

FST FA 04 0201276S : SUPERIOR COURT
SUZANNE NOWACKI : JUDICIAL DISTRICT
VS. : STAMFORD, CONNECTICUT
MICHAEL NOWACKI : AUGUST 3, 2009

B E F O R E:

HONORABLE ROBERT MALONE

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

REPRESENTING THE PLAINTIFF:

ATTORNEY KEVIN COLLINS

REPRESENTING THE DEFENDANT:

MICHAEL NOWACKI, PRO SE

Kathy Jordan
Court Recording Monitor

1 THE COURT: This is Nowacki versus Nowacki.

2 MR. COLLINS: Yes, Your Honor.

3 THE COURT: FA 04 0201276.

4 THE COURT: All right. We are dealing with the
5 Nowacki matter. We are not going to be taking up the
6 entire matter.

7 MR. COLLINS: Your Honor, May I get Attorney
8 Reich she's meeting with my client in the conference
9 room right here.

10 THE COURT: As soon as possible.

11 MR. COLLINS: I'll get her right now, Your
12 Honor.

13 THE COURT: All right. We are dealing with the
14 Nowacki matter, and we're not going to be taking up
15 the entire matter. I was at the call and there was
16 some confusion over which motions were going to be
17 heard not confusion but how long it would take.
18 Everyone was not present and Mr. Collins was saying
19 it could be an hour, two hours or three hours.

20 MR. COLLINS: I said three to four, Your Honor.

21 THE COURT: Excuse me, I misstated. I am
22 certainly not going to start this now for the next
23 three hours. What I'm going to try to do is break
24 this down so I can get a little bit of a handle on
25 what we have in front of us. Let's do it this way,
26 first of all, if counsel would identify themselves
27 for the record and who they represent.

1 MR. COLLINS: Your Honor, good afternoon,
2 Attorney Kevin Collins for Suzanne Sullivan, and she
3 is seated behind me to my right.

4 MS. REICH: Good afternoon, Your Honor.
5 Veronica Reich I am the court appointed attorney for
6 Tim Nowacki and Carey Nowacki the minor children.

7 THE COURT: All right.

8 MR. ALBRECHT: Richard Albrecht, I just filed an
9 appearance for Mr. David Barrington who is the
10 current husband of Suzanne Sullivan.

11 THE COURT: All right.

12 MR. NOWACKI: Michael J. Nowacki, pro se.

13 THE COURT: Thank you. Now, what are the
14 motions that are pending?

15 MR. COLLINS: Your Honor, that is a little bit
16 of a complex question and I'll do my best to answer
17 that. For today there is an order to show cause for
18 modification of custody. Today is the first day that
19 is returnable. I don't expect that to furnish any
20 business today because the predicate motions are now
21 being challenged anyway by Mr. Nowacki.

22 So, by that I mean the appointment of an
23 attorney for the minor children and Your Honor had
24 heard those and appointed Attorney Veronica Reich who
25 is here today. Your Honor left the issue of psych
26 evaluation to the discretion of the AMC. So, what
27 has happened is Mr. Nowacki has filed a motion to

1 reargue the appointment so I would suggest that is
2 going to furnish business today, and the psych eval
3 sort of rides along with that because of the way Your
4 Honor structured the judgment.

5 There is a motion on today for a confidentiality
6 agreement. What that is, Your Honor, is what Mr.
7 Albrecht is here on as well as myself and it has to
8 do with the production and disclosure which involves
9 material from my client's current husband. The
10 judgment in this case entered in June 2005, and Mr.
11 Nowacki filed a request for production and it was
12 argued in June before Judge Shay.

13 Judge Shay sustained certain objections and
14 overruled certain objections interposed by myself on
15 behalf of my client, and did not set a date by which
16 to produce those items which either we agreed to
17 produce or were in which the objections were
18 overruled. The Practice Book would suggest that the
19 judge at that time would typically or should
20 typically issue a date.

21 We subsequently went before Judge Novack on that
22 issue among others in early July, July 7, is what
23 comes to mind. He ordered the production by August
24 7th, which would be the end of this week, and if we
25 desire to file a motion for a confidentiality
26 agreement we should do so within the period we have
27 done that and that is printed on today's calendar.

1 There is an ongoing motion which was started
2 before Judge Novack in April of this year. It is Mr.
3 Nowacki's motion for contempt. The hearing started
4 in April, as I said, and it was continued to a June
5 date as I recall and then continued again due to some
6 other issues to a September date, I believe it was
7 September 8 or 9 and we have now received notice that
8 it is continued to December 16th. That's an ongoing
9 hearing before Judge Novack, and that's what comes to
10 my recollection today.

11 I think there may be a couple other motions out
12 there. There is a motion for counsel fees which I
13 filed which I am not pursuing today. There is a
14 motion for modification which is on today of custody.
15 There is a motion for child support modification
16 which is on today but that rides the coat-tails of
17 the motion to modify custody.

18 I have a motion on today, Your Honor, having to
19 do with the passports, and that is brought not by way
20 of order to show cause but regular motion. Just by
21 way of facts, Mr. Nowacki had the passport --

22 THE COURT: Excuse me. Let me make sure I
23 understand, there is the motion to reargue the
24 appointment for the attorney for the minor children,
25 and that is Mr. Nowacki's motion. Approximately, how
26 long will that take?

27 MR. COLLINS: I don't know that, Your Honor. I

1 would have to put that to Mr. Nowacki.

2 THE COURT: How long will your portion of that
3 take, Mr. Nowacki?

4 MR. NOWACKI: The rearguing?

5 THE COURT: Yes.

6 MR. NOWACKI: If Your Honor has reviewed the
7 document that was sent that would be rereading that
8 document for the record.

9 THE COURT: All right. You've read it, and how
10 long do you think your response would be?

11 MR. COLLINS: Your Honor has ruled.

12 THE COURT: I'm just --

13 MR. COLLINS: Just in the interest of preserving
14 our rights five minutes but I don't even know if I
15 need to respond to it. The Court has ruled.

16 THE COURT: So, that is five minutes
17 approximately on that, and with regard to the
18 psychological evaluation that rides the coat-tails
19 because as I recall that was -- I'm doing this from
20 memory, that rides whether the appointment for the
21 attorney for the minor children stands.

22 MR. COLLINS: Yes, Your Honor.

23 THE COURT: And then we have the confidentiality
24 agreement.

25 MR. COLLINS: Yes, Your Honor. I think that
26 will take an hour.

27 THE COURT: And then the modification because

1 the production is before Judge Novack --

2 MR. COLLINS: Which modification, Your Honor?

3 THE COURT: You said a modification not of
4 custody.

5 MR. COLLINS: No.

6 THE COURT: I believe it's of financial orders.

7 MR. COLLINS: I believe that will be handled by
8 Judge Novack.

9 THE COURT: That is also going to be handled by
10 Judge Novack.

11 MR. NOWACKI: As well as the contempt motion
12 that accompanies that.

13 THE COURT: So, what would be before me today
14 would be the reargument, the psychological evaluation
15 issue which follows. With regard to confidentiality,
16 how long -- you're saying that would be about an
17 hour?

18 MR. COLLINS: Because that may require an
19 evidentiary hearing.

20 MR. NOWACKI: Mr. Collins has forgotten one very
21 important motion that was served upon him on July 13,
22 which is the motion why we are here today which
23 involves the refusal to give production. The
24 statement that was made by Attorney Collins which I
25 don't believe that order from the Court from Judge
26 Novack on July 7, gave any specified time to the
27 production of that to be August 7th. He never said

1 that on the court record. So, that is a misstatement
2 by counsel.

3 MR. COLLINS: Well, Your Honor, that's my
4 recollection, but even assuming that to be correct
5 then there is no deadline. I forgot about the motion
6 he filed relative to production, and we are not in
7 violation of any order to produce because my position
8 is that I believe Judge Novack set August 7, as the
9 date, which has not yet arrived, or if Mr. Nowacki is
10 correct he set no date and Judge Shay set no date
11 before him. In either event we can't be in contempt.

12 THE COURT: That should stay with Judge Novack.

13 MR. NOWACKI: Your Honor, I have a bit of an
14 issue here in regard to the representation by Mr.
15 Collins which is absolutely false, absolutely false.
16 There was no defined date of August 7, for the
17 production.

18 The reason why we were here and the reason why I
19 filed this motion in front of the Court today was to
20 specifically address the subject of their refusal to
21 give the production ordered by Judge Shay on June 15,
22 and to get a definition from this Court to turn over
23 that production immediately.

24 That is the motion that was sent here today
25 because Attorney Collins did not agree to anything
26 even in front of Judge Novack on a date. In fact,
27 Judge Novack said you better be ready when his

1 contempt motion gets heard to produce that
2 information immediately. That is what Judge Novack
3 did say.

4 MR. COLLINS: Your Honor, what I would ask is
5 this, the motion dated July 13, that Mr. Nowacki
6 refers to I would like him to site what the contempt
7 is. What order of this Court we are in contempt of,
8 otherwise I don't know what he's talking about.

9 MR. NOWACKI: Your Honor, there was a hearing
10 scheduled when Judge Shay made his decision on June
11 15, we had a hearing scheduled in front of Judge
12 Novack that was scheduled for July the 8th. It was
13 apparent to me based upon Mr. Collins assertions that
14 I was required to sign a confidentiality agreement
15 that Judge Shay in his order did not specifically say
16 that he was ordering that. In fact, he says I am not
17 ordering that.

18 Yet Attorney Collins has insisted upon my filing
19 a confidentiality agreement under what I would
20 consider to be extorted conditions because other
21 things have developed here, Your Honor, which are
22 pertinent to why this production needs to be produced
23 now. I have to prepare for that hearing on September
24 16. I have vacation time set aside to prepare myself
25 for that. It's unfair due process here to say that
26 they've had this order since June 15, and don't
27 intend to comply.

1 MR. COLLINS: Your Honor, I need to suggest as
2 follows, here is what Mr. Nowacki sends me yesterday
3 by way of email -- Your Honor, this is very
4 difficult, and this is a pro se party sending as
5 follows: Tomorrow there is going to be shrapnel
6 flying your way, you better wear your flap jacket,
7 and there are other emails which I intend to
8 introduce today that I think at least border on a
9 threat from Mr. Nowacki.

10 That having been said, I am trying to keep this
11 quite professional. When Your Honor sees Mr.
12 Nowacki's email there will be no doubt in your mind
13 about a psychological evaluation here. That being
14 said, when we were before Judge Shay section 13-8 of
15 the Practice Book -- because all Mr. Nowacki wants to
16 familiarize himself is the code of professional
17 conduct and how to file a grievance against me.

18 He would be wise to read the Practice Book,
19 section 13-8 says if any objection to an
20 interrogatory is overruled the interrogatory shall be
21 answered and the answer served within twenty days of
22 the ruling authority.

23 Now, what happens here is in 13-10 it says if an
24 objection to any part of a request for production is
25 overruled compliance with a request shall be made at
26 a time to be set forth by the judicial authority.
27 Judge Shay did not set forth a time for compliance

1 that is in part what Judge Novack addressed on July
2 8th.

3 My recollection is that he said August 7th, if
4 I'm wrong, I'm wrong. In any event, if I'm wrong and
5 Mr. Nowacki is right no judicial authority has set
6 down a time for me to comply with. In either event,
7 he's filed a motion for contempt for failure to
8 comply when we don't have an order of compliance at
9 this point. Unless he is prepared to specify with
10 great particularity the contempt of what order I
11 think the motion should be dismissed on its face for
12 failure to state a cause.

13 MR. NOWACKI: Your Honor, I would like to
14 respond.

15 THE COURT: You can respond, but I'm not hearing
16 the motion now. I was trying to get an idea of how
17 much time we were going to have for these particular
18 motions.

19 MR. NOWACKI: But he wants a confidentiality
20 agreement attached to that production.

21 THE COURT: We're not arguing now, sir. I was
22 trying to get time periods that is what I was trying
23 to do. Mr. Albrecht, you are here with regard to the
24 confidentiality issue.

25 MR. ALBRECHT: Just a narrow issue of that,
26 that's all I'm here for. It won't take more than
27 five minutes.

1 THE COURT: But the confidentiality agreement
2 overall would be approximately an hour. I have read
3 through, what I previously read through when it was
4 filed, your motion to reargue my appointment of the
5 attorney for the minor child and that is denied.

6 Now, what we're going to do is knowing that and
7 now I know it's going to take an hour or two. I
8 don't know where we stand on the psychological
9 evaluations. How long will that argument take if the
10 attorney for the minor children is ready to proceed
11 with that?

12 MR. COLLINS: I don't think she is, Your Honor.

13 THE COURT: Let her speak for herself.

14 MR. COLLINS: I apologize, Your Honor.

15 MR. REICH: Your Honor, because I know Mr.
16 Nowacki wanted to have the motion to reargue my
17 appointment, initially, I deliberately waited until
18 that could be heard and ruled upon before I began any
19 serious investigation. I have just met with the
20 parties today, and I certainly want to meet my
21 clients, so I would not be ready to argue that today,
22 Your Honor.

23 THE COURT: Thank you.

24 MR. REICH: There is that motion on the calendar
25 regarding the passports. From my point of view I
26 don't know how much urgency there is to that, but
27 that is one that I would like to have heard because

1 obviously it relates directly to the children. I
2 individually need some direction from the Court on
3 that point, and I won't comment on any further unless
4 Your Honor hears it.

5 THE COURT: How long would that particular
6 portion take?

7 MR. COLLINS: Your Honor, I don't anticipate
8 that taking very long but then again as a statement
9 of fact it is somewhat ironic that Mr. Nowacki --

10 THE COURT: How long will it take?

11 MR. COLLINS: Half an hour.

12 THE COURT: Agreed?

13 MR. NOWACKI: Your Honor, I don't know as to
14 where we are as to the payment for the attorney for
15 the minor children and that was part of my reargue
16 here because the financial affidavit that was
17 attempted to be put in front of this Court by
18 Attorney Collins was outdated, and as you know from
19 having read that reargue motion there was a sizable
20 bonus due Suzanne Sullivan in or around the 1st of
21 August which I think has to be reflected before there
22 is an allocation of those expenses. I think that is
23 only reasonable and fair.

24 THE COURT: With regard to the passport, you're
25 in agreement that it will take approximately half an
26 hour.

27 MR. NOWACKI: I would think that it should take

1 no more than that, Your Honor.

2 THE COURT: Do we have updated financial
3 affidavits?

4 MR. COLLINS: We don't, Your Honor. I was
5 prepared to rely on the one when we were last here
6 before, Your Honor, and Mr. Nowacki objected to that.
7 That having been said, it is a true statement that
8 Mrs. Sullivan has now received her bonus on this past
9 Friday. I know what it is gross and net, but I have
10 not had a chance to prepare the financial affidavit.

11 THE COURT: Approximately, how long would it
12 take you to prepare a revised financial affidavit?

13 MR. COLLINS: I can have Ms. Sullivan go back to
14 my office and work with my associate and can probably
15 have one here by 2:00.

16 THE COURT: We are not going to hear it before
17 2:00.

18 MR. COLLINS: I don't know if Mr. Nowacki is
19 suggesting that he needs to file a revised affidavit.

20 MR. NOWACKI: Inasmuch as the Court gave a
21 thirty day window according to Mr. Collins in a
22 misstatement that he's made about what Judge Novack
23 did not say about giving until August 7, to produce
24 the required documentation on a court order by Judge
25 Shay on June 15. I would like thirty days to be able
26 to produce that affidavit.

27 MR. COLLINS: Under those circumstances, Your

1 Honor, I would not object under the following
2 circumstances, my client has already remitted because
3 of the urgency of the matters before the Court one
4 half of the requested retainer to Attorney Reich.

5 Now, that the Court has reaffirmed its position
6 as to the appointment of Attorney Reich I would
7 respectfully suggest that perhaps the Court can order
8 that Mr. Nowacki immediately pay the other half of
9 the retainer subject to apportionment.

10 By asking for thirty days he is delaying her
11 ability to get into a case which commands her
12 immediate attention. Indeed, I would suggest that
13 Mr. Nowacki has taken it upon himself to write
14 numerous emails to Attorney Reich and then move for
15 her non appointment and has sent one of the passports
16 to Attorney Reich.

17 Obviously, he feels she is a party in this
18 action. He has utilized her time. I think he should
19 pay half and he can argue apportionment in thirty
20 days when we both submit new financial affidavits.

21 MR. NOWACKI: Your Honor, I am a little troubled
22 here in regard to the lack of ability to be able to
23 look at a financial affidavit before someone decides
24 that --

25 THE COURT: Sir, what is being proposed is that
26 you both pay 50%, and upon the filing of the
27 financial affidavits I can then take a second look

1 and if it's determined that for example they seem to
2 be out of kilter financially or out of kilter for
3 other reasons that we can hear then on that basis I
4 can apportion who is responsible for what portion of
5 the attorney for the minor children's fees.

6 I should point out that this would be the
7 retainer only at this particular point and could
8 still be revisited and that would be credited one way
9 or the other to one party or the other, and that
10 being the basis 50% to both parties and I'll take a
11 second look. You both file your financial affidavits
12 within thirty days and we can either have a hearing
13 on it or I can rule on the basis upon the basis of
14 the financial affidavits themselves.

15 MR. NOWACKI: Your Honor, I have a question with
16 regard to if the plaintiff's attorney fees are being
17 paid by a third party source. How does that reflect
18 on the Court's decision?

19 THE COURT: It doesn't. We'll come back at 2:00
20 and we'll address the other matters.

21 MR. COLLINS: Your Honor, may I just ask if
22 there is a timeframe upon which Mr. Nowacki will pay
23 the attorney for the minor child? We have already
24 paid her. I just want her to be paid so she can do
25 her job.

26 MR. NOWACKI: She was paid \$500.

27 MR. COLLINS: She was paid \$7500.

1 THE COURT: How much is your retainer, ma'am?

2 MS. REICH: \$12,500, Your Honor.

3 THE COURT: It's about \$6250 by my Irish math.

4 MS. REICH: I should say, Your Honor, that Mr.
5 Collins' client has paid fully one half of it, and
6 Mr. Nowacki did remit a check in the amount of \$500.

7 THE COURT: He's credited for the \$500, and
8 August 17, for payment of your half, sir, and you are
9 credited for your \$500.

10 MR. NOWACKI: The production issue.

11 THE COURT: We are going to take that up after.
12 We are not taking that up now.

13 (matter is passed)

14 THE COURT: Nowacki. Would the parties please
15 identify themselves for the record.

16 MR. COLLINS: Your Honor, Kevin Collins for the
17 plaintiff Suzanne Nowacki now Suzanne Sullivan.

18 MS. REICH: Good afternoon, Your Honor, Veronica
19 Reich attorney for the minor children.

20 MR. NOWACKI: Michael J. Nowacki, pro se. I'm
21 representing the very best interest of Tim and Carrie
22 Nowacki.

23 THE COURT: You are representing yourself, sir,
24 you're pro se, right?

25 MR. NOWACKI: Yes, sir.

26 THE COURT: Thank you.

27 MR. ALBRECHT: Attorney Richard Albrecht for

1 David Barrington.

2 THE COURT: All right. Whose motion is it?

3 MR. COLLINS: My motion, Your Honor, it is dated
4 July 20, 2009 and is entitled motion for order,
5 confidentiality agreement, post judgment. I do not
6 know the Court's number on the motion.

7 THE COURT: It's 210, I believe. It's your
8 motion please proceed.

9 MR. COLLINS: Your Honor, thank you. Mr.
10 Nowacki had served upon me requests for production
11 dated April 10, 2009. On April 28, and within the
12 timeframe provided by the Practice Book I filed
13 objections to certain requests and ultimately that
14 motion was heard by Judge Shay on June 15, 2009.

15 As I indicated previously today, Your Honor,
16 Judge Shay indicated that certain objections were
17 sustained, certain objections were overruled, and
18 that was the ruling of the Court. As I suggested
19 earlier, Your Honor, Judge Shay did not put into
20 place a timeframe for compliance pursuant to Practice
21 Book section 13-10.

22 I am sure it was an oversight on his part, an
23 oversight on my part and perhaps an oversight on Mr.
24 Nowacki's part. That having been said we got to July
25 8, the matter came up again before Judge Novack and
26 Judge Novack recognized that no order was entered
27 pursuant to 13-10 relative to when the production

1 should be complied with. My recollection is the
2 Judge ordered compliance by August 7. Mr. Nowacki's
3 recollection is different and I don't have --

4 THE COURT: Are we dealing with the
5 confidentiality?

6 MR. COLLINS: We are, and I'm just giving Your
7 Honor the background.

8 THE COURT: All right.

9 MR. COLLINS: In the meanwhile, Your Honor,
10 subsequent to Judge Shay's order of the court there
11 was discussion of the confidentiality agreement and
12 we set that forth in our motion in paragraph six and
13 clearly the Court did not order a confidentiality
14 agreement.

15 The Court pragmatically suggested that we're not
16 sure how valuable the confidentiality agreement would
17 be inasmuch as the sealing of the file would not
18 occur in this matter and so the Court did not order
19 it. Subsequent thereto, Your Honor, Mr. Nowacki and
20 I engaged in some discussion of the confidentiality
21 agreement, and what the Court should know is that
22 Mr. Nowacki, Ms. Sullivan, the former Ms. Nowacki,
23 and Mr. Barrington who is Ms. Sullivan's current
24 husband are all engaged to my understanding in the
25 same business with competitors.

26 Mr. Nowacki works for CBS, Mr. Barrington works
27 for NBC, and Ms. Sullivan works for FOX. As I would

1 suggest I think they all sort of feed from the same
2 troth and in the selling of advertising and
3 procurement of advertising and so forth on behalf of
4 each of their employers. The purpose of the
5 confidentiality agreement, contrary to what Mr.
6 Nowacki will suggest, has to do with the fact that
7 they are all in competing businesses and there is
8 some potential for damage if any of them were to
9 share the information derived from this matter with
10 the other's employer or prospective advertisers.

11 The mutuality agreement discussed by Mr. Nowacki
12 and I was mutual and extended to the third party Mr.
13 Barrington and it would be a separate contract and
14 would bind all of them. Mr. Nowacki considered it,
15 and had a counterproposal to it in which he added
16 three or four proposed amendments.

17 I respectfully requested that he take my form
18 which was sent to him by email as I recall and
19 redline his proposed changes within the four corners
20 of my proposal so I could look at it in that fashion
21 and get back to him on it. He refused to do that.

22 I refused to input his suggestions and
23 subsequently he said that under advice of counsel he
24 would not be signing any confidentiality agreement.
25 Mr. Barrington is very concerned that his information
26 will be shared with others to his detriment. What
27 Your Honor should understand further is that in early

1 July Mr. Nowacki has taken substantial information
2 derived from this divorce, from previous disclosures
3 and so forth and has filed a whistler blower
4 complaint not only against my client with the IRS,
5 but against her family, and her against her
6 accountant and the family's accountant and against
7 the brokerage firm who administered her grandfather's
8 estate and I believe some of her affairs.

9 The point that I make is it is no secret that
10 Mr. Nowacki takes third party information collected
11 from this matter and utilizes it for other purposes.
12 We have every reason to believe that he would be
13 similarly inclined with regard to Mr. Barrington's
14 information and Ms. Sullivan's information.

15 So, the problem is if I understand Mr. Nowacki's
16 emails correctly he has followed a whistle blower
17 complaint. He has inundated the IRS with four or six
18 hundred pages, I'm not really sure, of information
19 which is designed to put my client, and her family
20 and her accountant, and the brokers and me in jail
21 because we've all perpetrated this massive fraud upon
22 the IRS.

23 The point being this, he unabashedly takes
24 information uses it a terroristic way. That is what
25 he will do with my client's information and Mr.
26 Barrington's information and we need him to stop. He
27 is under the impression that if a confidentiality

1 agreement issues here he will be foreclosed from
2 making some complaint to the IRS for some perceived
3 violation of IRS rules, regulations, codes, laws, or
4 whatever.

5 Mr. Nowacki is bound and determined to ruin my
6 client, and everybody on her side of the fence and it
7 needs to stop, and this is where it starts to stop.
8 Mr. Albrecht is here today specifically on behalf of
9 Mr. Barrington on the issue, but I would suggest Your
10 Honor that a confidentiality agreement be ordered and
11 that it be applied to all involved and to the benefit
12 of Mr. Nowacki as well. Inasmuch as he's in the same
13 business it just needs to stop.

14 MR. NOWACKI: May I reply, Your Honor.

15 THE COURT: Yes.

16 MR. NOWACKI: May I approach the bench.

17 THE COURT: Well, with what?

18 MR. NOWACKI: A document.

19 THE COURT: I would urge you to show it to the
20 other two attorneys.

21 MR. NOWACKI: He was given a counsel on May
22 19th.

23 MR. COLLINS: Your Honor, if this is going to be
24 an evidentiary hearing then there is a proper way of
25 doing it. Mr. Nowacki, because Judge Novack at some
26 point inadvertently called him counselor thinks he's
27 Perry Mason here. So, the bottom line is he is

1 either going to do it right here or do it wrong.

2 MR. NOWACKI: I would be happy to talk through
3 exactly what happened here. In or around February of
4 this last year in the preparation of a revision of
5 the motion for modifications, and in going through my
6 files at home I discovered a wire transfer that was
7 sent to an account dated January 20, 2005 directed to
8 a private account at Citibank through a Texas
9 clearing house that came from the Swiss Bank
10 Corporation.

11 The amount of that check was for \$132,100. The
12 Court can look back into the court record and in
13 November of 2004, the plaintiff on her financial
14 affidavit declared that she was to get a distribution
15 from the grandmother's estate whose name is Jane
16 Mulliget (Phoenetic) for \$135,000. Mr. Collins seems
17 to believe that he understands why people move money
18 to overseas accounts.

19 I quote from the hearing in front of Judge Shay
20 on page twenty-three line one: Your Honor, Mr.
21 Nowacki has in the last week or month or whatever and
22 I've only been in this case three and a half months
23 or so, he told me as recently as yesterday that the
24 grievance he is filing against me should be filed at
25 the end of business today. He's calling the IRS on
26 me, he's calling the IRS on my client. He is
27 reported Tom Colin my predecessor in this case that

1 drove out of the case.

2 The answer is the reason why Mr. Colin was
3 driven out of the case is I presented this
4 information about money coming from a Swiss account
5 and it was very clear to me what had occurred. Money
6 had been moved as the grandmother was in a coma
7 overseas by the trustee to avoid federal income tax,
8 capital gains tax, on an excessive amount of Johnson
9 & Johnson stock to put in the family that had a zero
10 cost basis.

11 That money was moved to avoid estate taxes and
12 federal income tax. I find it fascinating that two
13 days after the parenting agreement was signed on
14 January 18, 2005, and you can go back and look at the
15 court record, that suddenly this money was then sent
16 as Suzanne was then able to leave the home to move to
17 her alternate residence.

18 The purpose of the production that was asked for
19 back and ordered by Judge Shay on June 15th, came
20 with the full knowledge of the judge at that point in
21 time. That there were issues that were being raised
22 and that I had asked her attorney, Kevin Collins, to
23 comply with what the government had initiated in
24 April of 2005.

25 They announced what is known as the overseas
26 voluntary compliance initiative. What the IRS agreed
27 to do was to allow anyone that had moved money into

1 an overseas account to have the opportunity to pay
2 their civil penalties and would get criminal
3 immunity. I wanted to keep the mother of my children
4 out of jail that was the purpose of my conversations
5 with Attorney Collins. I don't want to see the
6 mother of my children go to jail.

7 So, on June 15, Judge Shay orders the production
8 of this material and two days later I get a message
9 not with any confidentiality agreement attached but
10 no confidentiality agreement and no production. That
11 is what Attorney Collins gave to me.

12 It is not as he suggests, and I sat here on
13 numerous occasions with this attorney and he has
14 given false information to this court and the court
15 has made decisions based upon false information and
16 that just occurred right now. If I sound righteously
17 indignant, I am.

18 What Attorney Collins attempted to do in having
19 me sign this confidentiality agreement, Your Honor,
20 was to implicate me in his client's misdeeds and
21 that's wrong and I'm not going to stand for it. I
22 will not sign a confidentiality agreement, I cannot.
23 I am an informant in a government action.

24 MR. ALBRECHT: If it please the Court, my name
25 is Rick Albrecht and I represent David Barrington. I
26 represented Mr. Barrington in a divorce case when he
27 was getting divorced some four years ago, and

1 coincidentally Mr. Nowacki was getting divorced from
2 Suzanne approximately at the same time. I will tell
3 you that there was extensive cross dissemination of
4 material by Mr. Nowacki at that time.

5 He is obsessed with making complaints to the
6 IRS, and the SEC, and to employers and grievance
7 committees and to judges. He is and I think you got a
8 sense of it in hearing his story about something that
9 happened in 2005, regarding action by a trustee when
10 the issue today, and the issue before the Court,
11 concerns a current modification of child support.

12 This is a case where Mr. Nowacki will attempt to
13 utilize any benefits that he is granted from this
14 Court as a weapon to try to damage both Suzanne, not
15 withstanding the way he talks about being the mother
16 of his children, as well as her current husband.

17 The Court has extensive discretion under 13-5 of
18 the Practice Book, you're familiar with the order of
19 protection statute to even deny discovery or to
20 condition it the way the Court believes it should be
21 conditioned. This is not a sealing order and it
22 doesn't have anything to do with that, but sets forth
23 the terms and conditions of production.

24 I propose on behalf of Mr. Barrington that all
25 production in this case be done at the offices of the
26 respective parties, and that no copies of anything be
27 provided to anybody. They may inspect or want to

1 make notes of something they may make notes of it,
2 and that all inspected materials shall be made
3 available to the Court in court hearings so that the
4 documents are available to the parties, and that the
5 Court order that each party be prohibited from
6 transmitting the information that they received in
7 this litigation to third parties.

8 My familiarity with many commercial matters is
9 that is done pro forma all the time. The materials,
10 information received can only be utilized within the
11 litigation which is the subject matter of the court
12 proceeding in the matter.

13 I call Your Honor's attention to 13.5 and I hope
14 that Your Honor would fashion a remedy that would
15 protect the parties in this regard. Thank you.

16 MR. NOWACKI: Your Honor, I would like to make a
17 couple of additional comments if I might. I tried
18 very hard with Attorney Collins to understand his
19 sincerity of my concerns on behalf of Suzanne and my
20 children in regards to this distribution from the
21 Swiss Bank Corporation.

22 You may be aware that on Thursday there was a
23 preliminary agreement that was made between UBS and
24 the Swiss Government and the United States Attorney
25 General in regard to the aspect of delivering the
26 records of over 52,000 people who have been
27 identified by the IRS in looking at their credit card

1 statements where they were able to determine that
2 people were paying their credit card statements
3 through wire transfers at the Swiss Banks.

4 Mr. Collins has made a number of false
5 statements on the record in the last four or five
6 hearings. In fact, it goes on constantly. Attorney
7 Collins said on the court record that you could go
8 down and take a train ride 40 minutes into Manhattan
9 and go to the Swiss Bank Corporation to get this
10 money out. That is an absolute falsehood.

11 That cannot occur and the reason why Swiss bank
12 accounts exist and they do not have branch offices in
13 this country is to allow people to take money and put
14 it overseas to avoid capital gain taxes and estate
15 taxes.

16 The reason why that money went from \$135,000 to
17 132.1, which is what the check called for on January
18 20, 2005, is because there is a 2% transfer fee that
19 is attached to the transfer of money that comes from
20 an overseas account.

21 In my opinion what I forwarded to the IRS is the
22 following: That I believe the estate was bifurcated
23 in 2003. They fell below the standard of a million
24 and half dollars which was at 2003 the taxable amount
25 that could be passed on to the heirs without paying
26 federal income tax.

27 The rest of the zero priced stock options were

1 moved prior to the grandmother's death into the Swiss
2 Bank Corporation. A week ago last Friday I called
3 Elliot Cohen (Phoenetic) who was the trustee of that
4 account who is vacationing in Maine. I got his
5 telephone number by calling his old office and when
6 you dial the switchboard -- Elliot can no longer be
7 accessed through the switchboard because he closed
8 his practice in 2008.

9 What I discovered in the course of the little
10 bit of production that was given to me by Attorney
11 Collins, which by the way was left to me on my front
12 doorstep in a driving rainstorm, and it took two
13 weeks for that to dry out. Attorney Collins said no
14 problem I'll get you replacement copies of that
15 material, and that was done in the middle of April.

16 Attorney Collins said he objected to some things
17 and I did not object to other is in fact a complete
18 falsehood. When I filed my motion on April the 10th,
19 that he responded to on April the 28th, the day
20 before short calendar hearings what did Attorney
21 Collins do, he objected to each and every item,
22 including all those that are required under 25-31 and
23 25-32 and in addition to that the judge made other
24 orders on June 15th.

25 Attorney Collins before he ever drafted a
26 confidentiality agreement said unless I sign the
27 confidentiality agreement there would be no

1 production, that is extortion in my mind. What he
2 was trying to do in an attempt to get me to agree to
3 sign that confidentiality agreement before it was
4 drafted was to implicate me in his client's misdeeds.
5 I find that offensive. He tried to entrap me into
6 signing an agreement that would have put potentially
7 both of Tim and Carey Nowacki's parents in jail.

8 If I sign that confidentiality agreement saying
9 that I could not turn over the discovery that I
10 already had turned over to the extent that it has
11 been provided for me -- I am now an informant in a
12 government inquiry on tax evasion and tax avoidance.

13 I cannot sign a confidentiality agreement
14 because I talk to Marty Basan (Phoenetic) and I will
15 give you a copy if you would like Your Honor of the
16 copy. I sent this material on July 1st, I started
17 writing my letter on June 19th to the IRS, long
18 before I knew what the result was of any motions that
19 were filed as it relates to changes of custody, and
20 the reason why those were filed in my opinion is the
21 possibility that if in fact that inquiry is launched
22 which I believe the IRS has done because I sent that
23 letter on July 1st, and it was received by Federal
24 Express in Washington D.C. at 11:01 and signed by L.
25 Smith.

26 At 11:02 when that arrived I sent an email to
27 Attorney Collins to let him know that was going on

1 because I said I tried to get you to comply with the
2 overseas voluntary compliance initiative. If you go
3 and pay your fines your client may not go to jail and
4 he refused. I don't have a choice here, Your Honor.

5 THE COURT: I understand that you don't, sir,
6 and I understand your position. Do you have anything
7 you want to add to this counselor?

8 MS. REICH: Your Honor, I'm going to assume
9 because I'm very new to the case that I don't see how
10 transactions that occurred in '05 are relevant to
11 this matter. I'm assuming that but I'm new to it,
12 but I do not see any connection much less a direct
13 one to the children's issues so I feel it is
14 appropriate for me to decline any further comments.

15 MR. NOWACKI: May I make a comment on that
16 subject.

17 THE COURT: Go ahead.

18 MR. NOWACKI: There have been three or four
19 indictments of people underneath who have not come
20 forward who have been discovered. I will tell you
21 that the 785 million dollars that was collected by
22 UBS by the United States Government and Swiss
23 Government came as a result of one very strong guy
24 who filed a whistler blower complaint against the
25 company that he worked for. Every single person who
26 has been indicted by the IRS has spent four years in
27 jail. This is a relevant issue to the subject of

1 whether or not this action in regards to a custody
2 study should even be initiated while that is going
3 on.

4 THE COURT: Thank you.

5 MR. COLLINS: May I respond?

6 THE COURT: No. For the reasons that I've just
7 heard and I think the gentleman is eloquent and sets
8 forth his state of mind adequately. I think what
9 we'll do is this. I am going to take the papers on
10 it and I'm going to ask counsel to provide me with
11 proposed confidentiality orders.

12 That way I can review them and see what makes
13 sense and that way, sir, you don't have to sign
14 anything and if anybody wishes to make a motion later
15 with regard to some other aspect either the U.S.
16 Attorney's office or whoever we can address it at
17 that time. Thank you.

18 MR. COLLINS: Your Honor, there is one issue
19 that involves Attorney Reich which has to do with the
20 passports. Mr. Nowacki has sent one of the
21 children's passports to Ms. Reich and my client was
22 intending to take the children out of the country.

23 We don't know why he did that, but his position
24 is he did it because she is a flight risk because of
25 the exposure she has from the whistler blower
26 complaint that he's filed.

27 I think Attorney Reich is in the precarious

1 position of holding on to one of the two passports
2 and to my knowledge, and in fact I'm certain of it,
3 she didn't solicit it. I think we need to address
4 what her duties and obligations are with regard to
5 the one passport and my client has the other child's
6 passport.

7 THE COURT: You have one child's passport?

8 MS. REICH: I do, Your Honor, Mr. Nowacki has
9 sent me one child's passport. I'm not going to take
10 a passport lightly. It's an important document and I
11 would like some direction from the Court. I don't
12 know if Ms. Sullivan intends to travel or if asked
13 for the passport I'm not sure what I'm expected to do
14 with it.

15 I would like some direction from the Court
16 because I'm holding a passport now and I think the
17 only motion pending before the Court regarding a
18 passport is Mr. Collins motion for order re minor
19 child's passport, a trip to Bermuda with plaintiff
20 post judgment. Again, I don't know his position.

21 THE COURT: Let me ask this: The existing
22 orders with regard to the parenting do they discuss
23 vacations with the children?

24 MR. NOWACKI: My objection is not about going to
25 Bermuda as long as there is some security bond that
26 is given for their safe return. There is nothing in
27 there that addresses the subject of passports or

1 leaving the country.

2 THE COURT: Is there anything that prohibits
3 someone from taking a vacation outside the country
4 with the children.

5 MS. REICH: I read the judgment again last
6 night, Your Honor, and I didn't see any provision
7 regarding that.

8 MR. COLLINS: There isn't, Your Honor. At the
9 time I filed a motion on July 20, 2009 it was hoped
10 that my client with her parents, who are in the
11 courtroom, could take the children to Bermuda. Mr.
12 Nowacki since that time has done a couple of things.
13 What he has done is he has sent Tim's passport, the
14 older of the two children, to Ms. Reich. That is
15 problem number one.

16 Now, she doesn't know what to do with it she is
17 sort of involuntary bailor of the passport. Problem
18 number two, Mr. Nowacki and I know he has threatened
19 to, but whether or not he's actually done this
20 remains to be seen. I don't know the answer, but
21 he's going to file that document that one files with
22 the state department if one parent is a risk or a
23 likely person to take the child from the country and
24 abscond with the children and not return, and his
25 basis of that is she is so worried of her own
26 indictment under this IRS whistle blower statute that
27 she's going to make off with these kids and never

1 come back.

2 Mr. Nowacki has gone so far as to tell Tim how
3 would you like it if you have to live the rest of
4 your life in a foreign country? There is no basis
5 for what Mr. Nowacki has done and indeed he's claimed
6 that he got advice from Attorney Reich to put the
7 children on that list.

8 So, number one, I would like to know today
9 whether or not he has put the children on the list.
10 Two, she's not going to Bermuda now because she
11 couldn't access the passport and she doesn't know if
12 the children are on that list, and what could be
13 worse than bringing the children to the gate and
14 being declined to leave the country.

15 The plan now is to go to Puerto Rico and that
16 doesn't require a passport. I would respectfully
17 suggest that it is easier to pass people through with
18 passports and there is no reason in the world and
19 there is no reasonable cause to believe that Ms.
20 Sullivan is leaving the country with or without the
21 children for any permanent basis.

22 The grandparents are taking the children to
23 Puerto Rico, they wanted to take them to Bermuda, but
24 they can't because of what Mr. Nowacki has done or
25 has threatened to do. Mr. Nowacki has to stop
26 looking for communists under the bed and let these
27 children travel with their mother. She's not a risk

1 to flee.

2 THE COURT: When was this couple divorced?

3 MR. COLLINS: June of 2005, Your Honor.

4 THE COURT: Since June of 2005 have these
5 children traveled outside the United States?

6 MR. COLLINS: Jamaica, two years ago.

7 THE COURT: Who did they go with?

8 MS. SULLIVAN: My husband and I.

9 THE COURT: Have you taken the children
10 anywhere?

11 MR. NOWACKI: Sure.

12 THE COURT: Outside the country?

13 MR. NOWACKI: I took Carey to Jamaica and Tim
14 and I have been to Canada on a number of occasions.

15 THE COURT: Okay. I think it's wonderful that
16 children have an opportunity to travel. If people
17 can afford it, I think it's a wonderful opportunity.
18 There is no indictment that has been issued at this
19 point so I can't hold the children -- hate to use
20 this term -- hostage.

21 I feel bad for Attorney Reich she has no basis
22 to be holding someone else's valuable papers never
23 mind passports unless it's an agreement between the
24 parties or an order of the court. Having none,
25 Attorney Reich can turn it over to either the mother
26 or the father. I don't know why the children can't
27 go.

1 MR. NOWACKI: The issue here is of one of their
2 safe return. If the Court wants to make the decision
3 of letting the children go I have no problem with
4 that as long as the court is willing to accept the
5 responsibility that goes along if they don't come
6 back.

7 THE COURT: Sir, there is the threat of that
8 with either parent. Either parent can suddenly have
9 an emotional problem in which they take a child or
10 children to various places. We see this
11 unfortunately we have parents -- and I certainly hope
12 I'm not planting a seed with anybody, but we have
13 parents who run off with children either to other
14 states or other countries and that is something that
15 we hope based upon lifestyles, properties, jobs,
16 connections with people, and with a fair amount of
17 sanity that they wouldn't do.

18 MR. NOWACKI: Your Honor, I did speak to Patty
19 Walker at the State Department who was very helpful.
20 She suggested that I file an ex parte order to
21 prevent under these circumstances that the children
22 not leave the country without the production being
23 supplied to me.

24 My fear as well even if the children do come
25 home that the production is never going to be
26 provided to me. That is why I asked for this hearing
27 today.

1 THE COURT: I can't hold the children hostage
2 for your production, sir.

3 MR. NOWACKI: No. I'm not asking that.

4 THE COURT: That's it for today.

5 MR. COLLINS: Your Honor, is Attorney Reich
6 instructed to give the passport to my client?

7 THE COURT: Yes.

8 MS. REICH: To Ms. Sullivan, Your Honor.

9 THE COURT: Yes; she is the mother. The
10 children are going to Puerto Rico, that's fine. Sir,
11 if you wish to address another motion to the court
12 with regard to once they've returned from Puerto Rico
13 that nobody can go anywhere without further order of
14 the court we can address that.

15 MR. NOWACKI: Okay.

16 THE COURT: I think it's a shame because if such
17 a motion should be granted it would prohibit planning
18 vacations or planning trips that would allow them to
19 grow emotionally, educationally, otherwise my worry
20 would be they're going to be become paranoid. All
21 right. Thank you.

22 MR. COLLINS: Your Honor, is there a timeframe
23 when the proposed order would be submitted relative
24 to confidentiality.

25 THE COURT: When can you have them to me?

26 MR. COLLINS: Your Honor, I can have it to Your
27 Honor by the end of the week. I just have to put it

1 in the form of proposed orders.

2 THE COURT: If you can put one together please
3 let Mr. Albrecht put one together. Sir, you can put
4 one together. Everyone get it to me by the close of
5 business which is this Friday at 5:00 p.m.

6 MR. NOWACKI: Your Honor, I just would like to
7 say that I never said what Attorney Collins suggested
8 I said to my son.

9 THE COURT: Sir, we're not dealing with this
10 today. That isn't even an issue.

11 MR. NOWACKI: But it's the constant statements
12 that are not true.

13 THE COURT: All right. Thank you

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: SUPERIOR COURT

SUZANNE NOWACKI

: JUDICIAL DISTRICT

VS.

: STAMFORD, CONNECTICUT

MICHAEL NOWACKI

: AUGUST 3, 2009

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

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I hereby certify the foregoing pages are a true and accurate transcript of the recorded proceedings of the above referenced case, to the best of my ability, heard before the Honorable Robert Malone, Judge, in the Stamford Superior Court, Stamford, Connecticut, on the 3rd day of August, 2009.

Dated at Stamford, Connecticut this 18th day of August 2009.

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Kathy Jordan
Court Recording Monitor