and
16 represent whoever comes in and makes a complaint, to sit and
17 thoroughly go through each and everything or every avenue that
18 comes my way in order to close out or move forward with making
19 an arrest. Whether it takes me two weeks or two years, that is
20 my job.

21 MR. DIMOPOULOS: Your Honor, I would make a
22 motion to unseal the records from Detective Pompilio as
23 they clearly have every bit to do with this custody case.
24 And there may be statements that are extremely probative in
25 this custody matter. And I would ask that Your Honor

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1 unseal them.

2 MS. SPIELBERG: Judge, we don't know the dates of
3 the complaints or the incidents. And there doesn't seem to
4 be any probative value to these investigations considering
5 I don't have any information that tells me that the
6 allegations in those cases are relevant at all to this
7 custody matter.

8 THE COURT: Well, that's because the records are
9 sealed. Ms. Most?

10 MS. MOST: 50 to 75 conversations to me is very
11 troubling. Because what that means to me is that is
12 exactly what Dr. Abrams discussed, when he talked about gas
13 lighting and getting somebody on their side. 50 to 75
14 calls to the police is troubling. I want to know what that
15 was about.

16 MS. SPIELBERG: Judge, the time period is 14 or
17 15 months. If that were the case, it's less than once a
18 week with investigations about her and her children,
19 multiple CPS investigations, orders of protection,
20 Subpoenas, her being out of the house, having to go to the
21 house to get her belongings.

22 There is no testimony that Mrs. Kassenoff is
23 trying to get her on her side. She's saying she's gotten
24 these phone calls from her and the emails, some of which
25 are obviously are tied to either prior or current

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1 investigations as the Detective testified and sometimes she
2 asked Mrs. Kassenoff for information.

3 And while I agree that number sounds like a lot,
4 it's not even once a week in a case where Your Honor is
5 very familiar with the many CPS investigations, the
6 Subpoenas and the Court Orders, and the like.

7 THE COURT: My concern is that the question was
8 between June 2019 and March 2020, which to me calculates to
9 about nine months, there were 50 to 75 telephone calls
10 between the Detective and Mrs. Kassenoff as well as 15 to
11 20 emails.

12 Just off the top of my head, that seems an awful
13 lot of interaction between the Police Department and
14 Mrs. Kassenoff. But what I don't understand is why this
15 investigation is still open. I mean how long do you keep
16 an investigation open?

17 THE WITNESS: The pandemic threw a bit of a
18 monkey wrench into things.

19 THE COURT: Understandable.

20 THE WITNESS: We weren't allowed to have anybody
21 in. We weren't allowed to go out anywhere. One of my
22 cases had been opened and we don't close out cases, things
23 stay open until a complainant can say I don't want to
24 follow through with this anymore.

25 But if I don't have a termination to it, we can

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1 suspended it, but because of what information I was trying
2 to get in order to determine can I move forward with this
3 or do I have to say to Mrs. Kassenoff or to any
4 complainant, I can't go any further, I've truly exhausted
5 all possible leads.

6 We're going to close this. I don't make that
7 determination until I truly feel that I have exhausted all
8 leads. So it remains open.

9 THE COURT: Okay. So is there a policy in the
10 department that you can have a case that can stay open
11 indefinitely, forever? There is not a point in time where
12 a decision has to be made, whether there is efficient
13 evidence to be forwarded to the District Attorneys and
14 Prosecutor's office to see if a charge could be filed or
15 not?

16 THE WITNESS: Base it as, leave it open --

17 THE COURT: So nobody can ever access that
18 information? That doesn't sound right to me.

19 THE WITNESS: I guess if the DA decides they want
20 it, but I don't brings things to the District Attorney
21 unless I have a question, all right, this is the case that
22 I have, can you give me a direction to go in.

23 THE COURT: And you haven't done that on either
24 of those two open investigations?

25 THE WITNESS: One of them, yes, I did. And then

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1 I had to go back to Mrs. Kassenoff, which probably led to
2 ten telephone conversations between her and I because I
3 needed specific things. So I would ask for something. She
4 would give it back to me. I would say all right, this
5 isn't what I need. One form she filled out incorrectly. I
6 had to make her fill out the form out again.

7 So there were many phone calls. But some of them
8 were like, okay, I need this. And they were maybe two
9 minutes in length. They weren't telephone calls that were
10 a half hour to an hour. Because I don't have that time.
11 They were quick, brief telephone conversations.

12 THE COURT: So I'm going to deny the request to
13 unseal the records at this point. But I do have one
14 question.

15 THE WITNESS: Absolutely, Your Honor.

16 THE COURT: Were you ever provided with a copy of
17 the Zoom video tape and audio calls between Mrs. Kassenoff
18 and the children on March 30th, 2020?

19 THE WITNESS: I was provided with, yes, a Zoom, I
20 believe it was a Zoom recording. Yes, it was.

21 THE COURT: From the day before Ally ran away to
22 the Police Department?

23 THE WITNESS: I don't know what the date was off
24 the top of my head. I would have to pull up the video and
25 review it. A lot of these things that I received, whether

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1 from Mrs. Kassenoff or anyone, I don't review in its
2 entirety, unless it becomes something extremely pertinent
3 that I have to.

4 THE COURT: I'm not unsealing the records at this
5 point in time. You may proceed.

6 MR. DIMOPOULOS: I'll be filing, probably by
7 tomorrow, a formal motion to unseal the records, but I
8 respect Your Honor's decision.

9 Q. Are you involved at all with FOIL requests?

10 A. I don't handle FOIL requests, no.

11 Q. Did anyone in the department ever come to you and
12 notify you that Mr. Kassenoff had filed a FOIL request regarding
13 the events of March 31, 2020?

14 A. One of the Lieutenants may have, but we're getting
15 tons of FOIL requests right now. Off of top of my head I cannot
16 give you a yes or no answer. If it's a lieutenant, they are
17 able to look to see that something is a detective investigation.
18 So they wouldn't even need to come ask. They would
19 automatically give a response.

20 If a regular FOIL request comes in, that goes directly
21 to the clerk, the Lieutenants handle all of that. If it's a
22 detective investigation, they know and have knowledge that the
23 detective cases are not FOILable. So they wouldn't even come
24 and ask. Even if it's a closed detective case, it's still a
25 detective case and it's not FOILable.

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1 Q. Are the events of March 31, 2020 an open
2 investigation?

3 A. As of right now, I have not closed out this case. It
4 is still open.

5 Q. And were you familiar with the fact that FOIL requests
6 that my client filed was denied?

7 A. No. I would have no knowledge of that. It goes to
8 the Lieutenant and then it goes to the Village attorneys. I
9 have no handling of FOIL requests.

10 Q. You said someone may have discussed, you're not sure?

11 A. No.

12 Q. Now you're sure?

13 A. They come in, you hear people talking, but I was never
14 personally asked is this a detective case. The lieutenants
15 handle it. They have access. They know what a detective case
16 is. Patrol does not have access to know whether something is or
17 is not a detective case.

18 Q. So you heard something?

19 A. No, I did not hear anything.

20 Q. You just said you heard something?

21 A. Listen to what I'm saying.

22 Q. I'm trying.

23 THE COURT: Let's not argue. She didn't say she
24 heard something. She said she may hear something, but it
25 never comes to her directly because it goes to the

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1 Lieutenant who handles the FOIL requests. And once it's
2 determined by the lieutenant to be a detective case, it
3 gets denied. Is that not what you said?

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Thank you. Move on.

6 Q. What did you hear?

7 A. I didn't hear anything.

8 Q. How many conversations have you had since March 31st,
9 2020 with the case worker from CPS?

10 A. Multiple.

11 Q. Have you forwarded information provided to you by
12 Mrs. Kassenoff to the case worker from CPS?

13 A. If she has asked for it, but I don't believe so.

14 Q. You're sure?

15 A. Hold on.

16 Q. Take your time.

17 A. So here's one email that I'm included on that went to
18 myself and Tiesha Hillary(ph), CPS case worker.

19 Q. From?

20 A. Mrs. Kassenoff.

21 Q. So now you're copied on an email from Mrs. Kassenoff
22 to Ms. Hillary, the case worker, investigating the March 31st
23 events?

24 A. Yes.

25 Q. What does the email say?

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1 A. At my request.

2 Q. Thank you for that. What does it say? Can I see it?

3 MR. DIMOPOULOS: Your Honor, may I see it?

4 THE COURT: Is that part of the sealed file?

5 THE WITNESS: It is still an open investigation,
6 but it is not part of the sealed file.

7 THE COURT: Then he can see it.

8 (Whereupon, a document was handed to Counsel.)

9 MS. SPIELBERG: May I see it as well when you're
10 done?

11 THE COURT: Yes. You may see it, as well as
12 Ms. Most.

13 (Whereupon, a document was then handed to both
14 Counsel.)

15 MR. DIMOPOULOS: Your Honor, I'm going to ask
16 permission if I can get a PDF that and send it to Roy and I
17 will use it as an exhibit on Mrs. Kassenoff's cross
18 examination.

19 THE COURT: Okay. You need to mark it after they
20 are finished reading it.

21 (Whereupon, an off-the-record discussion took
22 place)

23 THE COURT: Why don't we make a PDF so we can
24 mark it. That's her original document.

25 MR. DIMOPOULOS: I'm going to do that right now,

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1 Your Honor.

2 MS. MOST: Your Honor, I'm going to request that
3 a file on this incident, which is so important to this
4 case, at least be reviewed by you, in camera, because it is
5 about -- it's why we are here. This incident is so
6 important to what --

7 MS. SPIELBERG: I just want to remind everybody
8 that this Order went in before that. I think that that is
9 getting lost, that this Order was made before this ever
10 happened.

11 THE COURT: I understand that, but this hearing
12 is about that as well as the TOP. The question is going to
13 be was there a substantial change and that it triggered the
14 best interest analysis.

15 MS. SPIELBERG: My client is going to testify to
16 that today on this issue.

17 THE COURT: She hasn't finished her testimony
18 yet.

19 MR. DIMOPOULOS: May I inquire?

20 THE COURT: Are we offering this into evidence?

21 MR. DIMOPOULOS: I am. I just sent to it Roy.
22 It is Plaintiff's Exhibit 120.

23 THE COURT: I have a question before you start.
24 So Detective --

25 THE WITNESS: Yes, Your Honor.

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1 THE COURT: The investigation that you're
2 conducting as a result of the March 31, 2020 incident where
3 Ally went to the Police Department, that's an open case you
4 said, correct?

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: But that's not a sealed case at this
7 point?

8 THE WITNESS: No, it's not a sealed case because
9 it is a referred to CPS case.

10 THE COURT: Yes.

11 THE WITNESS: I cannot close it until I get an
12 official finding from CPS.

13 THE COURT: Okay. And the CPS investigation, we
14 understand, is still ongoing as well?

15 THE WITNESS: As of my last conversation with
16 Ms. Hillary, it had been, yes.

17 THE COURT: At least we know that you checked on
18 it too, okay. With respect to the email that he marked
19 Exhibit 120, is there any objection to it going into
20 evidence?

21 MR. DIMOPOULOS: Your Honor, my client has just
22 informed me, it's really my oversight, there are two open
23 investigations from CPS as of a week or two ago. That was
24 the report by Detective Pompilio made to CPS that was
25 investigated.

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1 And then there was another. We don't know who
2 reported it. Regarding Charlotte's suicide. The report
3 regarding Ally's trip to the Police Department is
4 unfounded. I will get that and I will show it to Your
5 Honor later in the day. It's in my email.

6 THE COURT: Okay. So there is only one open CPS
7 investigation now?

8 MR. DIMOPOULOS: For shortly, yes.

9 THE COURT: So you haven't received a finding yet
10 from CPS on the March 31 incident?

11 THE WITNESS: No, Your Honor, I have not but --

12 THE COURT: When was the finding made?

13 THE WITNESS: Sorry, Your Honor.

14 MR. DIMOPOULOS: It was unfounded.

15 THE COURT: But when?

16 MR. KASSENOFF: During the break, I'll go through
17 the emails. I don't have the letter, but I forwarded it.

18 MR. DIMOPOULOS: I reversed it. I thought the
19 unfounded was the suicide. Why don't we do this --

20 THE COURT: Why don't we take a short break.
21 Detective, you can go stretch your legs for a minute.

22 THE WITNESS: May I use the bathroom?

23 THE COURT: Absolutely. Any time you need a
24 break, you let me know.

25 THE WITNESS: Thank you.

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1 (Whereupon, a recess was taken by all parties)

2 THE COURT: Back on the record. Mr. Dimopoulos,
3 the question I asked before we went off was what about
4 Exhibit 120, is that in evidence on consent or is there an
5 objection? That was the email we marked from the
6 Detective's file.

7 MS. SPIELBERG: I don't think there is any
8 questioning on it.

9 MR. DIMOPOULOS: I would like to move it into
10 evidence.

11 MS. SPIELBERG: You didn't ask any question about
12 it.

13 MR. DIMOPOULOS: I don't think I need to.

14 MS. SPIELBERG: I think you do. I mean --

15 MR. DIMOPOULOS: I'm happy to ask some questions
16 about it.

17 THE COURT: Sure. Go ahead.

18 Q. Detective Pompilio, did you receive an email from
19 Catherine Kassenoff on April 14th, 2020 at 11:32 a.m.?

20 A. Yes, I did.

21 MR. DIMOPOULOS: I would like to move this
22 document in evidence.

23 THE COURT: Okay, is there any objection?

24 MS. SPIELBERG: No, Judge.

25 THE COURT: I'm sorry?

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1 MS. SPIELBERG: No.

2 Q. Do you remember receiving this email?

3 A. Yes, I do.

4 Q. What was your reaction?

5 A. I didn't have a reaction. I read it over, printed it
6 out and put it in the file.

7 Q. You copied or did you receive or did you send any
8 further emails to any case worker or to CPS in general regarding
9 the Kassenoff case?

10 A. So when you asked the question earlier, when we make a
11 CPS report, they get information. They are legally allowed to
12 take information from our files. Our court clerk, this was
13 after the pandemic had already started, our law clerk in the
14 Police Department, our police clerk, she only worked one day or
15 two days a week.

16 It is possible that a request came in from CPS in one
17 of two ways. A case worker will call me or my partner directly
18 and ask for my files, or our report, because they are required.
19 Once I fill out the maltreatment report and send it in, they can
20 call and get documents from us and we're required to turn them
21 over. Or they send an official request to the clerk and it gets
22 sent out that way.

23 It is possible that it came in that way and I
24 forwarded the information or Ms. Hillary and I had a
25 conversation and I sent it to her. But I don't know if I

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1 would've sent her this. She's copied on it. But it's quite
2 possible she asked for my file. I send it over.

3 Q. Any further emails other than this?

4 A. From Mrs. Kassenoff, what is that date, I'm sorry, the
5 14th?

6 THE COURT: April 14th.

7 MR. DIMOPOULOS: Your Honor, may I see the
8 contents of the file that the Detective brought in response
9 to the Subpoena today?

10 THE COURT: This is the one that's not sealed,
11 correct?

12 THE WITNESS: This is the one that's not sealed,
13 but I have not received a closure from CPS and I'm assuming
14 it's due because of the pandemic, which is why I haven't
15 gotten it yet because they have nobody in the office.

16 MR. DIMOPOULOS: Roy, please put up, I'm sorry,
17 Your Honor --

18 THE COURT: What are we putting up?

19 MR. DIMOPOULOS: The unfounded report.

20 THE COURT: Is this one in evidence yet or no?

21 MR. DIMOPOULOS: I'm going to ask that it be in
22 evidence right now.

23 THE COURT: What are we marking?

24 MR. DIMOPOULOS: Plaintiff's Exhibit 121. Roy
25 just hasn't had a chance.

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1 THE COURT: Any objection? We're back to 121?

2 MR. DIMOPOULOS: The email?

3 THE COURT: Yes.

4 MR. DIMOPOULOS: That's 120.

5 THE COURT: All right. So I didn't hear, is this
6 objected to going into evidence or not?

7 MS. MOST: No.

8 MS. SPIELBERG: No.

9 THE COURT: 120 is in evidence.

10 MS. SPIELBERG: Judge?

11 THE COURT: Now, number 121 is the CPS report.

12 MS. SPIELBERG: I just want to say with respect
13 to the CPS report, it's my understanding, and just so that
14 everybody is aware, if you recall we had a conference about
15 our CPS Subpoenas or Subpoena, and the reason why I
16 subpoenaed the files is to get the certified unfounded
17 letters because it's my understanding they are hearsay. So
18 I mean --

19 THE COURT: Well, they are hearsay unless you
20 object. Do you have any reason to believe that the
21 authenticity of this letter is not --

22 MS. SPIELBERG: No, but it's frustrating to me,
23 Judge, because I would have produced all of my client's
24 unfounded letters as well. But I didn't think if they are
25 hearsay --

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1 MR. DIMOPOULOS: She's testifying unfounded. I'm
2 not challenging her on it.

3 MS. SPIELBERG: So long as her testimony with
4 respect to the outcome of those cases is taken with as much
5 weight as if she presented letter, I don't have any
6 specific issue other than that.

7 MR. DIMOPOULOS: How about we concede that --

8 THE COURT: I think my understanding from the
9 testimony so far is that out of all of the multiple
10 numerous CPS reports, the only one that came up with any
11 finding is the May 2019.

12 MR. DIMOPOULOS: Yes.

13 THE COURT: Which found Mr. Kassenoff allegedly
14 indicated and found Mrs. Kassenoff allegedly indicated.
15 And other than those two findings from the May 2019
16 incident, every other report from every other investigation
17 was deemed to be unfounded, whether it was against
18 Mr. Kassenoff or Mrs. Kassenoff.

19 MS. SPIELBERG: Right. That's, by the way,
20 that's the only reason why I originally Subpoenaed the CPS
21 to elicit that information in the proper evidentiary way.

22 THE COURT: And you can stipulate to that.
23 That's my understanding and that's correct according to
24 what you all know.

25 MS. SPIELBERG: That's fine.

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1 MR. DIMOPOULOS: So Plaintiff's Exhibit 121 in
2 evidence?

3 MS. SPIELBERG: That's fine.

4 MR. DIMOPOULOS: Okay.

5 THE COURT: In evidence.

6 Q. Detective Pompilio, this is a letter from CPS to my
7 client, dated May 14th, 2020 notifying him that the results of
8 the investigation are unfounded?

9 A. Okay.

10 Q. Okay.

11 A. We don't get a letter like this. I literally -- it
12 almost looks like an email that just says case number, report
13 date, has been founded or unfounded. And if it's founded, it's
14 given bullets as to why. So I've never seen this and I wouldn't
15 receive this.

16 Q. Will you be closing your investigation into the
17 March 31st, 2020 events now that you know it's unfounded?

18 A. No, because I have not officially received anything
19 from CPS. I can't.

20 Q. Okay. Do you usually receive stuff from CPS?

21 A. So it's tricky. If I fill out the form to CPS, there
22 is a box to check that you want to receive the final
23 disposition. Our a regular patrolman, who is required to make a
24 CPS report, if they feel there is an issue may not necessarily
25 check that box because they don't know.

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1 I usually check the box. I did check the box
2 pertaining to this specific case that I wanted the disposition.
3 It is my belief, because everything is so backed up, I have not
4 received it yet.

5 Q. Okay. Let's go back to 121. Before that, do you
6 doubt that that Exhibit 121 is authenticate and you won't rely
7 on that?

8 A. What do you mean won't rely on it?

9 Q. I'm asking you to turn over your records. You're
10 saying no, because I don't know whether it's officially
11 unfounded yet. I showed you the letter, said that it's
12 unfounded. And I'm asking you, will you now turn over your
13 records?

14 A. I have no issue, but it's not officially closed. As
15 long as that's on the record, it's not officially closed.

16 Q. Okay.

17 A. One of the other things that I wanted to just let you
18 know --

19 MR. DIMOPOULOS: Your Honor, there is really
20 no -- unless --

21 THE COURT: Unless it might effect her --

22 Q. Go ahead. Go ahead.

23 A. You had asked me earlier about FOIL requests and
24 something like this, a CPS case. I can tell you that a FOIL
25 request on an open CPS case, we are legally not allowed to give

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1 out this information on top of it being a detective
2 investigation.

3 When we turn something over to CPS, it becomes the
4 property of CPS. So any access to the records that I either
5 provide to CPS would have to go through the County Attorney's
6 office --

7 Q. Thank you.

8 A. Because they over see, just so you know.

9 THE COURT: So I guess the issue is, before we do
10 that, because we did have some objection from the County
11 Attorney's office on the CPS investigation. Can you
12 determine from that file what you turned over to CPS and
13 what you did not turn over to CPS?

14 THE WITNESS: Off the top of my head, no. I can
15 go back this afternoon. I am working until 11:00 tonight.
16 I can go back and see what came in because the clerk keeps
17 everything. I can see what date things were sent over.

18 Because that wouldn't become part of my file,
19 because if it was a request comes in their form letter that
20 they have an investigation, that stuff goes straight to the
21 clerk, she keeps it. And I can see what date that was.

22 And then if you can also provide me with the date
23 that you're saying Mr. Kassenoff sent in a FOIL request, I
24 can see where they cross. I have no issue emailing it to
25 everyone and providing it to you with the dates.

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1 MR. DIMOPOULOS: I would just ask that Your Honor
2 take custody of the documents for potential in camera
3 review if it's determined that they are confidential or
4 otherwise. I just don't want to be in a position where we
5 are unable to get the documents that we're entitled to
6 have.

7 THE COURT: I would recommend, in light of the
8 finding, that the Subpoena be issued to CPS, unless the
9 County Attorney's office can find out their position now,
10 since Mr. Kassenoff is the subject of the complaint, he
11 could certainly waive any confidentiality, if that's my
12 understanding.

13 MS. SPIELBERG: It says that the unfounded letter
14 is from May 14th, we only issued a Subpoena a few weeks
15 ago, if that.

16 THE COURT: What did they do?

17 MS. SPIELBERG: I think it's before there are
18 other, it seemed to me because they determined our Subpoena
19 was too broad.

20 THE COURT: No, because you had to narrow it.

21 MS. SPIELBERG: But even though --

22 MR. DIMOPOULOS: I'll call Ms. Clemmons over the
23 lunch break.

24 THE COURT: Right. Talk to hear.

25 MR. DIMOPOULOS: We will have a conference call

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1 and sort it out.

2 MS. SPIELBERG: If I had specified the dates of
3 the reports --

4 THE COURT: Have Counsel have a conference call
5 with her and figure it out. In the meantime, Detective, we
6 want to secure the original of that file.

7 THE WITNESS: They are sealed. Each page has
8 been stamped. The DVDs have my signature on them. We
9 can't stamp them.

10 THE COURT: We will preserve it up here, over
11 here in my area until we can confirm whether we can look at
12 it and the County Attorney's position, and then we will
13 also, of course, make sure it's returned promptly to the
14 police.

15 MR. DIMOPOULOS: I would also ask Your Honor that
16 the Court direct Ms. Pompilio to do a search for any
17 further emails that she maybe privy to that were to or from
18 Ms. Hillary.

19 I think the testimony was she's not 100 percent
20 sure whether or not they are all in the file. If that's
21 the case, that she be directed to do a search and also turn
22 over those records in response.

23 THE COURT: Well, this is everything you have.
24 Your don't know what went to the front desk, right?

25 THE WITNESS: Yes. I have to go and check with

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1 the clerk. The clerk won't have access that stuff. CPS
2 sends the request in two ways.

3 If I open the case, they are required, and I'm
4 required, to give them everything that I have or if she
5 asked for something specific, I can't say no, I can't turn
6 it over. They have more police powers than I do, when it
7 comes to children and investigations.

8 So if she asked for something specific or we had
9 a phone conversation and I said well, I didn't have that or
10 she says I don't have that, she will ask for it. I know
11 that at one point we shared information, but I don't know
12 if it came because they sent in a request, which they
13 always do. So once that maltreatment form goes in, they
14 send in a request.

15 But there is also instances when you mentioned
16 the concern with the suicide, we don't necessarily know
17 that an additional CPS report went in, but we will get a
18 form letter from CPS that says they are conducting an
19 investigation into so and so and so and so. Please forward
20 any cases that you have. We forward every incident report.
21 It's printed. It's sent over. That may have been what
22 came in, I don't know off the top of my head.

23 As you see, there is a lot of information here.
24 I am not trying to mislead anyone. I just don't know off
25 the top of my head what was sent over.

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1 THE COURT: All right. We understand that. So
2 we're going to ask that when you return to the station, if
3 you can search --

4 THE WITNESS: Absolutely.

5 THE COURT: -- and ascertain whether there is any
6 additional information that we have not received that we
7 would need to get copies of.

8 THE WITNESS: Absolutely, Your Honor.

9 THE COURT: Thank you.

10 Q. In your previous answer, you said a word that peaked
11 my interest, suicide. What are you talking about?

12 A. You said it earlier.

13 Q. What did I say?

14 A. I don't remember off the top of my head, but you can
15 go back and look. You referred to the suicide earlier.

16 Q. What do you know about suicide that pertains to the
17 Kassenoff's?

18 A. I don't know anything outside of what you said
19 earlier. And I also know from a conversation with Ms. Hillary
20 that there was another open investigation. That to me, I'm not
21 stupid --

22 Q. Detective Pompilio, I mean no disrespect.

23 A. That's okay. I am not trying to be a jerk. I'm being
24 honest. I'm listening to what's going on here. So I'm --

25 Q. First you said you knew nothing, only what I said.

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1 And then you said from a conversation from Ms. Hillary there is
2 another investigation. Which is it?

3 A. Did you hear what I said? I put two and two together.
4 I knew there was another investigation. She cannot tell me what
5 another investigation was about.

6 Q. She just did.

7 A. No, because I called and asked I need some information
8 on this case. She said which one. I said the Kassenoff case
9 when Ally ran away.

10 Q. So if I served a so-ordered Subpoena on your email in
11 Larchmont, you're telling me you never got an email from
12 Mrs. Kassenoff regarding an issue with suicide?

13 A. Can I see the files, please, Your Honor? I honestly
14 don't know off the top of my head. When I tell you that this
15 case, all day, everyday, I don't know. This is not the only
16 case that I'm working. I'm the only detective carrying a
17 caseload right now of 150 cases. I don't know.

18 Q. Thank you. Can you please review your records to see
19 whether or not it helps refresh your recollection?

20 (Whereupon, the witness reviews documents.)

21 A. I don't have anything in an email about any of that.

22 Q. Not here, right, but maybe you have something --

23 A. I am OCD when it comes to files and records. I will
24 verify that there is nothing additional, but I did that prior to
25 putting together the request for these documents when the

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1 Subpoena came in. But I will go back and double-check a third
2 time. I have no issue with that.

3 Q. I asked you earlier, Detective Pompilio, how many
4 times you spoke with Mrs. Kassenoff between June 2019 and
5 March 31st. I did not ask you how many times you think you
6 spoke to her from March 31st to today. Do you have any
7 estimate?

8 A. Few and far between.

9 Q. For sure.

10 A. Well, may I tell you why?

11 Q. No. Any emails from her to you from March 31st, 2020?

12 A. I can go back and look at the dates in here. I saw
13 one, obviously you saw one from April that I forgot. I think
14 there might have been one or two after that.

15 Q. There is no emails in your file about a June 1st email
16 from Charlotte Kassenoff pertaining to suicide?

17 A. June 1st that just passed?

18 Q. Yes, ma'am.

19 A. No, there is not. I put in a search, in my computer,
20 I put in a search Kassenoff. And it pulled up every email that
21 I've gotten from Catherine. And I printed every single email,
22 there are some of those in here, to make sure that I had
23 everything.

24 And there was not one. But I will go back and search
25 a different way and double-check. Do it again the way that I do

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1 it and search a different way. There is nothing.

2 MR. DIMOPOULOS: I would ask the Court to
3 respectfully take possession of those documents again.

4 (Whereupon, documents were handed to The Court.)

5 THE COURT: Thank you.

6 Q. I'll ask another question. As you sit here today, do
7 you know that Charlotte Kassenoff allegedly sent an email to her
8 mother saying that she wanted to commit suicide?

9 A. Now I know.

10 Q. What about at 9:30 this morning, did you know?

11 A. No, I did not.

12 Q. Other than communications, that means telephone calls,
13 texts or emails, from Mrs. Kassenoff, have you been party to any
14 communications regarding the Kassenoff family from any third
15 party other than Ms. Hillary?

16 A. Ms. Most, but other than that, no, no one. And
17 Mrs. Kassenoff's attorneys, but no.

18 Q. Right.

19 A. No.

20 Q. Okay. You testified earlier that Mrs. Kassenoff has
21 been to the Larchmont Police -- sorry. Withdrawn. You
22 testified earlier that Ally has been to the Larchmont Police
23 Department on two occasions?

24 A. Two occasions that I know of, yes.

25 Q. One on March 31st. What was the other one that she

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1 came with her mother?

2 A. After the incident in 2019 where Joe Joe had told her
3 teacher that her dad had kicked Ally and that he threw a plant,
4 hit mom in the face and that whole thing where I actually met
5 the Kassenoffs for the first time.

6 Those are the two incidents that I know. She had come
7 to give me paperwork afterwards. They had to bring the Order of
8 Protection. They went to Family Court with CPS and she had the
9 girls with her at that point in time. So that's the first time
10 that I know of that Ally had been at headquarters and then when
11 she showed up that day on the 31st.

12 Q. Okay. Before you answer, just think about this. At
13 any given point in time in May of 2019, did Mrs. Kassenoff allow
14 you to interview or speak to Ally?

15 A. I went to the house to check up. We had to drop off
16 documents. I went to the house so that I actually asked
17 Mrs. Kassenoff if I can come to the house. I had met Joe Joe,
18 but I figured knowing what was going on and the case that was
19 going on, if the girls could see my face.

20 Because they see me at school. They are like, oh,
21 that's just the SRO. Sometimes I'm in my uniform. But I wanted
22 them to see me. I had talked to the girls briefly, hi, how are
23 you, how is everything. Other than that, no.

24 Q. Did she tell you that you couldn't talk to her?

25 A. No, she didn't tell me. Did Ally say that to me?

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1 Q. Did Mrs. Kassenoff?

2 A. No. She invited us to the home. I asked her and she
3 invited us to the home.

4 Q. You never asked her any questions about the case, did
5 you?

6 A. Mrs. Kassenoff?

7 Q. No. Ally?

8 A. No, because it was turned over to CPS. They took
9 Mrs. Kassenoff and Joe Joe from the school, where we were over
10 in Harbor Island, and it was their investigation. I was called
11 there because Harbor Island preschool where Joe Joe was is in
12 the Village of Mamaroneck, but the incident occurred in
13 Larchmont. So the Village of Mamaroneck has no jurisdiction.
14 They can't investigate it. They called us and we responded.

15 But CPS had already had open investigations on the
16 Kassenoffs. They responded because I'm required to call. I
17 called CPS. They responded. They took Mrs. Kassenoff and Joe
18 Joe and went and got the other two girls and they went and did
19 what they did.

20 I just followed up because that's what I do. I follow
21 up, especially in an instance like this. So the girls see me
22 and they know, or boys, or whatever children are around, that
23 it's a safe face.

24 MS. SPIELBERG: Judge, I thought we were going to
25 move forward from that incident. Now we're back to talking

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1 about it. So objection.

2 THE COURT: We can move on. He just wanted to
3 confirm that the Detective never directly spoke to Ally.

4 Q. One final question. Other than calls, emails and
5 other communications, have you and Catherine ever personally
6 met?

7 A. No.

8 MR. DIMOPOULOS: Nothing further, Your Honor.

9 THE WITNESS: May I? Outside of work or while
10 I'm working?

11 THE COURT: Well, you met her at the school,
12 right?

13 THE WITNESS: At the school, she's dropped off
14 documents at headquarters --

15 MS. SPIELBERG: He said personally.

16 THE WITNESS: Personally, no, I've never met her
17 outside of work. I keep work --

18 Q. Maybe my question was bad. Other than meeting her the
19 day that you spoke with Joe Joe and other than at Court on the
20 day you testified in June of 2019, and other than today, have
21 you ever been face to face with Mrs. Kassenoff?

22 A. Yes.

23 Q. How many times?

24 A. Two, maybe three.

25 Q. Where and under what circumstances?

Det.Pompilio-Cross

1 A. Larchmont Police Headquarters, the Detective office to
2 give me documents or to sign something that she needed to sign.

3 Q. What would she have to sign?

4 A. Documents that pertain to my sealed case.

5 MR. DIMOPOULOS: Nothing further, Your Honor
6 but...

7 THE COURT: Ms. Most?

8 MS. MOST: Yes.

9 CROSS EXAMINATION

10 BY MS. MOST:

11 Q. So I met you on April 1st, do you recall that?

12 A. Yes.

13 Q. And you've always had a lot of documentation from
14 Mrs. Kassenoff, correct?

15 A. Yes.

16 Q. And in fact, you had a copy of that Zoom video from
17 March 30th?

18 A. Yes. She had sent it to me, I believe, I can look to
19 see the date that I received it. I gave you the documents. It
20 was probably -- we had had a conversation. I don't think I
21 had -- we had a conversation about it. It either came right
22 before you came in or it was a day in between that you came to
23 my office, right?

24 Q. I think I was there on April 1st and you had already
25 watched that video?

Det.Pompilio-Cross

1 A. One video. Yeah, she had sent me an audio recording
2 and there was a video. I received one, but not the other. So
3 it must have been the video that I received and not the audio
4 recording.

5 Q. So I was very surprised because didn't I tell you I
6 didn't have a copy of that video?

7 MS. SPIELBERG: Objection, Judge. This is what
8 I was talking about. Person fact testifying in a question
9 about her own personal experience, Judge. This is exactly
10 what I was talking about.

11 MR. DIMOPOULOS: That happens all the time in
12 these cases.

13 MS. SPIELBERG: She's also asking whether she's
14 surprised. I don't know how she's testifying to her state
15 of the mind.

16 MS. MOST: I'll withdraw the question.

17 Q. Do you speak French?

18 A. No.

19 Q. So when you listened to that video, you know that
20 there was French being spoken to the children, correct?

21 A. Are we speaking about the same video where it's Joe
22 Joe and Ally sitting together? Are we talking about the same
23 video?

24 Q. Charlotte was there as well, when they held up the
25 sign saying, I'm going to go to the police?

Det.Pompilio-Cross

1 A. Yes, yes, okay.

2 Q. So you heard that there was French being spoken,
3 correct?

4 A. Yes.

5 Q. Did you understand what that French was?

6 A. No, I don't speak French.

7 Q. So maybe we should put that up?

8 MR. DIMOPOULOS: Exhibit? You want the
9 translation or the video?

10 MS. MOST: Translation.

11 MR. DIMOPOULOS: 94.

12 MS. SPIELBERG: Judge, why are we putting up the
13 translation for this witness?

14 THE COURT: Because she testified as part of the
15 investigation she received a Zoom. She looked at it. And
16 she doesn't speak French, which was spoken through the
17 Zoom. She can certainly on cross examination ask her those
18 questions.

19 Q. So --

20 A. I'm listening.

21 Q. So basically --

22 A. I can't hear you.

23 COURT REPORTER: I can't hear you either.

24 A. When you turn you head, I can't hear you.

25

Det.Pompilio-Cross

1 Q. So basically, would it surprise you to know that
2 Mrs. Kassenoff actually told the girls to go to the Police
3 Department?

4 MS. SPIELBERG: Objection, Judge. Let her read
5 the French and determine if that's what it says.

6 MS. MOST: Okay.

7 THE COURT: Let her read it and then you can ask
8 her a question.

9 (Whereupon, a document was put on display.)

10 A. Is there more after -- okay, thank you. Okay, go to
11 the second page. Okay, next. Is there more? Okay.

12 Q. So effectively, Mrs. Kassenoff had a plan with the
13 girls that they should go to the Police Department, correct?

14 MS. SPIELBERG: Objection.

15 THE COURT: Overruled.

16 A. I'm not reading that. That's not what I'm reading.

17 Q. What do you think you're reading?

18 A. As I'm reading it, she's saying to the girls what I
19 say to all kids that I meet with, that the police are a safe
20 place, firemen and doctors and nurses are safe. That's what I'm
21 reading.

22 Maybe I'm interpreting differently that you are. But
23 that's what I'm reading. To me, that doesn't say, okay, girls,
24 go to the police now. It says don't be afraid. Use men and
25 women who can help you.

Det.Pompilio-Cross

1 To me, that's somebody giving a child information that
2 I would give my own children, that I give to other people's kids
3 when I go to the houses.

4 Q. So they had a plan, there was a plan?

5 MRS. KASSENOFF: Who is they?

6 A. I'm seeing a child saying there is a plan. I don't
7 see, from what I'm reading, I don't see what would be
8 Mrs. Kassenoff saying girls follow the plan. I'm just reading
9 what I'm seeing in front of me.

10 Q. So you, in fact, did know on April 1st that there was
11 a Sole Custody Order because you were handed that Order,
12 correct?

13 A. I honestly -- no, I -- can I see that packet that you
14 took back again because I wouldn't have that?

15 (Whereupon, documents were handed to the
16 witness.)

17 A. April 1st, the day that you came or the date that Joe
18 Joe showed up at headquarters?

19 Q. The day that I came?

20 A. The day that you came, hold on.

21 MS. SPIELBERG: Can you just tell me what the
22 question is?

23 THE COURT: Read back the question, please.

24 (Whereupon, previous questions and answers were
25 read back by the Court Reporter.)

Det.Pompilio-Cross

1 A. So I'm just trying to follow. I don't believe I knew
2 until you and I had a telephone conversation after Ally was at
3 headquarters. I had no idea that there was a sole. Last I had
4 heard, they were splitting time.

5 Q. Okay, but you knew when you spoke with me?

6 A. That I had found out that after -- wait, whether it
7 was from you when we spoke initially or that afternoon when I
8 finally got in touch with Mrs. Kassenoff. I had no idea at that
9 point in time that custody or visitation or anything had
10 changed.

11 Q. So when we met, you thought that I was one-sided, but
12 what did we actually talk about?

13 A. You were going through the reports that you had.

14 Q. Yes. And I was discussing the psychological
15 evaluation of Ally that was had and I went through the forensic
16 evaluation, correct?

17 MS. SPIELBERG: Objection.

18 THE COURT: Overruled.

19 A. You did. And my feeling that it was one-sided was
20 because that's not issues and pieces that I need to know in
21 order to do my job.

22 Q. Okay. But I talked to you about the concern that Ally
23 was being directed to make that -- to come to the Police
24 Department, didn't I talk about that?

25 A. You did say that. And my response to you was that

Det.Pompilio-Cross

1 that wasn't my interpretation of the situation because the
2 feeling and the fear was real. There are certain things that
3 you can pretend, but the look behind a kid's eyes when they are
4 terrified, you can't make that up.

5 Q. I agree with that. So you testified that after I used
6 the word gas lighted that you looked it up. What do you think
7 gas lighting means?

8 A. I had a feeling I knew what it meant, but I just
9 wanted to make sure that I was interpreting our conversation
10 correctly.

11 Q. Okay. So after you met with me, you spoke with
12 Mrs. Kassenoff and --

13 A. Hours later, yes.

14 Q. Hours later. And you testified that you had spoken to
15 her up to 75 times. Did you have any feeling that she was
16 trying to persuade you to her side?

17 A. No, not at all.

18 Q. Not at all?

19 A. Not at all. It was never, Detective, what do you
20 think -- it wasn't like, what do you think, was she trying to
21 lead me down one way. I never got that feeling. And that's --
22 I cut people off. I don't allow it.

23 I have to be able to do my job and walk into any
24 situation. I never ever got that feeling.

25 Q. But if somebody is very psychologically effective in

Det.Pompilio-Redirect

1 how they handle things, is it possible you could have been
2 manipulated?

3 A. Absolutely not, no.

4 Q. Didn't I tell you that in the report that it said that
5 Mrs. Kassenoff was very -- I'll just read you the sentence that
6 I probably read to you when we were together.

7 MS. SPIELBERG: I'm objecting, for the record, to
8 this whole line of questioning where Ms. Most is going back
9 through all the things that she said to the Detective,
10 who's already testified as to what her opinion in that
11 conversation was.

12 THE COURT: I'm sustaining it.

13 MS. SPIELBERG: In fact, Ms. Most is --

14 THE COURT: I said I'm sustaining it.

15 MS. MOST: I have no other questions.

16 THE COURT: Ms. Spielberg?

17 MS. SPIELBERG: Yes, thank you.

18 REDIRECT EXAMINATION

19 BY MS. SPIELBERG:

20 Q. I don't know if you can answer this question or not,
21 but is one of the open investigations an investigation having
22 nothing to do with the children?

23 A. That's correct.

24 Q. And are some of the phone calls that you testified
25 about with respect to that investigation?

Det.Pompilio-Redirect

1 A. I would say a large portion of them are.

2 Q. Who sent you the Zoom recording of the -- prior to
3 Ally coming to the police?

4 A. Hold on one second. I just want to double-check
5 something. Any Zoom recording that I had was sent to me by
6 Mrs. Kassenoff. But there was a delay in getting it. The file
7 was too large. She had to create and send it a different way.
8 Was it by -- I don't remember.

9 If you want to ask her if it was by Google, but she
10 couldn't send it just through regular email. There was a delay
11 in getting it. We were on the phone. She played it for me to
12 listen to, but there was a delay in it physically coming into
13 the inbox, if I recall correctly, because it was too large of a
14 file to send or too large for me to receive.

15 But there was an issue with it coming over. We were
16 on the phone. She kept trying to send it. And I don't know if
17 it was bouncing back, but it wouldn't send.

18 Q. Do you know whether Ms. Most came down to the precinct
19 the day that Ally came to the police or the next day?

20 A. Ally came to me on the 31st. Ms. Most came to me
21 August 1st -- excuse me, April 1st. So that would be the next
22 day. We couldn't get our schedules to match to come that day.

23 Q. Did you ever speak to Dr. Abrams?

24 A. No, I did not.

25 Q. Did he ever try to contact you?

Det.Pompilio-Redirect

1 A. No.

2 Q. Is it protocol to automatically interview the subject
3 of an investigation?

4 A. No, it is not.

5 Q. Why not?

6 A. Because when you are conducting an investigation, be
7 it child abuse, a burglary, a murder, a rape, we don't get
8 anybody in automatically. We take our time. We make sure we
9 interview anybody that we have to interview. We follow leads.
10 Because you want to get somebody in to sit in front of you and
11 ask them questions and provide evidence against what they are
12 going to refute.

13 So let's say a burglary suspect, unless we physically
14 catch them while they are in the home, we conduct an
15 investigation. I get video. I get receipts from pawnshops with
16 them on video, them turning over their driver's license and I
17 bring them in.

18 And I would say to them, on this date, were you in
19 this home in Larchmont. No. Well, look, here's a video of you
20 in Larchmont in that home.

21 Did you pawn this piece of jewelry that was taken from
22 this home on this date. No. Well, here's a video of you
23 turning over your driver's license and that piece of jewelry at
24 a Pawn shop located at such and such.

25 We never ever bring in suspects unless we have all the

Det.Pompilio-Redirect

1 information that we need. Or we want to bring them in early to
2 try and catch them up on something else and then we let it go.
3 We let them believe everything is okay. And then we bring them
4 back in here.

5 But very rarely do we bring a suspect in right away.
6 There is always a long gap of time, unless we have them debt to
7 rights, then I don't need any additional investigation.

8 Q. Did you ever get the feeling from your many
9 conversations with Mrs. Kassenoff that she was trying to prevent
10 you from speaking to Ally about the incident?

11 A. No, because when I first met Mrs. Kassenoff, I said to
12 her that the way I say to any parent, even if the roles were
13 reversed here, and I had met Mr. Kassenoff in this situation, I
14 would have said bring the girls by at any point in time. I'll
15 stop by.

16 I had a case the other day. I stopped by the house
17 twice already just to check up and make sure things were okay.

18 Q. Did she ever resist to you speaking to any of the
19 children with respect to any investigation?

20 A. No, she did not.

21 Q. Did she ever, in your opinion, attempt to conceal
22 information from you?

23 A. No. The first time that I met Mrs. Kassenoff was when
24 Joe Joe spoke to her teachers back in 2019 and that whole thing
25 started when I first became -- the Kassenoffs first became known

Det.Pompilio-Recross

1 to me.

2 Even that day when we got her to come down to the
3 school, we sat and we talked. And we got her to understand the
4 importance of this is why we are here. This is what's going on.
5 I walked her through step by step what was going on. She never
6 gave me a hard time.

7 Q. So if CPS renders an unfounded investigation saying
8 that there is no credible evidence that a child was abused or
9 maltreated, does that mean Ally's statements or Joe Joe's
10 statements about their father are false?

11 A. No.

12 Q. As you sit here today, have you learned anything that
13 would cause you to second guess your instinct that there was no
14 manipulation that you previously testified to?

15 A. No. My feeling right now is the same as when I walked
16 in the door.

17 MS. SPIELBERG: I have nothing further.

18 MR. DIMOPOULOS: Very briefly, Your Honor?

19 THE COURT: Go ahead.

20 RE CROSS EXAMINATION

21 BY MR. DIMOPOULOS:

22 Q. Only because you said that Mrs. Kassenoff was never
23 restricted to free fall information between the investigator and
24 the children. Isn't it a fact that she allowed CPS to ask very
25 few, scripted questions as part of the May 2019 investigation?

Det.Pompilio-Recross

1 A. I wasn't privy to CPS questioning of the children.

2 Q. Are you sure?

3 A. Yes, I'm sure.

4 MR. DIMOPOULOS: Put up a transcript --

5 A. The only child that I had --

6 Q. There is no question.

7 A. Okay.

8 MR. DIMOPOULOS: If we can go to number 26.

9 Q. Detective Pompilio, this is your testimony from when
10 we last met in Court. It's in evidence. You testified, line
11 23, that in none of the open -- withdrawn. In none of the CPS
12 investigations that you had reviewed, I think you said there are
13 over ten, in none of them had Mrs. Kassenoff allowed --

14 Your testimony was in none of the incidents, all of
15 which are documented in our reports, we have gone there and they
16 have not been there, either no one answered the door or no one
17 was home.

18 A. That is correct, in regards --

19 Q. There is no question yet, Detective. You also
20 testified question, on line 18, the next page was, and on that
21 day, did Mrs. Kassenoff consent to CPS interviewing the children
22 and your testimony was she did.

23 It wasn't easy, and by no fault of her own, she was
24 concerned about us interviewing Josephina and seeing, uprooting
25 and really causing chaos in what was already a chaotic situation

1 for those kids.

2 Further question by Mr. Lieberman, but she allowed --
3 you said she did allow it, yes, she did.

4 On page 30, line ten. Sorry, line six. You were
5 asked the questions that were agreed upon between Mrs. Kassenoff
6 and CPS, did you find any aspect of what she was requesting to
7 be designed to insulate her.

8 The answer was no, she wanted them to ask questions
9 that were simple, concise and specific but didn't upset
10 Josephina anymore. She wanted to make sure that they didn't go
11 more in depth outside of the scope where we had already gone,
12 which I didn't think at the time was unreasonable.

13 Now, my question to you, you just testified that you
14 had no idea what CPS asked the kids. But clearly your
15 recollection is inaccurate, right?

16 A. Okay, sure, fine.

17 Q. Okay. It's okay. It happens. Now, do you remember,
18 as you sit here today, what the scope of the questioning that
19 she permitted was?

20 A. No, but I want to scroll back up, if we can.

21 Q. Here's the deal --

22 A. Because you took it out of context what I said. And I
23 want to make sure that I'm answering and understanding your
24 question correctly.

25 Q. I'm just -- I'll ask another question. I'm just

Det.Pompilio-Recross

1 reading. I'll ask another question. Do you recall, as you sit
2 here today, what CPS was permitted to ask Josephina on that day?

3 A. Off the top of my head, the questions that were asked,
4 I don't remember the way in which they were worded, but they
5 were specific to the incidents that we were discussing that day.

6 Q. And they were designed by Mrs. Kassenoff with your
7 assistance?

8 A. No. They were a conversation between Mrs. Kassenoff
9 and CPS because what I didn't know at the time --

10 Q. I'm sorry, go ahead.

11 A. That's okay -- when I was sitting in with -- when I
12 was sitting there at the school that day, what I found out when
13 I went back to headquarters, which was referred to further up in
14 the document, was that when we had gone to the house several
15 times and no one was home, it was because CPS came to
16 headquarters and had to make a visit.

17 It had nothing to do with the case that we're
18 currently speaking of when we went to the school, but a case out
19 of another jurisdiction that CPS was going to the home.

20 When CPS goes to any jurisdiction, they go to the
21 Police Department and they ask the Police Department to go with
22 them. So when we referred to every single time we went there
23 and no one was home, not we as in me.

24 We as in the Police Department escorting CPS. When we
25 sat here and I sat with CPS and they came up with questions, I

Det.Pompilio-Recross

1 had no knowledge of any of that.

2 Q. Okay, your testimony --

3 A. But when I'm sitting here and reading this -- I'm
4 going to answer your question. When I'm sitting here and I'm
5 reading this, they were asking questions that she didn't
6 want Joe Joe -- Joe Joe was a mess that day. She was frazzled
7 as well as a four-year old, five-year old kid should be.

8 And we were asking her questions. I asked her
9 questions. The school had asked her questions. Then CPS came
10 in and was asking her questions. It was a crazy situation. She
11 wanted to make sure that we weren't doing more damage than had
12 already occurred and I can understand.

13 Q. Detective --

14 A. So to give you exact answers to what questions were
15 asked specifically, I don't write them down. That's not what I
16 do.

17 Q. Detective Pompilio, I will submit to you that I've
18 been involved in well over 50 or 100 CPS investigations in my
19 line of work. And I can tell you that their number one
20 requirement is to speak to children outside of the presence of
21 the parent. Do you know that?

22 A. Yes, I know that.

23 Q. But here it was not allowed. And you know about it
24 because you were there, right?

25 A. But I didn't have any of the background information at

1 this time when I was sitting there in that room with them.

2 Q. But you said, your testimony was, it was under oath,
3 she wanted to make sure that they didn't go more in depth
4 outside of the scope of where we had already gone, which I
5 didn't think at the time was unreasonable?

6 A. Yes, and I stand by it. I still don't think it's
7 unreasonable. I would do the same thing.

8 Q. Did you let Ms. Kassenoff limit the inquiries that CPS
9 was permitted to make on that date, true or false?

10 MS. SPIELBERG: Objection.

11 A. I say false.

12 Q. You testified that one of the open investigations,
13 because when I asked you, you couldn't talk about it. When
14 Ms. Spielberg asked you, you said it has nothing to do with the
15 case. Does it have to do with domestic violence?

16 A. The one that she's asking me about? No, it does not.
17 The one that she was referring to, no, it does not.

18 Q. Does it have to do with Mr. Kassenoff stealing a pair
19 of her shoes?

20 A. No.

21 Q. What does it have to do with?

22 A. I can't tell you. It's under investigation.

23 Q. Subject, does it involve my client?

24 A. Possibly.

25 Q. Yes or no?

Det.Pompilio-Re-Redirect

1 A. Yes.

2 Q. Have you ever been provided by Mrs. Kassenoff medical
3 records?

4 A. No, I have not.

5 MR. DIMOPOULOS: I have no further questions,
6 Your Honor.

7 THE COURT: Ms. Spielberg?

8 MS. SPIELBERG: Yes, just one question, Judge, if
9 I may.

10 THE COURT: Go ahead.

11 RE-REDIRECT EXAMINATION

12 BY MS. SPIELBERG:

13 Q. When you testified in the transcript that we just
14 looked at, and again today, when you talked about Mrs. Kassenoff
15 limiting the scope, can you be more specific about that?

16 A. I don't recall that whole day. When I looked back at
17 that day, my concern was for Joe Joe. I sat there with Joe Joe.
18 I spoke to Joe Joe. But I limit my conversations because I'm
19 not interviewing a kid without an adult around. That's not what
20 I do.

21 I was very careful. We sat, we played music. I
22 wanted to make her comfortable. CPS finally showed up, which
23 was about two hours later. And I didn't know at that time,
24 while I was sitting there with them, that there was a previous
25 incident. I had no idea. I found out later, much later on.

Det.Pompilio-Re-Redirect

1 Q. So --

2 A. So --

3 Q. So when you said she was limiting the scope, do you
4 mean she wanted the questioning only as to this particular
5 incident?

6 A. The way I interpreted it at that time, now having
7 knowledge that I have, but at that point in time, I had no
8 knowledge. To me it was just a mother protecting her child.
9 She wanted to make sure that we weren't upsetting her more than
10 she was.

11 Q. Did you get the feeling that she was trying to limit
12 the information that CPS was able to get from Joe Joe?

13 A. No.

14 Q. Did you get the impression, as a result of her
15 conversations with you and CPS, that she was trying to frame
16 Mr. Kassenoff or create or manipulate the children to make a
17 false claim against him?

18 A. No.

19 MS. SPIELBERG: I have nothing further.

20 THE COURT: Ms. Most?

21 MS. MOST: No.

22 THE COURT: Detective, you're excused.

23 THE WITNESS: Thank you.

24 THE COURT: Notify us of the search results.

25 THE WITNESS: Yes.

Det.Pompilio-Re-Redirect

1 THE COURT: You should notify the Court by
2 notifying my clerk.

3 THE WITNESS: Will you be able to provide me with
4 contact information?

5 THE COURT: Yes. I'll do it right now.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Thank you.

8 (Whereupon, the witness steps down from the
9 witness stand and exits the Courtroom.)

10
11 (The testimony of Detective Pompilio was
12 concluded.)

13 (This concludes the excerpt portion of the trial
14 proceedings.)

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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