

EST-FA04-0201276-S : SUPERIOR COURT  
NOWACKI, SUZANNE : JD STAMFORD/NORWALK  
VS. : AT STAMFORD  
NOWACKI, MICHAEL : JULY 7, 2009

B E F O R E:

THE HONORABLE STANLEY NOVACK

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 - 07.07.09)

2 [begins at: 2:59:00]

3 THE COURT: All right. Let's do Nowacki. Good  
4 afternoon.

5 MR. NOWACKI: Good afternoon, Your Honor.

6 THE COURT: The Clerk just passed up to me --  
7 didn't you do the -- before me is your motion for a  
8 continuance, right, sir?

9 MR. NOWACKI: Yes, Your Honor. (Whereupon the  
10 Court and the Clerk confer)

11 THE COURT: Did you both introduce yourselves?

12 MR. COLLINS: We did not, Your Honor.

13 THE COURT: Why don't you do that?

14 MR. COLLINS: Your Honor, for the record,  
15 Attorney Kevin Collins for the plaintiff, Suzanne  
16 Sullivan, formerly Suzanne Nowacki.

17 MR. NOWACKI: And Michael J. Nowacki,  
18 representing pro se.

19 THE COURT: Before we start on the motion, I  
20 would like to ask your assistance in some  
21 clarification. I'll ask Mr. Nowacki and you can  
22 chime in if you agree or disagree.

23 MR. COLLINS: Yes, Your Honor.

24 THE COURT: And I'm just trying to understand  
25 something. She's getting me a pad so I want to  
26 write it down.

27 As I remember Mr. Nowacki, we started the

1 motion for contempt and we're in the process of  
2 doing that and that's the hearing you want to  
3 continue, I assume? All right.

4 But what I'm confused about -- and that's where  
5 I need your help -- you filed a lot of motions and I  
6 want to know which of these motions we're really  
7 dealing with, okay? If you got them with you or I  
8 can put them out to you and then you can --

9 MR. NOWACKI: No. I have a reasonable memory  
10 of the sequence of events.

11 THE COURT: Okay. Now, I don't have a calendar  
12 for tomorrow but it said certain numbers -- 178,  
13 181, and 182 -- something like that.

14 MR. COLLINS: Well Your Honor, to make a long  
15 story short, the -- we commenced the hearing before  
16 Your Honor in April.

17 THE COURT: Was that the last time we were  
18 here?

19 MR. COLLINS: That's the only time we were here  
20 on these motions. Your Honor had some pressing  
21 matters -- You may have been the only judge on that  
22 day -- and it seemed more prudent if we put the rest  
23 of the day off to another date.

24 THE COURT: Well I know. I remember that part.

25 MR. COLLINS: And I believe that day was June  
26 24<sup>th</sup>, somewhere thereabouts. What happened  
27 subsequent thereto was the Cox-Colon v. Colon matter

1 was set for trial at that time.

2 THE COURT: That isn't what I'm really asking  
3 you.

4 MR. COLLINS: Okay.

5 THE COURT: That's not what I'm asking you.  
6 Here's what I'm asking you.

7 MR. NOWACKI: I think he was directing the  
8 question to me as well.

9 THE COURT: That's true, to start with.

10 MR. COLLINS: No problem.

11 THE COURT: But he was trying to be helpful.

12 MR. NOWACKI: Thank you.

13 THE COURT: Here's what we gotta get at, Mr.  
14 Nowacki and Mr. Collins.

15 My recollection is -- and I don't have it in  
16 front of me -- that the calendar said that we were  
17 going to deal with motions -- these are our numbers;  
18 our file numbers -- 178, 181, and I think 182.

19 Now for example, 178 is a motion that you filed  
20 for modification dated February 13, 2009 and it says  
21 mother's income has risen substantially since June  
22 2005; father's income has declined. That's what it  
23 says there.

24 Then you want to modify pick up procedures and  
25 fair share travel. Is that the financial motion? I  
26 just labeled it financial.

27 MR. NOWACKI: Yes, this would be the financial

1 motion.

2 THE COURT: So no. 178 is the motion about  
3 changing the percentage of contributions?

4 MR. NOWACKI: Yes, Your Honor.

5 THE COURT: So that's the financial motion.  
6 And as I said, that's dated 2/13/09.

7 MR. NOWACKI: Right. And there were preceding  
8 motions to that that date back to September 11<sup>th</sup>,  
9 2008, when I first filed the first motion in regards  
10 to the modifications.

11 THE COURT: I saw that too, but, is this the  
12 last one and the one we're dealing with? That's  
13 what I'm trying to say.

14 MR. NOWACKI: Yes, Your Honor.

15 THE COURT: On that issue?

16 MR. NOWACKI: Correct. But there's a  
17 retroactivity issue here with regards to the  
18 commencement date for those expenses.

19 THE COURT: Well that's assumed. That's why  
20 I'm asking these questions to begin with.

21 MR. NOWACKI: Correct.

22 THE COURT: What motion are you claiming that  
23 you are entitled to retroactive relief?

24 MR. NOWACKI: The motion for modification in  
25 regards to the children's-related expenses.

26 THE COURT: All right. So when was that filed?

27 MR. NOWACKI: That was filed -- the first

1 filing of that was on September 11<sup>th</sup> --

2 THE COURT: Of --

3 MR. NOWACKI: Of 2008.

4 THE COURT: September 11<sup>th</sup>?

5 MR. NOWACKI: Yes. And then there was an  
6 update filed with the Court on September the 23<sup>rd</sup>  
7 because information had changed and that I had not  
8 followed certain procedures that I should have.

9 THE COURT: Well, did you have the seven --  
10 September 11<sup>th</sup>, '08 served upon your former wife as  
11 opposed to in-hand delivery to the other side?

12 MR. NOWACKI: Ah, no. It was delivered to both  
13 of them.

14 THE COURT: By whom?

15 MR. NOWACKI: By Marshal Lauren Caffiero  
16 [phonetic].

17 THE COURT: Well that's what I'm asking you.

18 MR. NOWACKI: Yes, Your Honor.

19 THE COURT: So let me find that one, now. You  
20 say it was September 8<sup>th</sup> --

21 MR. NOWACKI: September 11<sup>th</sup>, I believe was the  
22 original date.

23 THE COURT: September 11<sup>th</sup>, '08. Would you say  
24 that's the first motion?

25 MR. NOWACKI: Yes, Your Honor.

26 THE COURT: First -- motion --

27 MR. NOWACKI: And then there were some

1           revisions, then, on September 23<sup>rd</sup>.

2           THE COURT: Wait a minute. Let's take it step-  
3 by-step.

4           MR. NOWACKI: Right. Okay.

5           THE COURT: First motion for -- I'll say  
6 financial relief, just to use a title, all right?  
7 And let me see if I can find that now.

8           Well, give me the history from your memory. So  
9 then you said there was a revision or something.  
10 Wasn't that wasn't --

11          MR. NOWACKI: There was a revision due to some  
12 inaccuracies which I discovered before the motion  
13 was filed and that I did not follow correct  
14 procedures and I had that September 23<sup>rd</sup> motion  
15 filed, also served.

16          THE COURT: By the same -- Caffiero?

17          MR. NOWACKI: Yes. And then I had it re-served  
18 at the point in time that I also re-submitted the  
19 motions.

20          THE COURT: Now let's take it step-by-step.  
21 You're jumping ahead of me. September 23<sup>rd</sup>, '08 was  
22 a revised first motion?

23          MR. NOWACKI: Yes.

24          THE COURT: All right. In what way was it  
25 revised? Do you know off the top of your head?

26          MR. NOWACKI: It was involving some changes in  
27 regards to income that occurred due to the payment

1 of some bonus money, and an update on the resolution  
2 of, I believe, orthodontic expenses that had been, I  
3 think, resolved by the point in time we got to that.

4 THE COURT: All right. And what did you start  
5 to say about -- after that, you started to tell me.

6 MR. NOWACKI: Okay. Then what I did was when I  
7 re-filed the motions on February 11, I also had  
8 Marshal Caffiero.

9 THE COURT: From February 11<sup>th</sup> was the same  
10 financial motion that we're talking about?

11 MR. NOWACKI: Yes, yes.

12 THE COURT: I want to stick with that one.

13 MR. NOWACKI: Yes. February 11<sup>th</sup>, then, was  
14 served because there was new information, updating  
15 financial affidavits --

16 THE COURT: So that's an update of the same  
17 motion? Financial I'm talking about.

18 MR. NOWACKI: Correct. And when I had the --

19 THE COURT: Updated --

20 MR. NOWACKI: -- the marshal do is I had them,  
21 at that point in time, re-serve, at the same point  
22 in time, the motions from September 11<sup>th</sup> and  
23 September 23<sup>rd</sup>, so that I was correct on all the  
24 procedures.

25 THE COURT: Wait a minute -- updated financial  
26 motion -- that was served by Caffiero plus you had  
27 him serve what?

1           MR. NOWACKI: Re-serve the motions from  
2           September 11<sup>th</sup> and September 23<sup>rd</sup> because I may not  
3           have followed proper procedures. Because at that  
4           point in time --

5           THE COURT: But I thought you told me, though,  
6           you had them do it then -- earlier?

7           MR. NOWACKI: Pardon me?

8           THE COURT: I thought you told me --

9           MR. NOWACKI: I did but unfortunately, it's  
10          very complicated --

11          THE COURT: Well, that's why I'm asking you.

12          MR. NOWACKI: -- is that I had done something  
13          incorrectly. I had filed a motion on September 11<sup>th</sup>  
14          and then between that point in time and the point in  
15          time that they were served, there was updated  
16          information. So instead of having the motion from  
17          September 11<sup>th</sup> served, I had a revised motion dated  
18          September 23<sup>rd</sup> that was filed. And that one turned  
19          out to be, then, the cause for Attorney Colin, who  
20          was then representing my ex-wife, to file a motion,  
21          which should be in the court record, that basically  
22          said that I had not followed proper procedures and  
23          that those motions should be thrown out.

24          THE COURT: What was the time on what the  
25          improper procedures were? Do you know off the top  
26          of --

27          MR. NOWACKI: Was that I basically changed that

1           which was filed with the Court to have been served  
2           on September the 11<sup>th</sup>.

3           THE COURT: Changed it by updating it you said?

4           MR. NOWACKI: By updating it.

5           THE COURT: Okay, so was that acted on, his  
6           motion?

7           MR. NOWACKI: Excuse me?

8           THE COURT: Was his motion to dismiss or  
9           whatever acted on?

10          MR. NOWACKI: No, it never was.

11          THE COURT: Okay, so go on. What's the next  
12          step? The next step is --

13          MR. NOWACKI: Then on March the 9<sup>th</sup>, I believe  
14          there was a motion for contempt -- I believe --

15          THE COURT: Hold on one second before you get  
16          there. The one I just read was February the 13<sup>th</sup>.  
17          That's the one instead of February 11<sup>th</sup>, right?

18          MR. NOWACKI: Correct.

19          THE COURT: All right. So that's actually no.  
20          178?

21          MR. NOWACKI: That is correct, Your Honor.

22          THE COURT: So as far as financial motions are  
23          concerned, that's it?

24          MR. NOWACKI: That's it as of today, yes.

25          THE COURT: Now -- so then, am I correct that  
26          what your claim is that all these were revisions of  
27          the first one and your relief you're asking for, if

1           you get any, should be retroactive to September 11<sup>th</sup>  
2           of '08?

3           MR. NOWACKI: That is correct, Your Honor.

4           THE COURT: Now let's get to the contempt ones.  
5           What's the history of the contempt motions?

6           MR. NOWACKI: Well, there continued to be  
7           problems in regards to the execution of the  
8           parenting plan --

9           THE COURT: Well, before you go -- I'm sorry --  
10          I'm sorry for interrupting you.

11          MR. NOWACKI: No.

12          THE COURT: One-eighty-one says the same  
13          things, almost, if you said it in 178, and that was  
14          filed March the 9<sup>th</sup>. It says plaintiff's income has  
15          risen substantially; defendant is applying for two-  
16          step modification. Now isn't that financial too?

17          MR. NOWACKI: Well, that is the beginning of  
18          the contempt motion that deals with the subject of  
19          the sharing of expenses and how that was being  
20          inhibited by virtue of the delays in the hearings on  
21          the motions for modification.

22          THE COURT: So I just want to clarification; I  
23          don't want to reinvent the wheel. So you're saying  
24          that the March 9<sup>th</sup>, 2009 motion was the first motion  
25          involving basically contempt?

26          MR. NOWACKI: Yes, Your Honor.

27          THE COURT: Then I'm just going to write that

1 down. Because you say a lot of things in that  
2 motion that you said in the earlier ones?

3 MR. NOWACKI: Correct.

4 THE COURT: That's what confused me --  
5 partially.

6 MR. NOWACKI: Sometimes I get confused, Your  
7 Honor, as well.

8 THE COURT: All right. Well that makes me feel  
9 better anyway. That's your first motion -- I'll say  
10 first motion. I don't know whether there are others  
11 or not -- re: contempt. And that's the one we  
12 started the hearing on the last time?

13 MR. NOWACKI: Yes, Your Honor.

14 THE COURT: Were there any other subsequent  
15 motions involving the issue of contempt after that?

16 MR. NOWACKI: No, Your Honor.

17 THE COURT: Wait a minute. Now 182 is March 9<sup>th</sup>  
18 of '09. It says "has fraudulently filed expenses  
19 for plaintiff's husband" -- healthcare insurance and  
20 so forth. What's that?

21 MR. NOWACKI: Those were developments that  
22 occurred subsequent to --

23 THE COURT: Oh, so your procedure you believed  
24 was every time something changed, you had to file a  
25 whole new motion? That's what you were doing?

26 MR. NOWACKI: That may have been.

27 THE COURT: But that's all part of the motion

1 for contempt?

2 MR. NOWACKI: That is correct, Your Honor.

3 THE COURT: So that's encompassed in 181, plus?

4 MR. NOWACKI: Yes, Your Honor.

5 THE COURT: Okay. It's 182, just for your  
6 information.

7 MR. NOWACKI: Okay, Your Honor. Thank you.

8 THE COURT: Not that that makes any difference.  
9 All right. It's an expansion of claims -- this is  
10 helpful, thank you -- expansion of claims under 181.  
11 Does this ask for financial relief too in 182?

12 MR. NOWACKI: Well it was attempting to get the  
13 Court to make an interim arrangement while we were  
14 awaiting a court date.

15 THE COURT: All right, was this served by  
16 Caffiero too?

17 MR. NOWACKI: Yes, sir. It may not have been  
18 Caffiero. Actually, that was signed by State  
19 Marshal Paul L. Verrili [phonetic]?

20 THE COURT: I don't care. One-eighty-one and  
21 two were both served by marshals?

22 MR. NOWACKI: Yes, sir.

23 THE COURT: By Verrili?

24 MR. NOWACKI: Yes, Your Honor. And I believe -  
25 -

26 THE COURT: Go ahead.

27 MR. NOWACKI: I believe you would agree with

1           that?

2           THE COURT: I'm going to ask him that in a  
3 minute.

4           MR. NOWACKI: Okay.

5           THE COURT: So is it fair to say that that's  
6 the extent of it?

7           MR. NOWACKI: Ah, well no, there were -- I will  
8 then bring you up to date, Your Honor, with kind of  
9 where we stand.

10          THE COURT: I'll get to that in a minute. I'm  
11 just talking about the pending motions I've got to  
12 rule on.

13          MR. NOWACKI: Yes, Your Honor.

14          THE COURT: So once more, and then I'm going to  
15 ask Mr. Collins. We'll say they're two main areas.  
16 You've expanded into a lot of other things but two  
17 main areas. One is the contempt, which we're  
18 hearing now. And that's covered by 181 and 182.  
19 And all the other motions are extensions and  
20 expansions and revisions of the initial 911 motion  
21 for money -- financial? Is that --

22          MR. NOWACKI: That is correct, Your Honor.

23          THE COURT: Mr. Collins, just from a historical  
24 standpoint -- I'm not saying whether you agree or  
25 disagree with anything. Do you dispute any of that  
26 as far as procedure is concerned of what the --

27          MR. COLLINS: Well --

1 THE COURT: I'm not asking for --

2 MR. COLLINS: Your Honor, I reserve my rights.  
3 How's that? I mean, I didn't -- I wasn't retained  
4 in this case until early March. So whatever  
5 happened before early March, I cannot speak to with  
6 any great particularity.

7 THE COURT: Okay, you can reserve your rights.

8 MR. COLLINS: I think that Mr. Nowacki's  
9 motions are in the nature of speaking motions. Some  
10 of them are 12-15 pages long.

11 THE COURT: You don't have to get into that.  
12 That isn't the purpose of it.

13 MR. COLLINS: I just reserve my rights.

14 THE COURT: You can do fine, that's okay. Now  
15 let's get to what we're here for today. You filed -  
16 - we're down for a hearing tomorrow morning, 9:30.  
17 And you filed a motion for continuance and you say  
18 discovery not complete? Now please expand that --  
19 why you're asking for a continuance.

20 MR. NOWACKI: Yes, Your Honor. On roughly  
21 April the 10<sup>th</sup>, I sent a request for production to  
22 Attorney Collins. As you remember, we were in court  
23 in front of Your Honor on April the 29<sup>th</sup>.

24 THE COURT: That's when you were here. All  
25 right.

26 MR. NOWACKI: There was an objection to the  
27 production of those materials requested in my April

1           10<sup>th</sup> motion or request, I should say, that was filed  
2           by Attorney Collins the day before our hearing. As  
3           you remember, that made the possibility that we  
4           could get a modification on the table impossible  
5           because there was no production of information that  
6           would validate the statements that were in the  
7           financial affidavit.

8           THE COURT: All right. Go ahead.

9           MR. NOWACKI: So then what happened was, we  
10          adjourned after a couple of hours of questions --  
11          that when Suzanne Sullivan was on the witness stand.  
12          I then awaited for the scheduling of the objections  
13          to the production. And that after waiting about  
14          four weeks, I picked up the phone and called Norm  
15          Roberts to find out as to why those matters had not  
16          been placed on the short calendar. Mr. Roberts  
17          informed me that because the only thing that was  
18          truly a court motion was the objections that were  
19          filed by Attorney Collins, that therefore, it was  
20          actually his responsibility to mark those motions  
21          ready.

22          And Mr. Roberts then gave me an information  
23          that said that, however, I could mark those motions  
24          ready if I felt as though the production that I was  
25          requesting was being impeded by virtue of the delays  
26          due to other court matters that Mr. Collins has kept  
27          me informed of but was inhibiting our being able to

1           move forward the only issue that's on my docket,  
2           which is to resolve issues in the best interest of  
3           our two children.

4           So then what happened was that on June 15<sup>th</sup>, we  
5           were placed on the short calendar in front of Judge  
6           Shay. And Judge Shay made rulings consistent with  
7           the practice book, sections 25-31 and 25-32, that  
8           gave the order from the Court to deliver that  
9           documentation to me --

10          THE COURT: So he granted your motion?

11          MR. NOWACKI: That is correct. Not all  
12          portions of the motion.

13          MR. COLLINS: No, no, no, no. That's not  
14          accurate. First of all, he had no motion pending,  
15          to my recollection. I had a motion pending; I had  
16          objections pending.

17          THE COURT: Well he claimed your motion, he  
18          said that --

19          MR. COLLINS: Well he claimed them but they're  
20          my motions.

21          THE COURT: Well, let him finish.

22          MR. NOWACKI: So --

23          THE COURT: So he granted some and denied some?

24          MR. NOWACKI: That's correct.

25          THE COURT: And what was the date of that  
26          order?

27          MR. NOWACKI: That was entered on the court

1 record on June 15<sup>th</sup>.

2 THE COURT: And did he give you a date in which  
3 it had to be complied with?

4 MR. NOWACKI: There was no specific date of  
5 compliance that was in that motion.

6 THE COURT: So June 15<sup>th</sup>, go ahead, he acted on  
7 it?

8 MR. NOWACKI: Right. So then I came up on  
9 roughly June 28<sup>th</sup>, where then counselor had filed  
10 motions on June 11<sup>th</sup> that were served upon me,  
11 suggesting that his client was making an application  
12 to change the custody of the children and have a  
13 study done.

14 THE COURT: When was that? I'm sorry.

15 MR. NOWACKI: That was sent to me on June 11<sup>th</sup>.  
16 Correct, counselor?

17 MR. COLLINS: I can't speak to that.

18 MR. NOWACKI: Okay, I remember the date very  
19 specifically.

20 THE COURT: So you got served with a motion to  
21 modify -

22 MR. NOWACKI: I got served a motion to appoint  
23 --

24 THE COURT: To modify custody?

25 MR. NOWACKI: Yes, to appoint a --

26 THE COURT: Guardian Ad Litem or something like  
27 that?

1 MR. NOWACKI: No. An attorney for the minor  
2 children -

3 THE COURT: All right.

4 MR. NOWACKI: Because the Guardian Ad Litem  
5 preferred not to be involved from this point  
6 forward.

7 THE COURT: Okay.

8 MR. NOWACKI: And then there was also a motion  
9 for a psychological study of just the defendant --  
10 was the way the motion was --

11 THE COURT: So you got those two motions served  
12 on you?

13 MR. NOWACKI: Right. Plus a motion for a  
14 psychological study of just the defendant -- is how  
15 the motion was actually written.

16 THE COURT: All right.

17 MR. NOWACKI: Then also a motion for counsel  
18 fees, which was not heard on June the 28<sup>th</sup>.

19 THE COURT: June 28<sup>th</sup> when you appeared before  
20 Judge Shay and he entered those orders on  
21 production?

22 MR. NOWACKI: No. Judge, June [sic] 15<sup>th</sup> was  
23 the --

24 THE COURT: So what was June 28<sup>th</sup>?

25 MR. NOWACKI: June 28<sup>th</sup> was the short calendar  
26 hearing --

27 THE COURT: On what?

1 MR. NOWACKI: -- in front of Judge Malone, on  
2 the three issues relating to the change in custody  
3 and the appointment of a Family Relations study.

4 THE COURT: All right, I got you. Go ahead.

5 MR. NOWACKI: So what happened was, on June 15<sup>th</sup>  
6 when we exited the courtroom, I reminded Attorney  
7 Collins that there had been information that had  
8 been delivered to my doorstep, some 1099's, that had  
9 been left in a driving rainstorm, you may recollect,  
10 that were completely waterlogged and illegible, and  
11 would he please -- again, for about the tenth time I  
12 requested this -- resend that which had been sent  
13 back in, I would say, maybe the 22<sup>nd</sup> of April or  
14 somewhere, four or five days before the scheduled  
15 hearing on June -- on April the 29<sup>th</sup>.

16 And that I've yet to receive a copy of anything  
17 in regards to production that was Court ordered. So  
18 I came here and ordered up an expedited transcript  
19 which Mr. Paul McKenna then actually expedited for  
20 me because I was having a great deal of difficulty  
21 with counsel delivering the materials that would  
22 have been pertinent for this hearing that is  
23 scheduled for tomorrow. 3:20:00 [prev. proofed to  
24 here]

25 THE COURT: So your bottom line is that the  
26 order that Judge Shay entered hasn't been complied  
27 with as far as you're concerned?

1 MR. NOWACKI: That is correct.

2 THE COURT: Is that basically it?

3 MR. NOWACKI: Right. And it's impeding my  
4 ability to be able to legitimately put together my  
5 case for the modifications based on income.

6 THE COURT: So what is it that you're  
7 requesting today, then?

8 MR. NOWACKI: So basically because, as of  
9 today, I still have not received not even an iota of  
10 information in regards to that which is legible from  
11 Attorney Collins or his client, that I have had to,  
12 then, file a motion for continuance on Thursday  
13 because it was very apparent to me that there was no  
14 intention to comply with the Court order which I  
15 quoted to Mr. Collins from, because I'm not sure  
16 whether or not Mr. Collins had picked up his own  
17 copy of the court order.

18 THE COURT: All right. I understand.

19 MR. NOWACKI: All right, so then, what it  
20 required me to do, on July the 2<sup>nd</sup>, when I came down  
21 to court, I also filed a motion of contempt, knowing  
22 that because Judge Shay had not ordered this  
23 production be delivered in a specified period of  
24 time, that counsel had within 30 days to deliver me  
25 that information and had no intention of doing  
26 anything other than to put me through the gristmill,  
27 to cause me to take more time off from work in order

1 to be able to get that which the Court has ordered.  
2 And that's the reason why we're here today is to  
3 heretofore, even as early as today, I again  
4 requested, when he came to court, to provide me with  
5 the documents as ordered by the Court on June 15<sup>th</sup>.

6 THE COURT: All right. I understand. You  
7 don't have to spell it out to that extent.

8 (Whereupon the Court and the Clerk briefly confer)

9 All right. You're turn.

10 MR. NOWACKI: And that there are other issues I  
11 would like to bring to the attention of the Court in  
12 regards to --

13 THE COURT: In reference to your motion for  
14 continuance?

15 MR. NOWACKI: Yes.

16 THE COURT: Well, do them now.

17 MR. NOWACKI: In regards to what I believe to  
18 be extortion, on behalf of the counselor as it  
19 relates to a requirement, which is not in Judge  
20 Shay's order, for me to sign a confidentiality  
21 agreement in regards to the information that is  
22 involved in the production.

23 And that the motivation for my rejection of  
24 that motion for modification has to do with issues  
25 that I'm sure Mr. Collins is going to have his own  
26 opinion -- and we'll have the opportunity to discuss  
27 that in front of Your Honor -- that have to do with

1 the discovery in February of 2009 of a check that  
2 was --

3 THE COURT: You know, you're anticipating a lot  
4 of things he may or may not say. So save it and  
5 I'll give you a chance --

6 MR. NOWACKI: Okay.

7 THE COURT: -- but it's not sinking in --

8 MR. NOWACKI: Well, this relates to --

9 MR. COLLINS: Well, Your Honor, actually, I  
10 prefer this --

11 MR. NOWACKI: -- this relates to.

12 MR. COLLINS: I prefer this. I don't mind.

13 THE COURT: All right, then explain --

14 MR. COLLINS: He can anticipate -

15 MR. NOWACKI: All right -- okay --

16 MR. COLLINS: -- he can anticipate away.

17 THE COURT: Go ahead, then.

18 MR. NOWACKI: Actually, what happened was in  
19 February of 2009, as I'm preparing my motions for  
20 modification -- and this pre-dates Attorney Collins'  
21 involvement with the case.

22 THE COURT: February of '09 but you started in  
23 September of '08?

24 MR. NOWACKI: Correct. But let me explain what  
25 I discovered, okay?

26 THE COURT: All right. Go ahead.

27 MR. NOWACKI: There was a check or copy of a

1 wire transfer that I discovered in my files that was  
2 sent to Suzanne Sullivan, or Suzanne Nowacki at that  
3 point in time. It was a wire transfer that came  
4 from the Swiss Bank Corporation.

5 At that point in time, Your Honor, you may  
6 remember that the Wall Street Journal, if you  
7 happened to have seen the articles, started to do a  
8 series of reports, in the Wall Street Journal, that  
9 related to money that has been shipped off-shore to  
10 avoid capital gains tax and estate taxes. And I  
11 immediately, upon the discovery of that -- and you  
12 can see in the motions that were filed for contempt  
13 on September the 9<sup>th</sup> -- you will see a reference  
14 point --

15 THE COURT: September the 9<sup>th</sup> of what year?

16 MR. NOWACKI: Pardon me?

17 THE COURT: Whose motion for contempt on  
18 September 9<sup>th</sup>?

19 MR. NOWACKI: That's my motion for contempt  
20 that was --

21 THE COURT: September 9<sup>th</sup> of what year?

22 MR. NOWACKI: I'm sorry. No, March 9<sup>th</sup>. I'm  
23 sorry, Your Honor.

24 THE COURT: Of this year?

25 MR. NOWACKI: Of this year -- that that  
26 contempt motion makes specific references to this  
27 check that was wire transferred directly into an

1 account two days after the parenting agreement was  
2 signed on January the 18<sup>th</sup>, 2005.

3 This wire transfer -- I did not, at the point  
4 in time that I made a copy of that wire transfer to  
5 put into my files -- I did not look at who the  
6 issuing bank was, only that the wire transfer did  
7 show up in the financial affidavit for Suzanne  
8 Nowacki, at that period of time, on a financial  
9 affidavit that I have in my possession that goes  
10 back to March of 2005.

11 So when I discovered this --

12 THE COURT: You discovered this when?

13 MR. NOWACKI: This, in February 2009. I looked  
14 at that wire transfer and suddenly realized that the  
15 issuing bank was the Swiss Bank Corporation as I'm  
16 also reading about the possibility here that money  
17 may have been sequestered because this money was  
18 sent to Suzanne Nowacki as a distribution from the  
19 estate of her grandmother --

20 THE COURT: So well what's the point of your  
21 investigating --

22 MR. NOWACKI: The point of all this is --

23 THE COURT: And you found this. All right.

24 MR. NOWACKI: The point of this is this, okay,  
25 that if I'm aware of, all right, the possibility  
26 that there was, during the time that we were married  
27 in 2005, I could be considered culpable, since I

1           have a copy of this wire transfer, in the event that  
2           there were illegalities in regards to this money  
3           having been stored in the context of the IRS's  
4           announced initiative for overseas voluntarily --

5           THE COURT: What did you do you as a result of  
6           that? I get the picture. You don't have to spell  
7           it out in great detail.

8           MR. NOWACKI: So what I did was inform Attorney  
9           Colin, at that point --

10          THE COURT: What was this date -- just a date  
11          approximately.

12          MR. NOWACKI: I'm guessing in late February --

13          THE COURT: Of this year?

14          MR. NOWACKI: I don't have the exact date --

15          THE COURT: All right -- this year.

16          MR. NOWACKI: After I got the check --

17          THE COURT: You told him --

18          MR. NOWACKI: -- I immediately informed  
19          Attorney Colin of the existence of the check and in  
20          a series of rather -- I would say rather contentious  
21          e-mails that existed between Attorney Colin and I, I  
22          basically said that I was putting that information  
23          into my contempt motion because I was of the belief  
24          that Attorney Colin was in possession of materials  
25          that could, in fact, implicate his client in the  
26          possibility of tax fraud and tax avoidance.

27          THE COURT: Mr. Nowacki, this is interesting

1 but what's it got to do with a motion for  
2 continuance of this hearing tomorrow?

3 MR. NOWACKI: Okay, because here's what  
4 happened. It relates to the confidentiality  
5 agreement that Attorney Collins was requiring me to  
6 sign --

7 THE COURT: Confidentiality as to what?

8 MR. NOWACKI: As to the production and the  
9 review of the production that was ordered by Judge  
10 Shay on June the 15<sup>th</sup>.

11 THE COURT: All right.

12 MR. NOWACKI: He wanted me to sign a  
13 confidentiality agreement and I requested that  
14 Attorney Collins provide me with an agreement that  
15 would exonerate me from any knowledge, as required  
16 in the separation agreement under §10.1 of the  
17 separation agreement regarding taxes. Attorney  
18 Collins not only refused to give me that letter but  
19 then basically said that the only way, and is quoted  
20 on a number of e-mails was: "No confidentiality  
21 agreement; no production."

22 THE COURT: So that goes to your argument that  
23 that was the extortion you're talking about?

24 MR. NOWACKI: That's exactly correct.

25 THE COURT: So you're in the situation today is  
26 you can't get what you need unless you submit to  
27 their request of signing a confidentiality

1 agreement?

2 MR. NOWACKI: Right. And because I was in the  
3 possession of this information now for three months,  
4 I informed Attorney Collins in very clear terms that  
5 the IRS had a window of opportunity to voluntarily  
6 comply with the IRS regulations and avoid criminal  
7 and civil penalties if the client -- if Suzanne --  
8 and her family, who may be implicated in this --  
9 actually did volun -- I gave her the full  
10 opportunity to volunteer, which is what the IRS  
11 required.

12 THE COURT: All right.

13 MR. NOWACKI: So on July the 1<sup>st</sup>, at  
14 approximately 4 p.m., I sent the IRS whistleblower  
15 office in Washington, DC, a document --

16 THE COURT: July 5<sup>th</sup> you said?

17 MR. NOWACKI: July 1<sup>st</sup> --

18 THE COURT: Okay.

19 MR. NOWACKI: That arrived and was picked up on  
20 July 2<sup>nd</sup> at 11:01 a.m.

21 THE COURT: All right. So you informed  
22 Internal Revenue of what the situation was?

23 MR. NOWACKI: Correct, because I had to protect  
24 my interests.

25 THE COURT: Nobody is criticizing you at this  
26 point.

27 MR. NOWACKI: Well, but I'm anticipating what

1 Attorney Collins is going to say here, okay?

2 THE COURT: Well, I don't know that --

3 MR. NOWACKI: And I had to protect my interests  
4 because I could go to jail in the event that I was  
5 aware of the existence of this money and the  
6 transfer of this money --

7 THE COURT: I understand, sir. You don't have  
8 to tell me over and over again. I really catch on,  
9 okay?

10 MR. NOWACKI: Okay.

11 THE COURT: Now, can we give him a chance to  
12 talk?

13 MR. COLLINS: Your Honor, if he's done, I'm  
14 ready, but I want to address everything Mr. Nowacki  
15 has to say in one fell swoop. So if he's done, I  
16 would appreciate --

17 THE COURT: Well, I assume you're done?

18 MR. NOWACKI: Okay. I want to say -- the only  
19 thing I would like to say is that Attorney Collins  
20 had multiple opportunities during this window, after  
21 Judge Shay made his order on June 15th, to have  
22 provided me with information that would have  
23 exonerated his client from any wrongdoing.

24 My affidavit with the IRS basically addresses  
25 four issues.

26 THE COURT: I don't want to know them now,  
27 okay?

1 MR. NOWACKI: All right, fine.

2 THE COURT: Thank you.

3 MR. NOWACKI: I'll address those with Attorney  
4 Collins.

5 THE COURT: Fine. Thank you.

6 MR. NOWACKI: Thank you.

7 THE COURT: All right, now, uninterrupted, you  
8 can say what you'd like to say.

9 MR. COLLINS: Thank you, Your Honor. Your  
10 Honor, Mr. Nowacki has something of a wild  
11 imagination and the requirement -- or the issue of  
12 the confidentiality agreement was raised during the  
13 hearing with Judge Shay on June 15<sup>th</sup>. And Judge Shay  
14 opined that there would be no sealing of the file.  
15 So -- and these are my words, not his -- that  
16 essentially, a confidentiality agreement perhaps  
17 would be something of a moot point because if  
18 something was introduced as evidence during a trial,  
19 it would not be sealed and hence, there really would  
20 be no confidentiality. So if Mr. Nowacki's position  
21 is that Judge Shay's orders are not conditioned upon  
22 confidentiality, that is a correct statement.

23 Nonetheless, we discussed confidentiality on  
24 the record that day. And I think the judge said as  
25 the judge said. He didn't say there wasn't; he  
26 didn't say there was to be a confidentiality  
27 agreement but he did -- he being Judge Shay --

1 discuss the practical value of a confidentiality  
2 agreement.

3 Now, that said, after we left that day -- well,  
4 let me get to why there's a request for a  
5 confidentiality agreement. Mr. Nowacki -- the  
6 former Mrs. Nowacki, and the current husband of my  
7 client are all in the same business with  
8 competitors.

9 One, Mr. Nowacki works for CBS. One, Mr.  
10 Barrington, my client's husband, works for NBC. And  
11 one, my client works for Fox. And they all do the  
12 same thing. They all sell advertising. They're all  
13 drinking from the same trough, so to speak.

14 What happens is, is when Judge Shay says I  
15 think that you are bound by 25-32 of the practice  
16 book -- three years tax returns, two years financial  
17 production, which is what it says in 25-32. That  
18 necessarily implicates Mr. Barrington and his  
19 private information. And Mr. Nowacki makes an  
20 argument under Unclebach [phonetic] and so forth  
21 that it's all germane. And perhaps it is on some  
22 level. But the point is, is that the request for a  
23 confidentiality agreement is not because we have any  
24 fears about any IRS complaint that Mr. Nowacki has  
25 been threatening for months to file --

26 THE COURT: Let me stop you. Did Judge Shay  
27 rule on that point?

1           MR. COLLINS: He didn't rule either way but  
2           needless to say, without ruling on it, there is no  
3           order that there is a confidentiality agreement.

4           THE COURT: Well, did you want a  
5           confidentiality agreement?

6           MR. COLLINS: I did, and in fact --

7           THE COURT: For what purpose, though?

8           MR. COLLINS: To protect the information  
9           relative to Mr. Barrington.

10          THE COURT: Oh, I see. I see.

11          MR. COLLINS: Not because of any threat of IRS  
12          repercussions. We think that the IRS thing is just  
13          silly.

14          THE COURT: All right. So that was the purpose  
15          of that. But Judge Shay did not rule on that?

16          MR. COLLINS: It wasn't really in front of him.

17          THE COURT: All right. Okay.

18          MR. COLLINS: But it was, in colloquy -- in  
19          colloquy, it came up.

20          THE COURT: All right. So go on from there.

21          MR. COLLINS: And subsequently, Mr. Nowacki and  
22          I had some back and forth about a confidentiality  
23          agreement. And indeed, he even proposed some  
24          modification to what I had drafted. I actually  
25          drafted a mutual confidentiality agreement. Mr.  
26          Nowacki has been complaining for some time that Mr.  
27          Barrington, my client's present husband, has been

1           interfering with his work relationship at CBS. I  
2           thought Mr. Nowacki would be as interested in a  
3           confidentiality agreement as would Mr. Barrington  
4           and Ms. Sullivan, because it was a mutual agreement  
5           and it would protect of them. I put a liquidated  
6           damages clause in it and so forth.

7           Mr. Nowacki sent me back some points that he  
8           wanted to modify with and I said to him, in an e-  
9           mail, the way we do things is just redline what you  
10          want to change. I'll look at it; I'll take it to my  
11          client. We'll see what we could do.

12          Then one day, Mr. Nowacki woke up and said, no  
13          confidentiality agreement. And as I said to Mr.  
14          Nowacki, well I have grave concerns about the  
15          confidentiality, particularly of Mr. Barrington's  
16          items because he too is a competitor.

17          Now, it is a fact that on the request for  
18          production, I'm going to say, give or take, two-  
19          thirds of the requests, the objections were  
20          sustained. So -- but the vast majority of the  
21          objections were sustained.

22          Indeed, Judge Shay did not rule on when  
23          compliance was to be made. So there is no order in  
24          that regard. To my recollection, there was a --  
25          there's a practice book provision that the 30 days  
26          to respond or object is extended to 30 days from the  
27          point of when the Judge rules.

1           In fact, I've proven myself wrong in that  
2           regard. The practice book provides that after a  
3           hearing on a request for production, production has  
4           to be made pursuant to when the ruling judge says it  
5           has to be made. And in fact, Judge Shay didn't say  
6           when production had to be made. I was operating  
7           under the assumption that I had 30 days, which would  
8           bring us to July 15<sup>th</sup>. But the reality is, Mr.  
9           Nowacki, by filing a motion for contempt against me,  
10          um -- has now made me go back and look at the  
11          practice book again, and low and behold, I not only  
12          have 30 days, it's open-ended.

13           Now I don't intend, necessarily, to go on  
14          forever and take this back, but I really -- I'm  
15          under no present compulsion to produce anything.  
16          Now the practice book section is 13-10.

17           That said whether I was right on 30 days or  
18          right now, which I am on the issue of -- Judge Shay  
19          didn't, you know -- then we're not in violation of  
20          anything that Judge Shay had ordered.

21           THE COURT: Well, what is all this -- I let you  
22          talk about it because I let Mr. Nowacki talk about  
23          it.

24           MR. COLLINS: Right

25           THE COURT: What's that got to do with this  
26          motion for continuance for tomorrow? I'm confused.

27           MR. COLLINS: Your Honor, the reason I oppose

1 the continuance for tomorrow --

2 THE COURT: Yeah, that's what I'd like to know.

3 MR. COLLINS: As I have told Mr. Nowacki in my  
4 e-mail was this:

5 I understand that he feels prejudiced that he  
6 can't go forward tomorrow until he has production.  
7 And that's the gravamen of his position.

8 THE COURT: Yeah.

9 MR. COLLINS: But the problem I have is this,  
10 Your Honor:

11 And that is, the Court file will reflect that I  
12 have filed a motion for contempt, because what Mr.  
13 Nowacki has done, is he's determined, unilaterally  
14 and on his own, that the percentage of how the  
15 child-related expenses are to be paid, can be  
16 unilaterally altered by him, not pursuant to a court  
17 order.

18 Forget retroactivity. He's already done it  
19 retroactively. And he continues to do it on a  
20 going-forward basis.

21 THE COURT: What? Forty-nine percent?

22 MR. COLLINS: Well, no. It was 65/35.

23 THE COURT: No, no. What is he doing?

24 MR. COLLINS: He wants to do 50/50.

25 THE COURT: No. Has he been paying 50/50?

26 MR. COLLINS: Yes.

27 THE COURT: Oh.

1 MR. COLLINS: Yes. The answer is yes.

2 THE COURT: Actually, his motion says 49  
3 percent but 50/50's close enough.

4 MR. COLLINS: I think he's been paying 50/50.  
5 But in any event, I may be wrong but --

6 THE COURT: Whatever.

7 MR. COLLINS: I can stand corrected.

8 THE COURT: So you filed a motion for contempt  
9 because --

10 MR. COLLINS: Because he's self-helping --

11 THE COURT: Because he's 15 percent less than  
12 the order. Is that what you're doing?

13 MR. COLLINS: Yes.

14 THE COURT: Yeah.

15 MR. COLLINS: And that's already filed. But  
16 then, he sends this e-mail to my client the other  
17 night when she's requesting that Tim, the son, go  
18 into tennis. And he says as follows:

19 "Until the judge makes a decision on who is  
20 paying for what, I am in a spending freeze."

21 Now we got a problem. This is a week ago  
22 today.

23 MR. NOWACKI: The date of that e-mail, Kevin?

24 THE COURT: What do you --

25 MR. COLLINS: The date of that e-mail is June  
26 30, 2009.

27 THE COURT: What do you interpret spending

1 freeze? You mean on extra activities that aren't  
2 covered on Schedule B or zero?

3 MR. COLLINS: I don't know how to interpret it.

4 THE COURT: We'll find out in a minute. But go  
5 ahead.

6 MR. COLLINS: So the point I'm making is, if  
7 he's waiting for Your Honor to rule before he pays  
8 for -- you see, he can withhold consent to certain  
9 extracurricular activities and then one of two  
10 things happens. Either it doesn't happen or my  
11 client pays for all of it. So here's the problem we  
12 face:

13 He's requesting a motion for a continuance and  
14 he's saying, in another breath, I'm not either  
15 agreeing to certain extracurriculars and indeed,  
16 he's got a subsequent e-mail that says tennis  
17 lessons aren't in the Schedule B. Okay?

18 So what he's really saying is I'm not agreeing  
19 to anything beyond the four corners of Schedule B  
20 until Your Honor rules. And I'm self-helping from  
21 back to September of last year, changing,  
22 unilaterally, the percentage which is written in the  
23 agreement. He may or may not be entitled to  
24 retroactivity until then. But that's up to Your  
25 Honor.

26 THE COURT: So what's your objection to the --

27 MR. COLLINS: The spending freeze. The longer

1 we go, the longer he does this.

2 THE COURT: Well, let me stop you for a minute,  
3 even though I said I wouldn't do that. But just a  
4 short answer, okay?

5 Spending freeze means things not on Schedule B  
6 or zero?

7 MR. NOWACKI: The timing of that e-mail and the  
8 reference point I then clarified to Mr. Collins --  
9 if he wants to look it up, he can, since he's got  
10 his Blackberry that goes directly to his AOL account  
11 and I do not, so I can't look up my response. I  
12 gave him a clarification of what a spending freeze  
13 meant.

14 THE COURT: Well tell me.

15 MR. NOWACKI: On June 28<sup>th</sup>, the judge made  
16 determinations that he was going to -- Judge Malone  
17 -- was going to make determinations as to who was  
18 going to responsible for the appointment of the --  
19 the cost for the attorney for the minor children and  
20 for the cost for the psychiatric examination.

21 THE COURT: So he granted those motions but he  
22 deferred the decision as to who was going to pay it?

23 MR. NOWACKI: That is correct.

24 THE COURT: All right.

25 MR. NOWACKI: So on June 30<sup>th</sup>, which is two  
26 after, my reference point, which was clarified again  
27 to Attorney Collins when he asked me about this

1           continuance -- and I believe, Mr. Collins, if you  
2           check our records, you will see that that e-mail was  
3           sent on July the 1<sup>st</sup> -- the day before the  
4           continuance was filed -- that what I said to  
5           Attorney Collins is I don't have an open-ended  
6           checkbook. The reason why I'm representing myself  
7           in this action --

8           THE COURT: Answer the question. Are you  
9           intending to pay zero or just for things that aren't  
10          --

11          MR. NOWACKI: Things that are discretionary  
12          I've had to make a spending freeze on.

13          THE COURT: All right. That's what you meant -  
14          -

15          MR. NOWACKI: Yeah.

16          THE COURT: -- as opposed to paying zero.

17          MR. NOWACKI: Absolutely not.

18          THE COURT: Okay, fine.

19          MR. NOWACKI: And I clarified that.

20          THE COURT: Does that make a difference to you?

21          MR. COLLINS: Well, he says he's not -- the  
22          problem is, is that he stonewalls anything that  
23          doesn't fit within the four corner of Schedule B.  
24          So he's basically saying that he is vetoing anything  
25          that he doesn't have to pay for --

26          THE COURT: I hear you. I understand you.

27          MR. COLLINS: -- and then when he does pay,

1 he's self-helping.

2 THE COURT: I hear ya. Now you file a motion  
3 for contempt that will address those issues, right?

4 MR. COLLINS: Well, not the spending freeze  
5 issue because that's just a week ago today.

6 THE COURT: No. That won't address the  
7 spending freeze.

8 MR. COLLINS: I filed a motion for contempt  
9 that addresses the self help.

10 THE COURT: Okay. And also, I've heard that  
11 you filed -- your client a motion to modify custody?

12 MR. COLLINS: That's returnable by order to  
13 show cause August 3<sup>rd</sup>.

14 THE COURT: What does she want? What's your  
15 claim that she wants?

16 MR. COLLINS: Well Your Honor, I think she  
17 wants primary physical custody of the kids. The  
18 joint legal custody issue is not working between the  
19 -- they --

20 THE COURT: So she wants to change the --

21 MR. COLLINS: Co-parenting has now become  
22 impossible.

23 THE COURT: She wants to change the whole  
24 arrangement and go back to sole legal custody?

25 MR. COLLINS: That's correct, Your Honor.

26 THE COURT: Okay.

27 MR. COLLINS: And that's why we filed those

1 other motions, which were not brought by way of an  
2 order to show cause that were before Judge Malone on  
3 June 28<sup>th</sup>.

4 THE COURT: Okay. Let me ask you a couple of  
5 questions, Mr. Collins.

6 MR. COLLINS: Yes, Your Honor.

7 THE COURT: Um -- have you resolved -- made a  
8 decision -- I say you; I mean your client,  
9 obviously, with your advice -- on whether or not  
10 you're going to furnish the production that Judge  
11 Shay ordered or not?

12 MR. COLLINS: Well, Your Honor, what I'm  
13 actually contemplating is filing a motion for a  
14 confidentiality agreement. Mr. Nowacki --

15 THE COURT: You said it would be academic if  
16 during the course of the hearing --

17 MR. COLLINS: Well, it wouldn't -- no, then I'm  
18 going to file a request to seal the file, even  
19 though Judge Shay indicated he was not so inclined.

20 THE COURT: So in effect, what you're doing is  
21 -- and I'm just thinking out loud, okay? -- is  
22 you're going to do battle over this confidentiality  
23 agreement because apparently, it's important to your  
24 client?

25 MR. COLLINS: Yes, Your Honor. Well, it's  
26 important to my [sic] client; it's important to her  
27 husband as well.

1 THE COURT: Okay, fine.

2 MR. COLLINS: -- because they file jointly.

3 THE COURT: I understand. Now no. 2 -- that  
4 prevents Mr. from getting his production, doesn't  
5 it?

6 MR. COLLINS: Well, not once the motion's ruled  
7 on. Either there will be a confidentiality  
8 agreement ordered or there won't. Mr. Nowacki has  
9 already said, Your Honor, that he intends to share  
10 all the financial information with their 14-year-old  
11 son.

12 THE COURT: Well, wait a minute. You can have  
13 a hearing on that. I'm not saying not to. That's  
14 your choice. But what I'm trying to get is, is that  
15 we're going around in a circle here, it seems to me.

16 A judge has ruled that there should be  
17 production. A judge, according to you -- and I'm  
18 not saying, not to suggest that you're wrong -- I  
19 don't know if you are or not -- did not address the  
20 issue of confidentiality.

21 MR. COLLINS: Only in colloquy.

22 THE COURT: Okay. So it's not an order?

23 MR. COLLINS: I wouldn't suggest that it is.

24 THE COURT: So it's still open for dispute  
25 later?

26 MR. COLLINS: That's -- I would not suggest  
27 that there's a current order on the confidentiality

1 agreement.

2 MR. NOWACKI: Your Honor, I have a copy of the  
3 transcript right here.

4 THE COURT: Just let me finish. I'm thinking  
5 out loud, Mr. Nowacki, because I'm trying to come to  
6 some ending here instead of spending all this time  
7 on this.

8 MR. NOWACKI: Thank you, Your Honor.

9 THE COURT: You can't quarrel with the fact  
10 that Mr. Nowacki's entitled to what Judge Shay  
11 ordered, right?

12 MR. COLLINS: I cannot quarrel with that fact,  
13 Your Honor.

14 THE COURT: The question is whether it's kept  
15 confidential or not.

16 MR. COLLINS: That's correct.

17 THE COURT: So that's an outstanding issue?

18 MR. COLLINS: Right. I just want to be clear -  
19 -

20 THE COURT: I understand.

21 MR. COLLINS: The confidentiality agreement has  
22 nothing to do with this whole IRS nonsense.

23 THE COURT: I'm not even thinking about that.  
24 That's for another day and he's notified IRS, so  
25 you'll have to do battle at IRS.

26 MR. COLLINS: So already, the cat's out of the  
27 bag.

1           THE COURT: Well, I don't know if that's a good  
2 expression or not but be that as it may.

3           I'm not unsympathetic to the position that it's  
4 unfair to the children; never mind father or mother  
5 fighting forever in this case since 2005, even  
6 though both parties seem to have indicated last time  
7 that the kids don't seem to show any scars because  
8 they're well-adjusted and good kids. So I don't  
9 know how that works but it works. I forgot my  
10 thought but the thought is this:

11           It seems it's unfair to the children -- I'll  
12 use an example: tennis. I don't know if that's a  
13 good example or not. And if these folks are on good  
14 terms with each other, they probably will work out  
15 whether the child has tennis or not.

16           MR. COLLINS: Your Honor --

17           THE COURT: I'm just using that as an example.

18           MR. COLLINS: But that's not what Mr. Nowacki's  
19 doing here.

20           MR. NOWACKI: You know what?

21           THE COURT: Let me finish, please.

22           MR. COLLINS: Okay.

23           THE COURT: What I'm getting at is this: the  
24 real victims of this game that we're playing here  
25 are the children because dad may be right. Maybe  
26 they can't afford to give them tennis lessons.  
27 Maybe it's not essential on priorities. He may make

1 good reasons for it. I don't know what they are  
2 yet. And mom wants junior to have tennis and junior  
3 wants to have tennis. That's why they had a joint  
4 custodial arrangement to talk about and decide it,  
5 instead of having a judge make these decisions.

6 You know, they were very precise in their  
7 separation agreement on what Schedule B consisted  
8 of.

9 MR. COLLINS: They are, Your Honor.

10 THE COURT: And everything outside of that was  
11 subject -- open to be discussed, okay? So what I'm  
12 getting at is on the one hand, I'd like to finish  
13 this hearing, only because with the passage of time,  
14 sir, it's like starting over again every time we  
15 come back here as far as concerned. You live with  
16 it; I don't, okay? Not to mention the fact that  
17 there should be some finality to these things.

18 On the other hand, I find it difficult to do  
19 that when the gentleman is entitled to some  
20 discovery.

21 MR. COLLINS: That's why --

22 THE COURT: If she wants to fight over the  
23 confidentiality agreement -- she's entitled to it.

24 So the bottom line is after making all these  
25 speeches, I'm going to grant your motion, okay? But  
26 I'm going to try to set some schedules here and make  
27 some orders, okay?

1 **Findings and Rulings of the Court**

2           One is, the motion for contempt, when that  
3 comes up on the short calendar will deal with what  
4 Mr. Nowacki's position is about freezing and paying  
5 less than -- I gratuitously tell you this, sir, only  
6 because you're not a lawyer and it's not before me,  
7 but I'm just -- in your research, I think you'll  
8 find, from case law in this state, the law is clear.  
9 Until a modification is changed, you're obliged to  
10 pay the order as it was --

11           MR. NOWACKI: Your Honor, can I --

12           THE COURT: Hear me out. Hear me out. So you  
13 may be facing a problem if the motion comes up for  
14 contempt. It's not to suggest that you won't  
15 prevail or not. I'm just trying to give you the  
16 facts of life.

17           MR. NOWACKI: I'm aware of that.

18           THE COURT: As long as you're aware of it,  
19 that's all I was trying to --

20           MR. NOWACKI: Yes, Your Honor.

21           THE COURT: So the motion for contempt will  
22 address that issue, right?

23           MR. COLLINS: Yes, Your Honor.

24           THE COURT: That motion for modification will  
25 solve a lot of issues but that's not for way down  
26 the road because you gotta do a study and all this  
27 other stuff.

1 MR. COLLINS: That's correct.

2 THE COURT: Have you claimed for the short cal  
3 -- have you filed a motion for the short calendar --  
4 it didn't sound like you did -- for a  
5 confidentiality agreement?

6 MR. COLLINS: No, I have not, Your Honor,  
7 because --

8 THE COURT: All right.

9 MR. COLLINS: -- until about, give or take, ten  
10 days ago, Mr. Nowacki and I were having a discussion  
11 where I thought we were headed --

12 THE COURT: You don't have to justify --

13 MR. COLLINS: I thought we were headed toward a  
14 confidentiality agreement.

15 **This section has been proofed**

16 THE COURT: Look, by your delay in filing a  
17 motion for confidentiality, you're defeating the  
18 problems with your client because she's not getting  
19 anything resolved about tennis or anything else. So  
20 the point is, the sooner you file a motion or not --  
21 if you want to file a motion -- if after talking to  
22 your client, you don't want to file a motion, then I  
23 say comply, okay?

24 MR. COLLINS: Yes, Your Honor.

25 THE COURT: So I'm going to say this: within 30  
26 days, I'm picking that -- what's today?

27 THE CLERK: Today's the seventh, Your Honor.

1 THE COURT: By August 7<sup>th</sup>, there should either  
2 be compliance with what the request is or a hearing  
3 scheduled or claimed on the confidentiality  
4 agreement.

5 MR. COLLINS: Yes, Your Honor.

6 THE COURT: Now once a judge rules on that, how  
7 much time would it take -- let's assume -- well,  
8 whether you win or lose, you still got to produce  
9 the information. How long -- have you got the  
10 information available now in your possession or --?

11 MR. COLLINS: I don't know if I have all of it,  
12 Your Honor, but I have some of it.

13 THE COURT: Well, get it ready --

14 MR. COLLINS: Yes.

15 THE COURT: Because when the judge rules, one  
16 way or the other, you should furnish that within  
17 seven days thereafter, okay?

18 So now we're into the middle of August. So  
19 we'll continue this hearing till the last week in  
20 August. Are you going away anyplace, Mr. Nowacki?

21 MR. NOWACKI: Can't afford to, Your Honor.

22 THE COURT: Huh?

23 MR. NOWACKI: Cannot afford to.

24 THE COURT: All right.

25 MR. COLLINS: Well Your Honor, I will be away  
26 the last week of August.

27 THE COURT: All right.

1 MR. COLLINS: I'd have to go into September.

2 THE COURT: Unless the parties petition an  
3 earlier date, I'm going to pick the first week after  
4 Labor Day, okay, to continue this hearing.

5 MR. NOWACKI: Thank you, Your Honor.

6 MR. COLLINS: I have no problem with that, Your  
7 Honor. I do have a trial -- Androulidakis -- we're  
8 on the GAL for an adult. That's -- I think it's the  
9 --

10 THE COURT: What date is that?

11 MR. COLLINS: I think it's the 8<sup>th</sup> and 9<sup>th</sup> or 9<sup>th</sup>  
12 and 10<sup>th</sup>.

13 THE COURT: What's the date of Labor Day?  
14 First Monday in September, isn't it?

15 MR. NOWACKI: It's weird this year. It's late.  
16 It's really late. It's like September the 8<sup>th</sup> this  
17 year.

18 THE COURT: September -- Labor Day is the 7<sup>th</sup>.  
19 You're right. So when's your trial?

20 MR. COLLINS: Either the 8<sup>th</sup> and the 9<sup>th</sup> or the  
21 9<sup>th</sup> and the 10<sup>th</sup>. I think it's the 9<sup>th</sup> and the 10<sup>th</sup>.

22 THE COURT: All right, so September 16<sup>th</sup> -- wait  
23 a minute -- September 16<sup>th</sup>. Is that a date that's  
24 convenient for you, sir?

25 MR. NOWACKI: Near my birthday, Your Honor.  
26 That would be perfect.

27 THE COURT: That's your birthday?

1           MR. NOWACKI: Not -- near by birthday. That  
2 would be perfect.

3           THE COURT: When's your birthday?

4           MR. NOWACKI: September 12<sup>th</sup>.

5           THE COURT: Okay. It's a Saturday so we  
6 wouldn't have to interfere with your birthday.

7           MR. NOWACKI: Thank you.

8           THE COURT: September 16<sup>th</sup> --

9           MR. NOWACKI: Your Honor, I would request that  
10 it be before that date because there's a financial  
11 reconciliation due on September 15<sup>th</sup>, that I would  
12 not -- I'd just as soon have that all rolled up into  
13 the Court's decision.

14          THE COURT: There's a what on September 15<sup>th</sup>?

15          MR. NOWACKI: In other words, we settle on  
16 certain dates --

17          THE COURT: And September is a recollec --

18          MR. NOWACKI: Is a reconciliation.

19          THE COURT: Yeah, but isn't going to depend on  
20 how you do on your modification as to what the  
21 numbers are?

22          MR. NOWACKI: Yeah, but -- until which point in  
23 time the judge rules, it just would obviate the  
24 necessity for us to have conflicts between now and  
25 September 15<sup>th</sup> on children's-related expenses --

26          THE COURT: Well, explain that to me. How does  
27 that work?

1 MR. NOWACKI: Okay, basically what happens is,  
2 we have four reconciliations --

3 THE COURT: I know. I read it.

4 MR. NOWACKI: Okay? The next one that comes up  
5 on the calendar is September the 15<sup>th</sup>.

6 THE COURT: Yeah, okay.

7 MR. NOWACKI: So therefore, then, rather than  
8 us to have these amounts in dispute, between now and  
9 then, which will completely resolve --

10 THE COURT: What amounts? What amounts?

11 MR. NOWACKI: The amounts for things like  
12 tennis lessons, etc., that if -- I'm under the  
13 understanding that if we have a date then, that the  
14 September 15<sup>th</sup> reconciliation will then be settled  
15 upon by the new percentages that Your Honor puts  
16 into place. I'm perfectly fine with that. That  
17 would solve all the interim problems of a spending  
18 freeze.

19 THE COURT: All right --

20 MR. NOWACKI: And that the representation --

21 THE COURT: That's presupposing that I can  
22 decide that on the day of the hearing, but we'll see  
23 what happens.

24 MR. NOWACKI: Okay, but --

25 THE COURT: You want to do it earlier than that  
26 day? Is that what you're saying?

27 MR. NOWACKI: I would prefer to but I

1 understand that Attorney Collins has other causes  
2 that he --

3 MR. COLLINS: I don't mind moving it up,  
4 though, in September, except for that other trial.

5 THE COURT: Yeah, let's move it up in September  
6 --

7 MR. NOWACKI: That would be great.

8 THE COURT: And if he happens to be on trial,  
9 we'll just kick it over a day or so.

10 MR. NOWACKI: That's fine. I mean, the week of  
11 August 31 is fine with me.

12 THE COURT: What did you say?

13 MR. NOWACKI: The week of --

14 MR. COLLINS: Well no, that I can't do.

15 MR. NOWACKI: Oh, you can't do it --

16 MR. COLLINS: That's --

17 THE COURT: All right. Let's push it up in  
18 September.

19 MR. COLLINS: Right.

20 MR. NOWACKI: Okay, I'm sorry.

21 THE COURT: September --

22 MR. COLLINS: I can do the se -- I can -- if  
23 the Clerk can lookup the Androulidakis case --

24 THE CLERK: That's what I'm doing.

25 MR. COLLINS: I can probably do the day before  
26 it.

27 THE CLERK: What's the correct spelling of the

1 name, Attorney Collins?

2 MR. COLLINS: A-n-d-r-o-u-l-i-d-a-k-i-s --  
3 Androulidakis. It will start -- well, see, here's  
4 the problem: The 8<sup>th</sup> is probably short calendar.

5 THE COURT: It is because there's a day after -  
6 -

7 MR. COLLINS: So we can't do the eighth --

8 THE COURT: It's the day after --

9 MR. COLLINS: And I think the 9<sup>th</sup> and the 10<sup>th</sup> is  
10 Androulidakis. I can --

11 THE COURT: Well, what about --

12 THE CLERK: Is this Jamie and Andrea?

13 MR. COLLINS: Yeah, Jamila.

14 THE CLERK: Jamila.

15 THE COURT: What about September 2<sup>nd</sup>?

16 MR. COLLINS: Well, I may be away.

17 THE COURT: Oh.

18 MR. COLLINS: That's the problem.

19 THE COURT: All right. I'm willing to do even  
20 earlier than that if you get all this other stuff  
21 done. As I tell -- I'll move it up earlier if --

22 MR. NOWACKI: It's really up to --

23 THE COURT: -- you have compliance.

24 MR. NOWACKI: I'd be happy to do it if --

25 MR. COLLINS: Well, that's possible but not  
26 really in July --

27 MR. NOWACKI: I want this over --

1 MR. COLLINS: -- but early August is possible.

2 THE COURT: Well, that's what I'm saying. If  
3 you gentlemen get those things straightened out and  
4 ask the Clerk to see if we can do it in August, I  
5 will do it.

6 MR. COLLINS: I think -- I've got the -- what  
7 day is it?

8 THE CLERK: The trial date is the 16<sup>th</sup> of  
9 September.

10 MR. COLLINS: Oh, the 16<sup>th</sup>.

11 THE CLERK: And that's two days.

12 MR. COLLINS: Oh, then I can do the 9<sup>th</sup> or the  
13 10<sup>th</sup>.

14 THE COURT: All right, the 9<sup>th</sup>, okay?

15 MR. NOWACKI: Great.

16 MR. COLLINS: I can do that.

17 MR. NOWACKI: Thank you very much, Your Honor.

18 THE COURT: 9/9/09.

19 MR. NOWACKI: Oh, that sounds like music.

20

21 THE COURT: Paul, would you just type up a  
22 transcript of the dates, what I said about  
23 compliance. You know what I mean, Paul?

24 THE MONITOR: Mmm-hmm.

25 MR. NOWACKI: Right. Your Honor, I would like  
26 to address the subject of compliance because I think  
27 Attorney Collins --

1 THE COURT: Well just quickly because I can't  
2 stay here much longer.

3 MR. NOWACKI: I understand. On September 15<sup>th</sup>,  
4 2008, there was a financial reconciliation due. I  
5 paid 65 percent of those expenses.

6 THE COURT: Okay. So right up to then, it was  
7 up to date?

8 MR. NOWACKI: Okay. Then on February 15<sup>th</sup>, I  
9 found out that Attorney Collins' client, all right,  
10 had been sequestering the healthcare costs of her  
11 husband for the last 26 months.

12 THE COURT: Yeah, you put that in one of your  
13 motions.

14 MR. NOWACKI: Right. All right? So therefore,  
15 then, it took until June the 14<sup>th</sup> before Attorney  
16 Collins' client paid me a check for \$1,352 to pay me  
17 back for all of that which was due from February  
18 15<sup>th</sup>. So it was not the defendant who was in non-  
19 compliance; it was the plaintiff that was in non-  
20 compliance. And his assertions are, again, one of  
21 the problems of half-truths being forwarded by  
22 Attorney Collins on a consistent basis.

23 MR. COLLINS: So the question is why hasn't he  
24 settled up, then?

25 MR. NOWACKI: So -- Okay, so --

26 MR. COLLINS: Why --

27 THE COURT: Gentlemen, I think we've really

1           accomplished what we wanted to do today. I granted  
2           your motion --

3           MR. NOWACKI: Well Your Honor, I want to say --  
4           the May 15<sup>th</sup> reconciliation -- just so you know -- on  
5           the day that I get that check, I discover that  
6           again, Attorney Collins' client, for an unknown  
7           period of time, had been over-submitting the costs  
8           of the nanny - health - of the cell phone plan.

9           THE COURT: What is your point?

10          MR. NOWACKI: It's that I continue to get  
11          fraudulent expenses --

12          THE COURT: I'm talking about compliance of  
13          your request for production. That's what I'm  
14          talking about.

15          MR. NOWACKI: Okay, but I'm talking about  
16          addressing the subject of whether or not I'm in  
17          compliance with the 65/35. I can only be in  
18          compliance -

19          THE COURT: You've got to save that argument  
20          before the judge when you appear for the motion for  
21          contempt.

22          MR. NOWACKI: All right, but he's put it on the  
23          record, so I want my discussions here --

24          MR. COLLINS: Well the record will reflect that  
25          he's refusing to pay 65/35 toward any expense.  
26          That's a fact.

27          THE COURT: Well -- whether it's on the --

1           MR. NOWACKI: You know Kevin, that is an  
2 absolute misrepresentation --

3           MR. COLLINS: All right. All right.

4           THE COURT: Court's adjourned.

5           MR. COLLINS: Thank you, Your Honor

6           THE COURT: I just heard enough.

7           MR. NOWACKI: Okay.

8           MR. COLLINS: Thank you.

9           THE COURT: It seems to me that --

10          MR. COLLINS: See you in September.

11          THE COURT: Okay. (Whereupon the Court and the  
12 Clerk briefly confer)

13          MR. NOWACKI: Thank you, Your Honor.

14          THE COURT: You're welcome.

15                   #           #           #           #

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EST-FA04-0201276-S : SUPERIOR COURT  
NOWACKI, SUZANNE : JD STAMFORD/NORWALK  
VS. : AT STAMFORD  
NOWACKI, MICHAEL : JULY 7, 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 Stanley Novack, Judge at Superior Court in Stamford, Connecticut on the 7<sup>th</sup> day of July, 2009. Dated this 6<sup>th</sup> day of August, 2009, at Stamford, Connecticut.

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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.

FST-FA04-0201276-S : SUPERIOR COURT  
NOWACKI, SUZANNE : JD STAMFORD/NORWALK  
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E L E C T R O N I C  
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