

EST-FA04-0201276-S : SUPERIOR COURT
NOWACKI, SUZANNE : JD STAMFORD/NORWALK
VS. : AT STAMFORD
NOWACKI, MICHAEL : JUNE 15, 2009

* ordered on appeal by the defendant ST-133

B E F O R E:

THE HONORABLE MICHAEL SHAY

A P P E A R A N C E S:

REPRESENTING THE PLAINTIFF:

Kevin Collins, Esq.
Law Offices of Kevin Collins

REPRESENTING THE DEFENDANT:

Michael Nowacki
Pro Se

Paul J. McKenna, CER
Court Recording Monitor

Transcribed by: McKenna

1 (Nowacki v. Nowacki - hearing excerpt - 6.15.09)

2 [begins at: 12:10]

3 THE COURT: Who is here on Nowacki?

4 MR. COLLINS: Your Honor, good morning. For
5 the record, Kevin Collins for the plaintiff, Suzanne
6 Nowacki. I do not have her with me here this
7 morning inasmuch as this is discovery issues.

8 THE COURT: All right. Sir?

9 MR. NOWACKI: And Michael Joseph Nowacki, Pro
10 Se.

11 THE COURT: Okay. Mr. Collins, I assume we're
12 dealing with motion No. 191, which is dated April
13 28, 2009?

14 MR. COLLINS: That's correct, Your Honor. It's
15 objections to defendant's request for production
16 dated April 10, 2009, post-judgment.

17 THE COURT: Okay.

18 MR. COLLINS: Your Honor, I am loath -- I can't
19 remember the last time I've had discovery issues
20 before this Court. I'm not a believer in contesting
21 discovery but I do truly believe that the requests
22 by Mr. Nowacki are overly broad and burdensome,
23 especially in light of the fact that this is a post-
24 judgment matter.

25 By way of background, Your Honor --

26 THE COURT: Well, tell me. Is this a motion
27 for modification?

1 MR. COLLINS: It is, Your Honor.

2 THE COURT: All right. Then so we're -- that
3 opens the door automatically with regard to the
4 practice rules on post-judgment, right?

5 MR. COLLINS: Yes, Your Honor. Yes.

6 I mean, I'm mindful even of the discussion that
7 was had earlier with Mr. Pickel and so forth on that
8 but --

9 THE COURT: Right. So let me ask you, just
10 before you -- copies of all federal and state income
11 tax within the last three years, including joint
12 returns -- bup-bup-bup -- Doesn't that comply with
13 25-32?

14 MR. COLLINS: It does, Your Honor but the
15 problem that I have here with that specific request
16 is twofold:

17 One is, I think that we do not need to go back
18 three years on a motion to modify, post-judgment. I
19 don't think that Mr. Nowacki would be entitled to
20 the tax returns for three years back.

21 And the other complicating factor is is that my
22 client is remarried. And all three parties,
23 interestingly enough, are in the same industry,
24 albeit with competitors. So I have no objection to
25 producing a tax return for say, 2008, year-to-date
26 income information for 2009.

27 Mr. Nowacki filed this motion for modification

1 in or around September of 2008, roughly nine months
2 ago. So it covers the period. I can't imagine, for
3 the life of me, what would be the significance of
4 her 2007 or 2006 tax returns, and the parties were
5 divorced in 2005.

6 What we have here, Your Honor, is a -- we have
7 a shared physical custody; joint legal custody
8 arrangement. But the child support, regrettably, to
9 my mind, is a percentage: 65 percent to Mr. Nowacki;
10 35 percent to my client.

11 We are in the middle of a sort-of-combined
12 hearing before Judge Novack at this time which is --
13 we got through have a day and we're back on July 8th
14 on that matter. But the combined hearing is a
15 motion for contempt and a motion for modification.

16 The motion for modification, Your Honor, has
17 the standard -- the standard fill-in-the-blanks
18 motion with, I think, 14 pages appended. And the 14
19 pages are the text of Mr. Nowacki's motion. It's a
20 very extensive motion -- it's really a speaking
21 motion is what it is. But it goes to a fundamental
22 issue, and that is: should the 65/35 be modified?
23 And his predicate for that, I think, is at the time,
24 that was the reas -- because of my income versus Ms.
25 Sullivan's income. That's the reason we arrived at
26 a 65/35 percentage. My client is not in full
27 agreement with that. Although it may have been a

1 consideration, it's not the only consideration.

2 With that said, Your Honor, this is -- there's
3 a lot of questions here. I mean, I'll make it as
4 short as I can --

5 THE COURT: Well, please. You guys put 30
6 minutes here and I'm looking at objections that
7 would -- it looks like they go to about 20 of the
8 requests.

9 MR. COLLINS: It's conceptual, Your Honor.
10 First of all, I don't know what the offer is to go
11 back farther than the tax returns or income
12 information for 2008 and year-to-date 2009.

13 THE COURT: If they were divorced in 2005 --

14 MR. COLLINS: Yes, Your Honor.

15 THE COURT: -- when in 2005?

16 MR. COLLINS: June.

17 THE COURT: So they obviously didn't have 2005
18 tax returns then. So 2005, 2000 --

19 MR. COLLINS: No. But I said year-to-date.

20 THE COURT: What's that?

21 MR. COLLINS: Year-to-date. I have no
22 objection to 2009 year-to-date.

23 THE COURT: 2005, 2006, 2007, 2008 --

24 MR. COLLINS: Right.

25 THE COURT: I mean, we're talking four years;
26 he's asked for three years back.

27 MR. COLLINS: I don't know why it's relevant as

1 to what she made in '06 and '07.

2 THE COURT: Are we talking possibly some kind
3 of an earning capacity argument? Are we talking
4 about --

5 MR. COLLINS: I don't think so. She's a W-2
6 employee.

7 THE COURT: She's a what?

8 MR. COLLINS: W-2 employee.

9 THE COURT: W-2 or a 1099?

10 MR. COLLINS: She's a W-2.

11 THE COURT: Okay. But does it fluctuate? Is
12 there a bonus involved --

13 MR. COLLINS: There's a bonus involved. She
14 received a bonus last August and she's due to
15 receive a bonus, potentially, this August.

16 THE COURT: Okay, well those --

17 MR. COLLINS: I have no --

18 THE COURT: Those things fluctuate.

19 MR. COLLINS: There's no --

20 THE COURT: I don't -- see -- let me -- because
21 you're talking conceptually, Mr. Collins?

22 MR. COLLINS: Yes, Your Honor.

23 *Previously billed/produced...*

24 **Providing Tax Returns and Pay Information**

25 THE COURT: I don't see, under the
26 circumstances - I mean, if they were divorced last
27 year, it would be very unlikely that this judge

1 would go back before to years that the marriage was
2 dissolved --

3 MR. COLLINS: Because we have a Borkowski
4 [phonetic] issue.

5 THE COURT: -- unless we were talking about
6 some kind of an earning capacity argument and we
7 were trying to, perhaps, blend some years and
8 average them or whatever.

9 But what we're talking about is a request that
10 goes back three years. I don't think -- on a
11 divorce that was four years ago, I don't think that
12 that's an unreasonable request.

13 MR. COLLINS: Well I don't know what the
14 relevance is -- I understand what Your Honor is
15 saying but --

16 THE COURT: So I mean as far as tax returns are
17 concerned, those should be produced. A 1099 or W-2
18 -- those should be produced for those years, okay?

19 MR. COLLINS: Those were produced, Your Honor.

20 THE COURT: A pay stub for each and every pay
21 period of the last three years? I think that's a
22 little bit much. You deal with the W-2's and the
23 1099's and -- (Whereupon more colloquy is held on
24 this objection)

25 ***Ends previously billed/produced section***

26 MR. COLLINS: But we did that.

27 THE COURT: And maybe, you know --

1 MR. NOWACKI: Your Honor, I would like to say
2 that there are some issues that are tied in to the
3 separation agreement in regards to the conversion of
4 certain options where I work at CBS that show up on
5 my W-2, that are subject to a split, at which point
6 in time they were converted from an unrestricted to
7 a restricted state.

8 So the reason why I am asking for the same in
9 return because I've volunteered to provide all of
10 that information to Attorney Collins, even though he
11 has not asked for a motion. I am willing to supply
12 each and every article that he has raised an
13 objection to, even though he has not requested it
14 yet, in order to be able to have that documentation
15 prepared for this July 8th hearing.

16 MR. COLLINS: Well Your Honor, I don't even
17 want all that stuff because I don't think -- look,
18 I'm not one -- what's good for the goose is good for
19 the gander. I'm not looking -- there's a lot of
20 requests here about assets. We're post-judgment.
21 We're not dealing with assets. I mean, this is an
22 attempt to look at my client's credit card
23 statements, assets --

24 THE COURT: Well, we haven't gotten there yet -
25 -

26 MR. COLLINS: Well, all right --

27 THE COURT: We haven't gotten there yet.

1 MR. COLLINS: Tax returns. If Your Honor's
2 ruled, Your Honor's ruled. I don't take serious
3 exception to it. I understand the relevance but I -
4 - this Court knows best. I have no problems.

5 So if Your Honor thinks that three years --
6 '06, '07, and '08, and year to --

7 THE COURT: And year to date.

8 MR. COLLINS: As long as Your Honor understands
9 -- W-2's have been provided. There's no objection
10 to the W-2's being provided.

11 Two issues as to why we don't want to go back
12 three years -- one is, is because of relevance.
13 Your Honor has basically ruled on that issue. And
14 two is because of information related to my client's
15 husband. So my request would be, if I've got to
16 present that -- those tax returns, I would like to
17 redact information with regard to my client, because
18 as I suggested, they are in the same industry; Mr.
19 Nowacki for CBS, Mr. Barrington for -- I forget who
20 --

21 MR. NOWACKI: NBC.

22 MR. COLLINS: NBC, and my client for FOX. And
23 they all deal with the same areas. But -- so there
24 would be that issue. I know Mr. Nowacki has told me
25 all about Unclebach and all that sort of things.
26 And I understand all that. But there's a problem
27 here if Mr. Nowacki has certain information relative

1 to Mr. Barrington.

2 So if -- that's why I thought the best way to
3 proceed is: here are the W-2's. She's an W-2
4 employee. You want information, I'll give you bonus
5 information. I provided the W-2's. I'll give you
6 year-to-date information on income. And we don't
7 know what the bonus is going to be in August yet.
8 We just don't know that. And we know that we're ten
9 months past the last bonus and we know what that
10 was.

11 If Your Honor thinks I should give him three
12 years' worth of actual tax returns with Mr.
13 Barrington's information on it --

14 ***Previously billed/produced section***

15 THE COURT: You can certainly redact social
16 security numbers. And I would expect people to do
17 that in this day and age. But I would not think it
18 would be unreasonable, if there are remarriage
19 situations, to -- and because of -- if you say that
20 the industry --it's a tight little industry and
21 whatnot -- that there be a confidentiality
22 understanding between the parties. Obviously, if
23 it's filed with the Court, I'm not sealing anything.
24 But if it's some added protection to persons, there
25 could be a confidentiality agreement between and
26 among the parties and their spouses so that there's
27 no dissemination of that beyond this court

1 proceeding.

2 I'm not ruling that this -- because I'm not
3 sealing the courtroom and I'm not sealing the file.
4 I'm just saying that that would -- that might seem
5 to obviate some of the problems so it will at least
6 give people pause before they, willy-nilly,
7 disseminate private information.

8 ***End of previously billed/produced section***

9 MR. NOWACKI: Your Honor, I would like to --
10 also be on the record to say that that offer was
11 made to Attorney Collins when his objection was
12 raised. I offered to sign a confidentiality
13 agreement and he refused.

14 THE COURT: Mr. Collins, it just seems
15 axiomatic --

16 MR. NOWACKI: Your Honor, I have no -- it's the
17 rest of it that will have some interesting
18 discussion about.

19

20 **4.** Statements for all accounts that plaintiff maintains
21 alone or in conjunction with others for last 24 months.

22 MR. COLLINS: Now, Your Honor, this is an
23 asset, if there are any. I mean, the bottom line is
24 is that Mr. Nowacki has gotten a financial
25 affidavit. It sets forth what her assets are. I
26 don't know what is germane about that because this
27 is an income-driven argument.

1 The argument here is Mr. Nowacki doesn't feel
2 that he should be paying 65 percent of child-related
3 expenses anymore predicated on income. It's not
4 suggested -- it's not even legally supportable that
5 it's because -- my client has accumulated more
6 assets, she should pay more. I don't -- this is
7 really just a fishing expedition.

8 I would also point out that Mr. Nowacki has, on
9 repeated occasions in the last two months, relating
10 back to something which is pre-judgment, has
11 threatened to go to the IRS on my client for some
12 money received from a trust back when -- he's using
13 all this information, okay, to -- he's already gone
14 -- back at the time of the dissolution he went to
15 the employers of Mr. Barrington and of my client,
16 and because they were involved in a relationship,
17 there was a saying that they were using company
18 funds -- this goes back to pre-judgment.

19 THE COURT: Okay, well, we're very --

20 MR. COLLINS: We're very --

21 THE COURT: I understand there's history here,
22 okay, but what we're trying to do is find our way
23 out of the woods, so --

24 MR. NOWACKI: Okay, Your Honor --

25 THE COURT: Mr. Nowacki --

26 MR. NOWACKI: I - if --

27 THE COURT: No. I got a question.

1 MR. NOWACKI: Okay.

2 THE COURT: We -- we have a requirement that
3 financial affidavits be exchanged. The only
4 relevance for property on a post-judgment
5 modification situation is for the Court to make an
6 assessment as to the relative positions of the
7 parties, vis-à-vis the last order of the Court. So
8 to the extent that is disclosed on a financial
9 affidavit, you have to give me more to order that
10 kind of delving into their business because it's not
11 germane.

12 MR. NOWACKI: Well, the question, Your Honor,
13 is whether or not the financial affidavit that was
14 filed on -- I believe I have a copy here -- with the
15 dissolution of the marriage on June 29th -- whether
16 or not that included complete information or not.

17 MR. COLLINS: Your Honor, then -- and Your
18 Honor alluded to this before -- that would be a
19 subject of an Oneglia hearing.

20 THE COURT: That's correct.

21 MR. COLLINS: So there's no Oneglia hearing
22 that has been requested, but certainly that would be
23 incumbent upon --

24 THE COURT: Well actually, I'm not so sure
25 about that, Mr. Collins, but I mean, we're -- I go
26 slow as far as property is concerned because that's
27 a done deal. And all it does - all it helps the

1 Court do is see what the relative parties --

2 *Begins previously billed/produced section*

3 **Ruling of the Court on No. 4**

4 THE COURT: This is an income-driven -- I've
5 said that repeatedly. This is an income-driven
6 model and -- so I'm going to sustain the objection
7 to four. Next.

8

9 **8.** Copies of any written appraisal concerning any asset
10 owned by the plaintiff alone or in conjunction with Dave
11 Barrington and her parents or others.

12 MR. COLLINS: Well Your Honor, no. 8 is the
13 same objection -- copies of any written appraisal
14 concerning any asset owned by the plaintiff alone or
15 in conjunction with Dave Barrington or her parents
16 or others.

17 It's kind of the same request in a different
18 format and I don't know how it's germane.

19 As long as she discloses her assets on the
20 financial affidavit, there's no showing or hint of
21 fraud here and -- although I think Mr. Nowacki
22 believes it -- but it's just in invitation into my
23 client and her husband and her parents finances,
24 which again, as Your Honor has reiterated -- as Your
25 Honor has suggested, this is an income-driven
26 motion.

27 MR. NOWACKI: Your Honor, what this has to do

1 with is the shared expenses that the two parties
2 agreed to in the separation agreement. There are
3 eight items and then there are additional items that
4 are covered in the separation agreement.

5 THE COURT: But this -- you're talking about
6 appraisals for Mr. Barrington and --

7 MR. NOWACKI: Well the question is whether or
8 not she owns additional property.

9 THE COURT: Can I finish?

10 MR. NOWACKI: Yes. I'm sorry.

11 THE COURT: And you're going to get a financial
12 affidavit and if you have reason to believe that
13 there is property, well then that's one thing, but
14 if -- and if you believe that there is fraud, then
15 you're going to have to overcome a burden which is
16 called 'the Oneglia standard,' and if that's the
17 case, then you're going to have to request a
18 separate hearing on that to determine whether or not
19 there was some kind of fraud involved in the
20 underlying judgment.

21 MR. NOWACKI: All right, Your Honor, I do have
22 a wire transfer -- a copy of a wire transfer check -
23 - from this Swiss Bank Corporation dated two days
24 after my separation agreement was signed, where she
25 moved out.

26 THE COURT: Well, if you want to raise that in
27 a separate Oneglia hearing, then that's perfectly --

1 MR. NOWACKI: Well, it's raised in my response
2 here that I sent also to the Court for review as
3 well. Because I think this issue of what has gone
4 on in regards to the sequestering of assets in
5 foreign bank accounts is a relatively new
6 development that the IRS has been asked to look
7 into. And that all of this came up post-judgment
8 and therefore is pertinent to the aspect of whether
9 or not all of the money that was in the Swiss Bank
10 Corporation check -- this wire transfer -- was, in
11 fact, declared. And that's a legitimate concern of
12 mine.

13 THE COURT: I understand that, and what I'm
14 saying to you is is that everyone should be
15 concerned about allegations of fraud but we have a
16 procedure that we go through if we believe that
17 that's the case. And that is a separate --
18 discovery is allowable, post-judgment, in a
19 matrimonial in the case of a motion for
20 modification. And so modification is basically
21 income-driven, although the statute says, when you
22 look at, you look at -- you compare the picture, the
23 snapshot of the parties now with then and you see if
24 they're in relative better shape or worse shape.

25 But that's really not the driver. The driver
26 is income. So for our purposes, what we're talking
27 about is income so that eight, under the

1 circumstances -- this -- it would be premature to be
2 raising that now. If you want to raise it in a
3 connection with a separate hearing, then you can
4 raise it in connection with a motion to open the
5 judgment on the basis of fraud. But I'm not
6 suggesting that to anybody. We have enough of that
7 floating around but --

8 *Begins previously billed/produced section*

9 **Ruling of the Court on No. 8**

10 THE COURT: In any in any event, eight, the
11 objection is sustained.

12 *Original material begins here*

13 MR. NOWACKI: Your Honor, I guess I have a
14 question in regards to the financial affidavit and
15 the need to validate that which is in the financial
16 affidavit in regards to expenses as to is that
17 pertinent discussion here in regards to all I'm
18 looking to do in looking at this information is to
19 validate that which is stated in the financial
20 affidavit as being a true and accurate portrayal.
21 And that unfortunately -- and I will give an
22 illustration of this to the Court for -- to allow to
23 know what happened.

24 Just last night, I received a check from
25 Suzanne for \$1,242 from a February reconciliation,
26 where I discovered that she had been burying her
27 healthcare costs for her husband in shared expenses;

1 it involved the children. Not only did she deny
2 that was going on but Attorney Collins and I spent
3 in inordinate amount of time for me to document to
4 him that that occurred.

5 So the aspect of the shared expenses is a
6 legitimate issue here. And yesterday, I discovered
7 another issue.

8 THE COURT: Well, let's --

9 MR. NOWACKI: All right? And this comes down
10 to the authenticity of what's in the financial
11 affidavit as not being an accurate representation.
12 And I believe this goes all the way back through the
13 process of our marriage, of this money that was
14 distributed from a Swiss bank account that I no
15 knowledge of, and that I have a legitimate concern
16 here too, Your Honor, because I am implicated in the
17 knowledge of the possibility that there was an
18 inappropriate activity. And suggesting I would use
19 that to be a negotiating tool in this court to
20 achieve a better result for myself is completely
21 unacceptable to me.

22 THE COURT: Okay. I'm going to say this again.
23 Because you're a self-represented person -- and I
24 would really strongly recommend that -- I have no
25 idea what your background is -- but I would strongly
26 recommend that you get a lawyer.

27 But under -- if you believe that the judgment

1 was entered wither with a mutual mistake or if there
2 was fraud, then you have a right to move to reopen
3 if you -- it's well beyond four years do -- four
4 months, excuse me -- so if that's the case, you
5 certainly have a right to do that. The burden is
6 clear and convincing. It is an extraordinarily high
7 burden and not always met. But that's not for
8 today, all right?

9 We're talking about a motion for modification.
10 We're talking about who pays what for the child
11 support.

12 MR. NOWACKI: Correct, and what I'm looking to
13 do is to validate, in the request for information,
14 that which was submitted on a financial affidavit
15 that was given to me in April. Because I don't
16 believe that that was an accurate representation of
17 the expenses.

18 THE COURT: Again, I don't want to spend an
19 inordinate amount of time on the expenses because
20 it's an income-driven model. I mean that's what we
21 look at, okay? I mean -- the statute says 'must
22 consider a wide variety.' There's no question about
23 that. But as a practical matter -- and we
24 prioritize things -- and that that real driver here
25 is income.

26 And that's easily established because people
27 can change their lifestyles; they can alter their

1 spending; they can prioritize their own spending.
2 So that's not the driver. The driver is income.
3 That's the pie. That's how much there is available.

4 And to the extent that Mr. Barrington is a
5 factor here, you have a right to determine what his
6 contribution is, if any, and it may be zero. And so
7 that's not going to help you any, but

8 MR. NOWACKI: Right, but -- again -- I'm
9 looking to validate the aspect of certain expenses
10 that were part of our reconciliations that we do
11 quarterly that are involved in this financial
12 affidavit.

13 THE COURT: Okay, no. 8 is not -- number 8's
14 not going to help us on that. That's appraisals,
15 okay?

16 MR. NOWACKI: Well, okay, I understand that,
17 but the other issues in regards to bank accounts are
18 relevant to the validation of the information where
19 I have been paying more on these reconciliations
20 than what was valid, because there were
21 misrepresentations of things that were submitted
22 into those reconciliations that I then paid money
23 for. And that is a fair issue for this Court to
24 consider. I consider that, as the insurance costs
25 were -- that was fraudulent submission of
26 information without my knowledge. I was lied to
27 about the timing of the healthcare plan and its

1 issue date. I was told that the close date was a
2 certain date -- and that turned out to not be
3 correct -- to force me to continue to have the
4 children carried on her plan, where she was also
5 carrying her husband. That, to me, is fraudulent.

6 THE COURT: Ah, yeah, but that's your claim and
7 I'm sure she as counter to that. So just because
8 you say it doesn't make it so.

9 MR. NOWACKI: Well, no, she paid me the check
10 last night, Your Honor. So that's pretty much an
11 indication that she finally admitted that that was
12 fraudulent. Otherwise, why would she pay it?

13 MR. COLLINS: Your Honor, can we go to number -
14 -

15 THE COURT: If you'd like to just listen and
16 kind of dial it down a little bit. I know you got -
17 - you're self-represented. You have a right to be
18 self-represented. I strongly suspect that you'd be
19 doing yourself a big favor by hiring counsel.

20 Next --

21

22 **9. Recordings of Telephone Conversations**

23 MR. COLLINS: Your Honor, no. 9. I won't
24 burden the Court by me reading it to the Court.
25 I'll leave it to the Court. It's recordings of
26 telephone conversations. I don't know what that has
27 to do with the motion for modification. It's not a

1 financial request; I don't know what it is.

2 THE COURT: Mr. Nowacki, no. 9.

3 MR. NOWACKI: Your Honor, I received a copy of
4 the transcripts on Thursday from the April 29
5 hearing. And I will tell you that it was wrought
6 with a lot of misstatements that I will refute at
7 the July 8th hearing.

8 MR. COLLINS: Well, I don't know what that
9 means --

10 THE COURT: I'm talking -- I don't know what
11 that means either.

12 MR. NOWACKI: Here's the issue. The issue
13 comes down to that Dave Barrington has been
14 communicating with senior management in my office.
15 And it's endangering my employment.

16 THE COURT: Well, that's --

17 MR. NOWACKI: And I will file the necessary
18 motions --

19 THE COURT: But that's something between Mr.
20 Barrington and you to take up and that will go
21 before Judge Karazin or Judge Mintz or somebody else
22 in the civil side. But that's not for this.

23 ***Begins previously billed/produced section***

24 **Ruling of the Court on No. 9**

25 THE COURT: So number nine, the objection is
26 sustained.

27

1 ***Original material begins here***

2 **10.** ...including all bonuses received within one year of
3 the signing of the financial affidavit

4 MR. COLLINS: Your Honor, thank you. On no.
5 10, Mr. Nowacki has admitted that he received a
6 financial affidavit in April when we thought we were
7 going to start the hearing. I think we commenced
8 the hearing in May but I forget. But in any event,
9 it says, "Including all bonuses received within one
10 calendar year of the signing of the signing of the
11 financial affidavit.

12 Your Honor, the way we've managed that
13 financial affidavit is we have disclosed the amount
14 of the bonus that was received by our client in
15 August of 2008. Mr. Nowacki has that information.
16 We're not concealing that information. What he's
17 demanding here is that we extrapolate from that
18 number a weekly amount to go into the income
19 portion. I don't agree with Mr. Nowacki that that's
20 the way I should do it inasmuch as the bonus was
21 received, at this point now, ten months ago with a
22 new one coming up that's likely to be substantially
23 lower, if at all. So my position is this:

24 Judge Novack, by way of a footnote, has, in his
25 hearing, the gross and net amounts of the bonus, but
26 it is not broken out on the financial affidavit into
27 a weekly amount, which is what Mr. Nowacki wants me

1 to do. And my view is there's no bright-line rule
2 on that as long as I've disclosed everything to Mr.
3 Nowacki, which I have, and to Judge Novack, which I
4 have. So my position is Mr. Nowacki doesn't dictate
5 how we prepare the financial affidavit, but
6 certainly disclosure is a necessity and we've done
7 that, is a mandate.

8 MR. NOWACKI: Your Honor --

9 THE COURT: That's a fair statement Mr.
10 Nowacki.

11 MR. NOWACKI: I would like to respond. First
12 of all, Mr. Collins' assertion that he submitted a
13 \$100,000 bonus on anything that was submitted to
14 Judge Novack I don't believe is an accurate
15 representation of that occurred.

16 Suzanne was represented by Tom Colin. Tom
17 Colin, when he filed the financial affidavit in
18 response to the September motion, filed a financial
19 affidavit that listed the \$100,000 bonus.

20 When Mr. Collins submitted his financial
21 affidavit in April, it completely neglected to make
22 any reference whatsoever to that \$100,000 bonus.
23 There's no footnote; there was no conversation in
24 the transcript of the hearing. I have a copy of the
25 transcript of the hearing.

26 THE COURT: Mr. Nowacki. That's not for today.
27 That's something you take up in front of Judge

1 Novack on cross examination. You cannot dictate to
2 the other person how they categorize things on a
3 financial affidavit. You can point that out to the
4 Court and you can say to the Court there's no logic
5 to the way they're doing that or that it's unfair or
6 it's skewed or whatever. But that's for the
7 hearing, okay? That's not --

8 MR. NOWACKI: I understand that.

9 THE COURT: You do your financial affidavit; he
10 does his. And then at the time of the hearing,
11 that's something you can bring to the attention of
12 the Court and say, gee, I don't think that's a fair
13 of doing it because --

14 MR. NOWACKI: Thank you for the clarification.

15 *Begins previously billed/produced section*

16 **Ruling of the Court on No. 10**

17 THE COURT: So ten is sustained -- objection is
18 sustained.

19

20 *Original material begins here*

21 **11.** All savings bank statement, bank account, savings book
22 statements, checks, check registers, similar documents for
23 all savings and checking accounts wherever located for a
24 three-year period.

25 MR. COLLINS: Your Honor, no. 11 seeks to look
26 at, for a three-year period, all my client's savings
27 bank statements, bank account, savings book

1 statements, checks, check registers, similar
2 documents for all savings and checking accounts
3 wherever located, again, for three-year period.

4 Your Honor, this is an opportunity. Indeed,
5 it's a fishing expedition to see how my client and
6 her husband spends their money. That's not a fair
7 question. She puts her expense on the financial
8 affidavit. I don't think it's right for Mr. Nowacki
9 to go back for any period of time, frankly, and say,
10 oh well, you spent money, you went on a vacation or
11 you spent money on snowboarding or something like
12 that. What is the difference how she spent her
13 money. It's not germane for today, again, if he has
14 all the income information, which he does, then why
15 does he need to know what she spent her money on in
16 July of 2007.

17 THE COURT: What does 25-32 say?

18 MR. COLLINS: I don't recall what it says
19 specifically on this issue. I don't think that --

20 THE COURT: It says three years, does it not?

21 MR. COLLINS: It does say three years, Your
22 Honor.

23 THE COURT: I believe so. It's an income-
24 driven model, Mr. Collins --

25 MR. COLLINS: That's true.

26 THE COURT: -- so the argument is just the same
27 and that's what that -- that's what this is. You're

1 talking about the income, you know, how the income
2 is spent.

3 MR. COLLINS: Well, the three --

4 MR. NOWACKI: And there's also gift income here
5 too, Your Honor, that's --

6 THE COURT: Well I would -- let's just -- I'm
7 talking to Mr. Collins right now. Just --

8 *Begins previously billed/produced section*

9 **Ruling of the Court on No. 11**

10 THE COURT: Okay, statements from all accounts
11 maintained with any financial institution including
12 banks, brokers, and financial managers, for the past
13 24 months. So we can limit it to 24 months -- two
14 years.

15 MR. NOWACKI: Thank you, Your Honor.

16

17 *Original material begins here*

18 12. Copies of data stored as part of financial software
19 applications with regard to household expenses

20 THE COURT: Next, Mr. Collins.

21 MR. COLLINS: Your Honor, he wants Quicken and
22 QuickBooks printouts if, in fact, my client uses
23 them.

24 *Begins previously billed/produced section*

25 **Rulings of the Court on No. 12**

26 THE COURT: No, no. That's work product.

27 Objection sustained. Next

1

2 ***Original material begins here***3 **13.** Credit card statements for the past three years

4 MR. COLLINS: Um -- he wants her credit card
5 statements for the past three years. I don't think
6 that he's -- even under the practice book, I don't
7 think he's entitled to credit card statements.

8 ***Begins previously billed/produced section***9 **Ruling of the Court on No. 13**

10 THE COURT: I think that's a stretch, Mr.
11 Nowacki. You're going to be looking at bank records
12 and I think that's -- so the objection is sustained.

13

14 ***Original material begins here***

15 **14.** Statements for brokerage, stocks, security bond
16 investment, wherever located, in which she was a signatory
17 alone or in conjunction with others for three years

18 MR. COLLINS: Now Your Honor, on no. 14, he's
19 looking for statements for brokerage, stocks,
20 security bond investment wherever located in which
21 she has a signatory authority alone or conjunction
22 with others for three years.

23 Again, this is an asset issue.

24 ***Begins previously billed/produced section***25 **Ruling of the Court on No. 14**

26 THE COURT: I agree, but to the extent that
27 there is an ability to write -- for instance, it is

1 a money market account or a checking account or
2 whatever in connection with that brokerage account,
3 then the --

4 MR. COLLINS: I concede that, Your Honor -- for
5 the period of 24 months

6 THE COURT: -- for 24 months.

7 MR. COLLINS: But only in those instances.

8 THE COURT: Only in those instances, not, right
9 -- again, it's income.

10

11 *Original material begins here*

12 **16.** Any and all trust documents for any trust where the
13 plaintiff's been a recipient as a settler, grantor,
14 trustee, or beneficiary since the date of dissolution and
15 any distributions there from.

16 MR. COLLINS: Well, he's asking, in no. 16,
17 Your Honor, for any and all trust documents for any
18 trust where the plaintiff has been a recipient as a
19 settler, grantor, trustee, or beneficiary since the
20 date of dissolution, and any distributions there
21 from.

22 You know, again -- well first of all, it goes
23 back darn near four years. So first of all -- I can
24 probably obviate -- frankly, as long as it's a trust
25 which has been created and which has made a
26 distribution within 24 months, I'll give that. But
27 he can't back four years on something like this.

1 And I think the gravamen of what Mr. Nowacki is
2 looking for here is he's very fixed, if you will, on
3 this distribution that came from grandma's estate
4 from the Swiss bank, not from Geneva, from the Swiss
5 bank. We could take a 40-minute train ride down to
6 Manhattan to go to the Swiss bank. He's very fixed
7 on the fact that there was some hidden Swiss bank
8 accounts. That's really what this is about. But
9 again, he's entitled to know trust distributions. I
10 concur. I would say he's limited to 24 months.

11 THE COURT: Well, if there's been a trust
12 distribution since the date of the divorce --

13 MR. COLLINS: \$132,000.

14 THE COURT: Disclose it. Then disclose it.

15 MR. COLLINS: It has been. He knows it.

16 THE COURT: Then you're done.

17 MR. COLLINS: That's what he's threatening to
18 go to the IRS about. He knows it.

19 THE COURT: Then you're done.

20 MR. COLLINS: That's it.

21 MR. NOWACKI: Then the question is whether or
22 not that's been validated. That's call.

23 MR. COLLINS: That's what I don't understand.
24 But there is a constant (indiscernible), like it
25 came out of Geneva and we evaded the taxes. And
26 he's looking for an indemnification not to go to the
27 IRS with this. That's been his demand.

1 MR. NOWACKI: No, I didn't.

2 THE COURT: Well, folks --

3 MR. NOWACKI: What I asked for was the --

4 THE COURT: Time out, time out, time out, time
5 out.

6 *Begins previously billed/produced section*

7 **Ruling of the Court on No. 16**

8 THE COURT: If there -- disclose any
9 distributions since June 29, 2005. Everything else,
10 I'm sustaining the objection. Next.

11 Excuse me. For instance, we're probably going
12 to break in the next ten minutes. I have no idea
13 whether this one's going to be finished. (Whereupon
14 the Court briefly takes up other business)

15

16 *Original material begins here*

17 **17.** The value of real property and loan balances and home
18 equity loans taken out against those purchases.

19 MR. COLLINS: Your Honor, on no. 17 --

20 THE COURT: Yes.

21 MR. COLLINS: I'm not -- he's asking for the
22 value of real property and loan balances and home
23 equity loans taken out against those purchases.

24 Again, on the financial affidavit, any real
25 property is disclosed thereon, the amount of liens
26 or mortgages against the property is disclosed --
27 resulting in net equity. I don't think that Mr.

1 Nowacki's entitled to anything beyond that. And I
2 don't know what the significance of him knowing
3 their mortgage company, their mortgage account
4 numbers, albeit, he doesn't specifically request
5 that, but it can only lead to that.

6 So she discloses my real property, my liens
7 against it, here's my net equity. What else does he
8 need?

9 THE COURT: Mr. Nowacki? I tend to agree with
10 Mr. Collins on that. Again, remember, we're an
11 income -- you're gonna get a total picture but the
12 picture that we're really really focusing on is the
13 income. And if there's something that is just
14 absolutely, patently false -- well no. 1, if you
15 want to out and get and pay for appraisals of the
16 property, you can do that. I'm not recommending
17 that but. I mean, that's your call. They have a
18 right to --

19 MR. NOWACKI: The question on 17, Your Honor,
20 relates to whether or not there was money gifted for
21 the purposes that was not -- it then becomes a part
22 of the history. And that's all I'm looking to
23 verify.

24 THE COURT: But again, I assume you got a
25 subpoena out for Mr. Barrington and you'll be able
26 to ask him pointblank whether or not there have been
27 any gifts. But again, what we're trying to get is

1 the snapshot. So it's a comparison between now with
2 then.

3 MR. NOWACKI: And it's that continuity is what
4 I'm looking for, that's all -- between the point in
5 time we made the agreement, what the basis of the
6 agreement was since Attorney Collins --

7 *Begins previously billed/produced section*

8 **Ruling of the Court on No. 17**

9 THE COURT: I mean, the question is -- you can
10 ask him questions with regard to his contributions
11 to the -- that's -- you know -- and that certainly
12 is germane but not -- this is more than you need.
13 So 17, the objection is sustained.

14

15 *Original material begins here*

16 **18. Tax Assessment on the Property**

17 MR. COLLINS: Number 18, Your Honor, is a
18 matter of public record. Any -- again, I think it's
19 irrelevant, but he wants the tax assessment on the
20 property. If Mr. Nowacki wants that, he can go to
21 town hall and get it.

22 *Begins previously billed/produced section*

23 **Ruling of the Court on No. 18**

24 THE COURT: That's public record.

25 MR. NOWACKI: I understand that. It wasn't
26 available at the point in time this motion was
27 filed. It's available now.

1 THE COURT: Okay -- objection is sustained.
2 Next number.

3

4 ***Original material begins here***

5 **19.** Any income information from any 'C' or 'S' Corporations
6 and any K-1's

7 MR. COLLINS: Your Honor, no. 19 -- well, I
8 guess if he's gonna get the tax returns, he's gonna
9 get any income information from any 'C' or 'S'
10 corporations and any K-1's which have to be attached
11 to the 1040 return anyway. So, that got -- your
12 ruling already, I think, obviates my objection on
13 19.

14 THE COURT: Right. So the objection is
15 overruled.

16 MR. COLLINS: Yes, Your Honor -- by agreement.
17 (Whereupon the Court briefly takes up other
18 business)

19

20 **20.** Stock options -- vested and unvested

21 MR. COLLINS: Your Honor, next one is no. 20.
22 It has to do with a request relative to stock
23 options, vested and unvested.

24 Again, that goes to assets. I think, I suppose
25 if my client exercises options at a profit of
26 capital gains, I guess that's germane. Although, I
27 think it's that hybrid, you know, assets versus

1 income issue.

2 THE COURT: I think that that's -- *Gay v. Gay*
3 settled that one. There's a Supreme Court case that
4 basically said, if you are in the business of
5 trading securities, the capital gains on the
6 transformation of one asset to another, whether it's
7 stock to cash or whatever, that's not treated as
8 income for child support purposes. It's just the
9 conversion of an asset, which has already been
10 decided. And our Appellate Court has said, we lose
11 jurisdiction post-judgment over that, so --

12 MR. NOWACKI: All right. Well this is about
13 employee stock options -- that may not have been
14 specifically stated as to whether or not employee
15 stock options -- whether they be restricted or
16 unrestricted options -- are considered to be income.
17 That's the issue that I'm asking for definition on.

18 THE COURT: Well, you gotta get -- I'm drawing
19 a distinction between what the Internal Revenue
20 Service says you report as income, which is
21 different than what the Superior Court looks at in
22 terms of whether we treat it as income under a child
23 support or an alimony model. I mean, and --

24 ***Begins previously billed/produced section***

25 **Ruling of the Court on No. 20**

26 THE COURT: The Supreme Court, in *Gay v. Gay*
27 [266 Conn. 641 (2003)]-- you can look it up -- basically

1 said, absent somebody being in the business of
2 trading securities -- in other words, that's what
3 your life's work is -- absent that, we treat it as
4 an asset. So I'm going to sustain the objection.

5

6 ***Original material begins here***

7 **21.** Copies of any applications for loans, mortgages, credit
8 cards or other financing transactions in the past three
9 years and the current year

10 MR. COLLINS: Yes, Your Honor. No. 21
11 essentially goes to credit applications. Now again,
12 I suppose the purpose of that is to impeach on
13 income information. I think it's kind of a stretch.
14 I think it's a fishing expedition and also, you
15 know, it gets into a lot of information which I
16 don't think is necessarily germane to a motion to
17 modify child support. This is not an alimony case.
18 I want you to be aware of that -- child support
19 only.

20 MR. NOWACKI: I'll withdraw 21.

21 THE COURT: All right.

22

23 ***Original material begins here***

24 **22.** Copies of any will

25 MR. COLLINS: Twenty-two calls for copies of a
26 will. Again, that's in the terms of the Appellate
27 Court, a mere expectancy or there's no probative

1 value to a will.

2 THE COURT: There is none.

3 *Begins previously billed/produced section*

4 **Rulings of the Court on No. 22**

5 THE COURT: So objection to 22 is sustained.

6 Next one.

7

8 *Original material begins here*

9 **23.** Business expenses charged against the business

10 MR. COLLINS: Business expenses charged against
11 the business. Well now this is really a problem
12 because again, as I said, they're in competing
13 industries. And my client has indicated that she
14 doesn't travel all that much, to my knowledge.
15 Again, you know, there's a car allowance that's on
16 the financial affidavit. Other than that, Your
17 Honor, whether or not she's able to expense a meal
18 or something, I think -- the benefit to Mr. Nowacki
19 in looking at that stuff is outweighed by the
20 invasion into my client and especially in light of
21 the history of this case.

22 MR. NOWACKI: The specific request, Your Honor,
23 in regards to this has to do with the validation
24 when it's primary care week with one of the other
25 parents. I'm trying to assess the number of
26 occasions that I was required to then take care of
27 our children underneath the separation agreement and

1 what the parenting plan calls for. That's what it
2 relates to.

3 THE COURT: But isn't there a better way of --

4 MR. NOWACKI: It doesn't relate to the --

5 THE COURT: But isn't there a better way of
6 getting that information?

7 MR. NOWACKI: Yes, it was in the e-mails that
8 were requested that counselor has also filed an
9 objection to -- to validate those requests.

10 MR. COLLINS: Well, I'm not sure what Mr.
11 Nowacki is saying. I guess what he's saying is that
12 my client is claiming that he should contribute
13 towards things that she expensed.

14 MR. NOWACKI: No.

15 MR. COLLINS: Okay. I don't know what he's
16 asking for, then. I don't see what the claim is
17 here.

18 MR. NOWACKI: It has to do with the execution
19 of the parenting plan and the contempt motion, so
20 that there are two different things: there's a
21 motion for modification, and there's also a motion
22 for contempt, that the parenting plan has
23 transferred an exceeding amount of the
24 responsibilities for the care of the children to
25 their father. That's the issue.

26 MR. COLLINS: Your Honor, I would suggest that
27 the parenting plan had defines -- it defines what

1 the expenses are. There's a Schedule B. It defines
2 what each party's responsible for and they do a
3 true-up quarterly.

4 MR. NOWACKI: This is not a financial issue.

5 MR. COLLINS: Well, I don't know what it is.

6 MR. NOWACKI: It relates the execution of the
7 parenting plan and the contempt motion that your
8 client has not been in accordance with --

9 *Begins previously billed/produced section*

10 **Ruling of the Court on No. 23**

11 THE COURT: That just seems like a real
12 stretch. Again, you're gonna have her on the stand.
13 You can ask whatever questions you need. I'm going
14 to sustain the objection to 23.

15 I'm going to excuse you both. I'll see you
16 both at two o'clock.

17 MR. COLLINS: Yes, Your Honor.

18 THE COURT: We'll continue with No. 24.

19 (Whereupon the Court takes up other business and
20 then stands in lunch recess until 2:07)

21

22 (Court back in session at 2:07)

23 THE CLERK: Court is back in session. Good
24 afternoon, Your Honor.

25 THE COURT: Good afternoon. You can be seated.
26 All right. All right, I was in the middle of the
27 Nowacki file but does anybody have an agreement

1 before we start? Any agreements? Okay. Nowacki.

2 MR. COLLINS: Good afternoon again, Your Honor.
3 For the record, Attorney Kevin Collins for the
4 plaintiff, Suzanne Nowacki. She is not here with me
5 today.

6 MR. NOWACKI: And Michael Joseph Nowacki, Pro
7 Se.

8 THE COURT: All right -- I think we got through
9 number one through 23, is that correct?

10 MR. COLLINS: Yes, Your Honor. I believe we're
11 on no. 24.

12 THE COURT: All right.

13

14 **24.** Copies of any gift tax returns within the last three
15 years.

16 MR. COLLINS: No. 24 asks for gift tax returns.
17 I don't know that -- I guess the simple answer is I
18 don't think there are any. I don't -- it does --
19 the provision in the practice book provides for
20 income tax returns, not necessarily gift tax
21 returns. And a gift, presumably would have been
22 something in excess of whatever the --

23 THE COURT: \$11,000?

24 MR. COLLINS: I think it's up to 13 now.

25 THE COURT: Is it? Okay.

26 MR. COLLINS: But I think it was 12 last year.
27 So I don't know what the claim is on that but --

1 THE COURT: Mr. Nowacki, what's the claim on
2 that?

3 MR. NOWACKI: The amount that was claimed in
4 the financial affidavit was below the maximum and
5 that the information in the --

6 THE COURT: For gifts? I don't think we'd be -
7 - That'd be highly unusual. There's a provision in
8 the expense portion for gifts but those are usually
9 related to kids' birthday gifts that you buy or
10 somebody -- like Christmas gifts or something. What
11 we're talking about, you don't file gift tax returns
12 for those, generally. Is that what you're referring
13 to?

14 MR. NOWACKI: What I'm referring to is that
15 annually, there are -- there's gifting done by her
16 parents for estate planning purposes.

17 THE COURT: Okay.

18 MR. NOWACKI: that becomes one of the items the
19 Court can consider, I believe, under Unclebach. And
20 that what I'm looking for is the substantiation of
21 that which was put into the financial affidavit,
22 which is substantially less than the maximum. And I
23 believe the maximum may be what, in fact, has been
24 given.

25 MR. COLLINS: I think he's referring to two
26 different things. I think what Mr. Nowacki is
27 suggesting is that the repeated receipt of gifts may

1 constitute income --

2 THE COURT: Correct.

3 MR. COLLINS: -- and I don't dispute that. And
4 I understand that point. It has to be below the
5 exemption amount, which is, I just said, is now
6 13,000 but it was less within the last few years.
7 And if it's under the exemption amount, you don't
8 have to file a gift tax return because it doesn't
9 need -- only the amount above that eats into your
10 unified credit for estate purposes.

11 But I think, then, what Mr. Nowacki is saying
12 is there's a line on there under expenses for gifts,
13 which is what Your Honor's referring to. And so I
14 think he's talking about two different things. I
15 don't know whether he's talking about gifts received
16 by my client or gifts given by my client.

17 THE COURT: That's what it sounds like to me.

18 MR. NOWACKI: Gifts received.

19 THE COURT: Gifts --

20 MR. NOWACKI: Gifts received.

21 THE COURT: But that's not on the financial
22 affidavit unless somebody specifically discloses
23 that on the income portion, on section 1 or section
24 A, whatever that is, that they are receiving regular
25 gifts.

26 MR. NOWACKI: that was declared and the
27 question is to validate that. And the validation --

1 THE COURT: Mr. Collins.

2 MR. COLLINS: Your Honor, I --

3 MR. NOWACKI: And the validation may very well
4 happen when we get to the point where I can examine
5 the bank records, etc., for the last two years. It
6 should be in there. So -- if it exceeds that amount
7 --

8 THE COURT: What we're talking about is gifts
9 to your former spouse.

10 MR. NOWACKI: correct.

11 THE COURT: So unless she did that in the first
12 part, not in the income -- not in the expense --

13 MR. COLLINS: Your Honor, on the financial
14 affidavit, my client has reflected \$417 a month for
15 gifts from parents. That would translate to \$5,000
16 a year.

17 THE COURT: Okay.

18 MR. COLLINS: So it's been disclosed. It's
19 below the amount for which a gift tax return would
20 have to be filed. I guess that's what he's
21 referring to but -- but 400 -- not a week; a month.

22 THE COURT: But her parents or whoever this is,
23 they're not parties to this action and I can order
24 them to do that unless they're under some kind of
25 subpoena or whatever and they would be represented
26 by counsel, I assume, and they would be moving to
27 preclude but I can't order non-parties to produce

1 under the circumstances.

2 MR. NOWACKI: I understand. And I would -- my
3 sense is is that money will show up in a bank
4 statement or in a 1099 or --

5 THE COURT: I suspect it would --

6 MR. NOWACKI: Right.

7 THE COURT: right. Okay, so --

8 MR. NOWACKI: That's what that was meant to get
9 at.

10 *Begins previously billed/produced section*

11 **Rulings of the Court on No. 24**

12 THE COURT: Okay. But as I said, that's
13 outside the scope of what I can order. So 24, the
14 objection is sustained. Twenty-five.

15

16 *Original material begins here*

17 **25.** Copies of registrations for motor vehicles and/or boats

18 MR. COLLINS: Twenty-five is copies of
19 registrations for motor vehicles, boats -- again,
20 any vehicles are disclosed on my client's financial
21 affidavit. I know of no affirmative obligation to
22 provide any person with -- in fact, there are none
23 reflected. She has a car lease, I believe. So I
24 don't think she owns any, but in any event, whether
25 she did or she didn't, I know of no provision for
26 the provision of copies of registration certificates
27 to prove ownership or disprove ownership?

1 THE COURT: Mr. Nowacki, ah --

2 MR. COLLINS: Oh, no. 4 -- there's a footnote
3 no. 4 in the financial affidavit where it says
4 automobile and it says 'lease payments.' She has a
5 leased vehicle. And her car allowance is reflected
6 on there as income.

7 *Begins previously billed/produced section*

8 **Rulings of the Court on No. 25**

9 THE COURT: Mr. Nowacki -- I don't know how
10 that informs us or helps us with the child support,
11 so the objection is sustained. Twenty-six.

12

13 *Original material begins here*

14 **26. Copies of insurance policies**

15 MR. COLLINS: He wants copies of her insurance
16 policies -- automobile, homeowner's, liability.

17 Again --

18 *Begins previously billed/produced section*

19 **Rulings of the Court on No. 26**

20 THE COURT: Objection sustained. Twenty-seven.

21

22 *Original material begins here*

23 **27. Copies of contracts for lease, rental, or lease of**
24 homes in which she has an interest solely or with others

25 MR. COLLINS: Contracts for lease, rental or
26 lease of homes, in which she has an interest in --
27 solely or with others.

1 I mean, I don't know of any, Your Honor. She
2 owns 183 Brushy Ridge Hollow with her husband, Mr.
3 Barrington. There's no claim of rental income on
4 the financial affidavit. And I don't think that Mr.
5 Nowacki has any evidence that my client leases any
6 property. So I think it's just kind of a fishing
7 expedition.

8 THE COURT: Mr. Nowacki, I --

9 MR. NOWACKI: You know what? When somebody
10 gets remarried, there's a possibility that then,
11 they have income by that joint property -- resulting
12 in getting income that then would be a
13 consideration. And all I'm looking to do is to
14 validate that that's not the case.

15 THE COURT: but she hasn't disclosed any
16 property.

17 *Begins previously billed/produced section*

18 **Rulings of the Court on No. 27**

19 THE COURT: That's too far a field. Sustained.

20

21 *Original material begins here*

22 **28.** Copies of any bonds or memberships in private or
23 professional organizations

24 MR. COLLINS: No. 28, Your Honor, would be
25 akin, I guess, to membership at a country club or
26 something like that. If she has a bond -- I would
27 assume that a bond -- I think that a bond would

1 property be listed as an asset. I don't recall that
2 we have any such asset listed thereon. I'll double
3 check. Ah, no. So, I mean, frankly, I don't think
4 it's discoverable anyway, but I think it's probably
5 a moot point. We don't have a bond listed for any
6 membership in any private -- I guess it's like
7 organizations or a country club or something or a
8 yacht club. I really don't know what he's asking.

9 MR. NOWACKI: Again, the issue is he belonged
10 to a club, whether or not she's now on that
11 membership of that club and therefore whether that
12 bond has any interest attached to it or not as part
13 of her -- of the membership is the issue.

14 *Begins previously billed/produced section*

15 **Rulings of the Court on No. 28**

16 THE COURT: I doubt that that would be the
17 case. She'd have to disclose that. I think that --
18 No, that's too far a field. Sustained.

19

20 *Original material begins here*

21 **29. Proof of claim of charitable contributions**

22 MR. COLLINS: Your Honor, no. 29, he wants
23 proof of her claim of charitable contributions.

24 I got to look and see what they are. But I
25 don't see how they're germane anyway, but --

26 *Begins previously billed/produced section*

27 **Rulings of the Court on No. 29**

1 MR. NOWACKI: Since the tax returns are now
2 part of what I'm going to get a look at, it's sort
3 of makes that in invalid point, now.

4 THE COURT: Okay, so the objection's sustained.
5 Thirty.

6

7 *Original material begins here*

8 **30.** Copies of any or all inheritances and gifts possibly
9 received

10 MR. COLLINS: Well I think this is akin to the
11 gift tax -- the gift tax request. He wants
12 inheritance tax -- I guess -

13 THE COURT: Well, this is the flip side. The
14 other one was me -- was a request that I order her
15 parents or whomever to produce. This is, did she
16 receive?

17 MR. COLLINS: Well the one thing that has been
18 disclosed is she did receive that \$132,000 from her
19 grandmother's estate. It does go back to more than
20 three years ago, though, Your Honor. I would point
21 that out. And certainly, the practice book suggests
22 that three years on tax returns and 24 months on
23 other things --

24 THE COURT: On others, right.

25 MR. COLLINS: So -- and Mr. Nowacki is fully
26 informed as to that distribution from her
27 grandmother's estate. So -- I would say if she

1 received anything -- in all candor, if received
2 anything in the last 24 months, I suppose I can
3 produce that. But other than that, I think it's
4 hard.

5 *Begins previously billed/produced section*

6 **Rulings of the Court on No. 30**

7 THE COURT: Well, I'm going to order that you
8 do that.

9 MR. COLLINS: I will do that.

10 THE COURT: Twenty-four months. Thirty-one.

11

12 31. Copies of all pay stubs from June 29, 2005 to present

13 MR. COLLINS: Well Your Honor, again, I don't
14 know if my client has pay stubs.

15 *Begins previously billed/produced section*

16 **Rulings of the Court on No. 31**

17 THE COURT: I think I dealt with this in the
18 beginning. I think I said that if you -- a current
19 pay stub -- in other words, the last pay stub and
20 any K-1's or W-2's, 1099's -- those will all tell
21 you the differential between with the taxable
22 income, the Medicare income, whatever deductions
23 there were for retirement accounts.

24 MR. NOWACKI: Your Honor, this was specifically
25 addressing what happened in our company when we were
26 allowed to take unrestricted stock options and
27 convert them to restricted stock options, that then

1 showed up as income on my W-2 -- that inasmuch as
2 that is the case for me, ipso facto, I don't know
3 for fact without looking at the individual pay stubs
4 whether or not the same could be true for Suzanne.
5 So all I'm looking to do is to provide an equal
6 playing field here on the information that is
7 pertinent.

8 THE COURT: It might actually be in your
9 client's best interest --

10 MR. COLLINS: I have no objection.

11 THE COURT: -- to disclose that -- in other
12 words -- so otherwise, you're looking at a gross
13 number so that you can at least you can make an
14 argument that -- so --

15 MR. COLLINS: I would just say, I don't know if
16 she could put her hands on all pay stubs. We're in
17 June 15th.

18 THE COURT: No, I'm not ordering all pay stubs.
19 What I'm ordering is any pay stub that reflects a
20 payment as a result of, you know, the negotiation of
21 either an option -- an exercise on an option or the
22 sale of restricted stock -- in other words, that one
23 little snapshot. And I think that helps everybody
24 and again, I'll tie this in with the tax returns,
25 which would be for three years.

26 MR. COLLINS: Your Honor, I think Your Honor's
27 right on point on that, so I have no objection,

1 obviously.

2 THE COURT: I think that's just fair for both
3 of you.

4 MR. COLLINS: I think that concludes it.

5 THE COURT: That looks like -- all right? So
6 everybody all set?

7 MR. NOWACKI: Thank you very much.

8 MR. COLLINS: I think so, Your Honor.

9 THE COURT: Okay.

10 MR. COLLINS: Thank you for the time.

11 # # # #

12

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EST-FA04-0201276-S : SUPERIOR COURT
NOWACKI, SUZANNE : JD STAMFORD/NORWALK
VS. : AT STAMFORD
NOWACKI, MICHAEL : JUNE 15, 2009

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

I hereby certify that the foregoing is a true and accurate transcription of an electronic recording done to the best of my ability, held in the above-entitled matter heard before the Honorable Michael Shay, Judge at Superior Court in Stamford, Connecticut on the 15th day of June, 2009.
Dated this 7th day of July, 2009, at Stamford, Connecticut.

Paul J. McKenna, CET
Transcribing Monitor

Note: This document has been edited in accordance with the *English Guide for Court Reporters*, second edition, by Lillian I. Morson.