

Volume I  
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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

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RODGERS POWERS & SCHWARTZ, LLP\*  
Plaintiff \*

v. \* DOCKET NUMBER 1682CV00749

NATALY MINKINA, M.D., ET AL \*  
Defendant \*

\*\*\*\*\*

HEARING  
BEFORE THE HONORABLE DIANE C. FRENIERE

APPEARANCES:

For the Plaintiff:  
Casher Law Offices  
P.O. Box 848  
Wilbraham, Massachusetts 01095  
By: Dana E. Casher, Esq.

For the Defendant:  
25 Baker Circle  
Chestnut Hill, Massachusetts 02467  
By: Nataly Minkina, M.D., Pro Se

Dedham, Massachusetts  
July 10, 2018

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I N D E X

WITNESS

DIRECT

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P R O C E E D I N G S

1  
2 (Court called to order.)

3 COURT OFFICER: Court is now in session.

4 THE CLERK: Next case is Norfolk Civil Action 2016-0749,  
5 the case of Roger, Powers and Schwartz vs. Dr. Nataly Minkina.

6 Please step forward and introduce yourself to the Court.

7 DR. MINKINA: Your Honor, Your Honor? May I ask your  
8 permission for my husband to sit next to me and aid -- help me  
9 with exhibits so I can find them?

10 THE COURT: You may.

11 DR. MINKINA: Thank you.

12 MS. CASHER: Good afternoon, Your Honor, Dana Casher for  
13 the plaintiff Rodgers, Powers and Schwartz.

14 THE COURT: Good afternoon, Counsel.

15 DR. MINKINA: Good afternoon, Your Honor, Dr. Minkina,  
16 pro se.

17 THE COURT: Okay. I have looked through a number of  
18 documents in this case, including some filings that I received  
19 from -- this morning from my Clerk. I'm just going to say  
20 what they are so that the both parties know what I've looked  
21 at.

22 I have the defendant's emergency motion regarding the  
23 Court order of June 4th, 2018, order. There's a memo that  
24 goes along that and there's about a hundred page attachment of  
25 exhibits that go along with that.

1 I also have before me Judge Hallal's order of June the  
2 4th, 2018 which is entitled clarification of findings and  
3 further order on plaintiff's amended verified complaint for  
4 contempt.

5 I've also reviewed enough of the file to have seen that  
6 the defendant sought an appeal from the Appeals Court which  
7 looks like it was denied on the 9th. Well, looks like it was  
8 docketed here on the 9th, dated on July 6th which just says,  
9 "After review of the petition, the memo of law, appendix and  
10 opposition to the petition is denied. The plaintiff's request  
11 for the award of costs is also denied."

12 And I guess we're here on, independent of those  
13 pleadings, we're here on Judge Hallal's order that you appear  
14 today and you -- the defendant appear today, and -- and  
15 deposit, I guess, \$78,000 into an escrow account into the  
16 Clerk's office by 2 p.m. today. We're here at the 2 p.m.  
17 hearing even though it's a little before 4 at this point. And  
18 under paragraph two of Judge Hallal's order, it indicates that  
19 failure to pay will result in this Court remanding -- is it  
20 Doctor -- I don't want to mispronounce your name -- McKinnon?

21 DR. MINKINA: Minkina.

22 THE COURT: Minkina?

23 DR. MINKINA: Minkina.

24 THE COURT: Minkina.

25 DR. MINKINA: Yes.

1 THE COURT: -- "To the custody of the sheriff of the  
2 Norfolk County -- County of Norfolk to be incarcerated in the  
3 House of Correction in said County of Norfolk or another  
4 facility determined by the sheriff for ninety days or until  
5 such payment of the \$78,000 is made."

6 So, that's initially what I want to tell you with regard  
7 to the documents that I've reviewed in this case. I wish to  
8 hear from the parties with regard to whether or not the  
9 \$78,000 was paid and -- I guess first that's what I'll hear  
10 about.

11 MS. CASHER: It was not, Your Honor.

12 THE COURT: Okay.

13 DR. MINKINA: I did not pay, Your Honor, because I don't  
14 have that money.

15 THE COURT: All right. Well, I understand that, but  
16 there are ramifications to the Court orders and those  
17 ramifications were clearly enumerated in Judge Hallal's order  
18 of June the 4th, and I will tell you that I -- there's no  
19 procedural basis for you being here any -- anymore. And by  
20 that I mean, you filed a motion to reconsider Judge Hallal's  
21 order, and he considered that and denied it.

22 You filed an appeal, it was considered and denied.

23 And so under that sort of -- the procedures have run out.  
24 I will tell you that in reviewing the attachments to the  
25 emergency filing, I -- I don't wish to hear any further

1 argument about the amounts of money that were paid to your  
2 brother and to the credit cards. I'm not going to revisit  
3 those issues. Frankly I don't have to revisit anything at  
4 this point.

5 But I -- I can't ignore the attachments that you made to  
6 -- with regard to the Fidelity accounts and with regard to  
7 this idea that certain sums of money were taken out by  
8 Fidelity as a result of you taking this money from a  
9 retirement account. And if I credit those statements, as they  
10 appear on the face to be, it looks like there's a gross amount  
11 and a net amount. And so re -- I only want -- I want you to  
12 limit your discussion today to that issue; do you understand?

13 DR. MINKINA: Yes.

14 THE COURT: Okay. And at the end of the day, it may be  
15 moot because I am not going to disturb, in any way, Judge  
16 Hallal's order with regard to what I accumulate is \$44,000;  
17 that is, in paragraph -- the paragraph that's entitled  
18 Contempt of the Ricciuti Order, it says, "That the Court finds  
19 by clear and convincing evidence that there was a violation of  
20 the Ricciuti Order knowingly and intentionally." And, in  
21 paragraph 2, it indicates that you wrote three checks to your  
22 brother, totaling \$26,000; and an additional amount of \$18,000  
23 paid in credit card bills during the enumerated time periods  
24 in his order -- I'm not going to read it all, and that those  
25 payments were not expenses in the ordinarily course of paying

1 usual household and personal expenses and were thus in direct  
2 violation of the Ricciuti order.

3 I know you don't agree with that, but that's not open for  
4 debate. So, I can tell you that if you don't, if you didn't  
5 come with at least \$44,000 today, I'm going to order that this  
6 order be effectuated and that's going to result in you going  
7 to jail.

8 I am going to leave open, and I want to hear argument  
9 from both sides with regard to whether or not, and I've  
10 spoken, I can do the math myself -- I can see how Judge Hallal  
11 reached \$78,000. It is the \$44,000 that I just enumerated, 26  
12 to the brother, 18 to credit card bills. And an additional  
13 \$34,000 which is the remaining sum between the amount that  
14 Judge Hallal found which transferred out of the Fidelity  
15 account, \$98,000, and the amount that was used to pay  
16 attorney's fees, \$64,000. So that \$34,000 is what Judge  
17 Hallal attributed to -- you took this money out of the  
18 Fidelity account and you -- and that was in violation of the  
19 Ricciuti order because it was not authorized by Judge  
20 Ricciuti.

21 It seems to me, I just want to make sure that he got that  
22 right.

23 DR. MINKINA: May I say something, Your Honor?

24 THE COURT: You may, relative to that issue.

25 DR. MINKINA: You -- you got it right, but there was just

1 pure arithmetic order -- error in those calculations.

2 THE COURT: In which calculation?

3 DR. MINKINA: The calculations, well, you told me that I  
4 cannot talk about my -- the checks I wrote to my brother.

5 THE COURT: I'm not going to revisit that.

6 DR. MINKINA: No, no, no, no, I understand. But I would  
7 like to just bring this up, that if I would withdraw money  
8 from my retirement account, \$30,000, and just give it to  
9 Attorney Casher, that would not be a violation. So, I was not  
10 able to withdraw that money myself. So, my brother paid on my  
11 behalf. All I did -- I just returned the money, number 1.

12 Number 2, as I mentioned the difference which confused  
13 Judge Hallal, was the twenty-five percent of the amount which  
14 he calculated 98,000 correctly, was -- never made it to my  
15 account, because they were withheld by Fidelity. So the  
16 amount of money I received was much lower.

17 Number 3 --

18 THE COURT: So, just sticking with that last point for a  
19 second.

20 DR. MINKINA: Yes.

21 THE COURT: In Exhibit 3 to your pl -- excuse me --  
22 Exhibit 4 to your pleading, you attach what appears to be  
23 statements.

24 DR. MINKINA: Yes.

25 THE COURT: From your -- is this -- statement from your



1 Fidelity accounts.

2 DR. MINKINA: Correct.

3 THE COURT: And so I looked to the first one which is  
4 dated -- well it says -- we'll use the request date in the  
5 middle of it. The defense -- the plaintiff has this, is that  
6 right?

7 MS. CASHER: I'm sorry, Your Honor?

8 THE COURT: Plaintiff has this -- you have this  
9 attachment, so you can follow along?

10 MS. CASHER: She gave it to me when I came into Court,  
11 yes.

12 THE COURT: Okay. So the request date is 9-8 of 2017 for  
13 that first one.

14 DR. MINKINA: Uh-huh.

15 THE COURT: It seems to indicate that the cash withdrawal  
16 amount is \$7460.11.

17 DR. MINKINA: Yes.

18 THE COURT: And then that the federal tax withholding is  
19 listed there \$1,400 and some change, 380 in state and there's  
20 an estimated cash amount you will receive that then says  
21 5587.63 --

22 DR. MINKINA: Correct.

23 THE COURT: -- for the total transaction amount. It  
24 seems to me that in calculating the \$98,000, that Judge Hallal  
25 included that 7,460 figure. I don't know that. It seems to

1 me that that's the case.

2 DR. MINKINA: Well, it's not about this particular  
3 figure. Because both Judge Hallal and I, we came to the same  
4 number \$98,000 plus/minus a little bit. But what happened,  
5 attorney and actually Judge Hallal even asked Attorney Casher  
6 during hearing, are you going to present statements from the  
7 Citibank account and she said it's not necessary.

8 Well, unfortunately it was very necessary, because what  
9 she showed Judge Hallal is how much money I requested to  
10 withdraw and then, she showed how much money I paid to my  
11 attorneys from Citibank account, and there was a gap and that  
12 gap is accountable by -- because I paid twenty-five percent  
13 minimal tax and that's the whole issue became about the tax.  
14 And also, unfortunately, Judge Hallal did not include some of  
15 the checks which I paid to my attorneys into his calculations.

16 During -- Exhibit 1, during the hearing Attorney Casher  
17 presented list of these checks that were compiled not by date,  
18 but by payee. And that was very confusing and also some of  
19 the checks were missing. So, as a result, Judge Hallal had an  
20 impression that I got much more money than I paid to my  
21 attorneys, plus he was under the impression that by refunding  
22 my brother money, which he paid to Attorney Casher, which I  
23 was supposed to pay but could not, because I was in jail, I  
24 could not withdraw money from my retirement account by  
25 refunding him that money, not even all -- part. I violated

1 the law.

2 And number 3 --

3 THE COURT: You violated his rule.

4 DR. MINKINA: His rule. I'm sorry.

5 THE COURT: His ruling.

6 DR. MINKINA: Yes. And number 3, about the credit card  
7 payments. I explained several times. I was absolutely  
8 honest, did not hide anything, I said that I have no money on  
9 my -- in my bank. Money comes and goes, and how do I finance  
10 my bills because I have bills to pay. And I have very limited  
11 funds and my salary is garnished. My wages are garnished.

12 I, because I, so far I had very good credit history. I  
13 get offers from credit cards. I can get cash advance at three  
14 percent and pay zero interest, for example, for six months.  
15 That's what I do. I take this money which allow me to pay my  
16 legal bills. I pay minimal amount. At the end when I have to  
17 start paying higher interest, I borrow money from another  
18 credit card, pay this bill in full and then I continue this  
19 process. It is a legal process. I did not violate anything.  
20 Didn't steal anything. I told Judge Hallal about what I was  
21 doing.

22 So at some point he was under the impression that I had  
23 this money which I spent on credit cards. That I had money  
24 which I paid my brother. And I had money which is the  
25 discrepancy between what Judge Hallal was under the impression

1 I paid my attorneys and what I really paid. Plus, I also had  
2 legal expenses like Court filing fees, transcript fees and  
3 other fees which I paid by credit card and they accounted for  
4 approximately \$4,500.

5 So at the end I did not spend a cent of money which I  
6 took out of my retirement account on anything but my legal  
7 fees, whatever I owed doc -- whatever I owed Attorney Casher  
8 or whatever I owed my attorneys. That's all I did, plus you  
9 said to me earlier that you will not disturb Judge Hallal's  
10 ruling. That if I don't come with money, I will be  
11 incarcerated. Well, I am not an attorney, and I know that you  
12 probably think that it was foolish of me to represent myself,  
13 but I'm doing this not because I want to, but because I don't  
14 have money to afford legal representation.

15 So, being instructing medicine at Harvard Medical School  
16 I have access to Harvard's Library and I did a lot of research  
17 and I mention in my memorandum a case regarding Birchall in  
18 which SJC explains that, "If debtor has no non-exempt properly  
19 [sic], and is unable to pay the judgment, either in full or  
20 through partial payments, the proceedings may be dismissed.  
21 The Court may at any time renew, revise, modify, suspend or  
22 revoke any order made in any proceedings." So, you have  
23 complete right according to SJC to do whatever you feel is  
24 right.

25 THE COURT: Well, I'm doing exactly that, and that's why

1     you're even standing having an argument this afternoon because  
2     I did think, despite the fact that you're rights of appeal  
3     have really been extinguished, that there is a limit to the  
4     number of times you can ask somebody and ask a Court, I need  
5     you to reconsider. And you've exhausted those. But despite  
6     the fact that you've exhausted those, I do think there's  
7     something not to your argument with regard to paying your  
8     brother -- I -- I understand your view. And I understand you  
9     -- you presented that argument previously to Judge Hallal. I  
10    said I'm not going to disturb that because I think it was a  
11    violation -- I -- I understand the practical reasons why  
12    you're doing -- playing -- playing this kind of moving the  
13    money with the credit cards and taking advantage of the fact  
14    that your -- your credit rating is good enough that you can  
15    get cheap and move it, but you didn't have the authority to  
16    make those decisions and to remove the money from that account  
17    under the order. And so you violated the order when you did  
18    that.

19           I understand the reasons, logically, I hear what you're  
20    saying. I understand the reasons why you did that. I still  
21    doesn't make it permissible under the Ricciuti order. And for  
22    those reasons I'm not going to disturb Judge Hallal's order  
23    with regard to that.

24           The window that I've opened up here today is I have a  
25    factual concern with regard to the facts. I wasn't here for

1 that hearing. I have a factual concern based on the exhibits  
2 that I'm seeing that there -- that there is merit to this idea  
3 that the amount of money that you got out of the Fidelity  
4 account was less than what Judge Hallal believed based on the  
5 statements that I'm seeing attached.

6 I'll hear from defense counsel.

7 MS. CASHER: Actually, I'm plaintiff's counsel.

8 DR. MINKINA: I'm sorry.

9 MS. CASHER: Judge Ricciuti's order very specifically  
10 said you may pay legal fees for this case and the pro-mutual  
11 case out of your Fidelity accounts. Anything else you have to  
12 first get Court permission. Anything else would include those  
13 tax payments.

14 At the hearing on May 31st, Dr. Minkina made the same  
15 pitch that she just did to you. That when she takes money out  
16 of Fidelity, she doesn't get exactly the amount she takes out  
17 of Fidelity. They withhold state and federal taxes because  
18 those funds have been deposited on a pretax basis, the way  
19 retirement accounts typically work.

20 In the motion for reconsideration that she presented to  
21 Judge Hallal after the June 1st order, but before the June 4th  
22 order, she made all those same arguments.

23 THE COURT: Were these documents before Judge Hallal?

24 MS. CASHER: Not the --

25 THE COURT: -- were the attachments?

1 MS. CASHER: -- ones she's given you today, Your Honor.

2 THE COURT: The attachment 4 was not?

3 MS. CASHER: No.

4 THE COURT: Or Exhibit 4 was not?

5 MS. CASHER: No, this is the first time I've seen those  
6 particular documents.

7 DR. MINKINA: Well --

8 THE COURT: You wait.

9 MS. CASHER: At the contempt trial, Dr. Minkina's one  
10 Exhibit was the -- a blank representation of the form that she  
11 has to submit to Fidelity in order to deduct money --

12 THE COURT: Okay.

13 MS. CASHER: -- from her accounts. And that showed that  
14 taxes would be -- would come out of those monies. Then with  
15 the motion for reconsideration, again, it wasn't these  
16 documents, but she did submit a chart that showed that the  
17 gross amount withdrawn from Fidelity and then the amounts that  
18 had been withheld for taxes.

19 But again at no point did she ask the Court for  
20 permission to have those taxes paid. And withdrawal from her  
21 retirement account is clearly outside the ordinary course of  
22 business.

23 So, while there was a provision in Judge Ricciuti's order  
24 for her to do things properly, she didn't. And Judge Hallal  
25 was made aware of these circumstances and denied her motion

1 for reconsideration, just as she's made these same arguments  
2 to the Appeals Court, that denied her appeal.

3 So, I would ask, Your Honor, to do the same thing. She  
4 had the opportunity to do it correctly and elected not to do  
5 so. I -- I would appreciate the opportunity before we close  
6 to speak to the emergency motion, however, Your Honor.

7 THE COURT: So your basic argument is that even if it was  
8 paid for purposes of paying the federal and state taxes, that  
9 does not qualify as an expense in the ordinary course of  
10 paying usual household and personal expenses, and as a result  
11 of that it had to be in violation of the Ricciuti order?

12 MS. CASHER: Without prior permission, yes, Your Honor.

13 THE COURT: Okay. I'll hear from you with regard to your  
14 -- whatever other additional argument you want to make on the  
15 emergency motion.

16 MS. CASHER: I think it's clear to, Your Honor, whatever  
17 the number may be, that the finding of contempt is well  
18 founded by Judge Hallal. On the other hand, no one's  
19 interests are served by the defendant going to jail and losing  
20 her job.

21 What I would propose is, first of all, an award of the  
22 fees. This is now the fourth hearing that I've attended in  
23 conjunction with this particular contempt action. I have an  
24 affidavit to support that, and I would ask, Your Honor, to  
25 accept that and to make it.



1           Secondly, I would ask that the Court postpone the  
2 incarceration date for two weeks. During that two week time  
3 for -- for Dr. Minkina to demonstrate that she has filed a  
4 completed application for either an equity loan or  
5 refinancing, financing of some form sufficient to pay the  
6 plaintiff's judgment and the award of costs I've asked Your  
7 Honor to enter.

8           And that all other aspects of the order by Judge Hallal  
9 remain in place. Judge Hallal's initial order, Your Honor,  
10 was dated June 1st. The amended order was June 4th. In over  
11 a month's time, the defendant took no action. If you read her  
12 motion she's not even made inquiry with regard to refinancing  
13 her property to pay this judgment. This is an action --

14           THE COURT: Why do you think that two weeks more is going  
15 to give her the impetus?

16           MS. CASHER: Well, because otherwise she goes to jail.

17           THE COURT: That's been hanging over her head since the  
18 moment that she stepped in today without a check.

19           MS. CASHER: I'm well aware of that, Your Honor.

20           THE COURT: And -- and was aware -- ware of that for the  
21 last, more than the last month.

22           MS. CASHER: Your Honor, put her in jail. No one  
23 deserves it more in my opinion, however, I would rather see  
24 this case come to resolution. And my client would certainly  
25 rather this case came to resolution. This woman makes

1 \$180,000 a year. In order to qualify -- even though she's got  
2 over \$800,000 in equity in her home, in order to qualify for  
3 that refinancing, I imagine she's going to need gainful  
4 employment. It is not in anyone's interests for her to lose  
5 her job. I'm just trying to bring this case to a close, but I  
6 also know that -- well, to me, and I imagine to, Your Honor,  
7 Judge Hallal's order clearly suggested that that would be a  
8 way to resolve this contempt issue and, in fact, the whole  
9 case. He didn't actually state it. I'm asking, Your Honor,  
10 to state it.

11 THE COURT: He didn't actually state what?

12 MS. CASHER: That refinancing her home. He made  
13 reference to the fact that she had \$814,000 in equity in her  
14 home. He did not state that if she was unable to repay the  
15 \$78,000 in some other fashion, that she should utilize that  
16 asset to satisfy this judgment. I'm asking, Your Honor, to  
17 make that very clear to this pro se litigant and within two  
18 weeks you can readily complete an application for financing.  
19 If she doesn't do it within that timeframe, Your Honor, she  
20 never will and she might as well just be locked up. But I'm  
21 trying to find some kind of just pathway to resolution here.

22 THE COURT: Okay. I'll here from the defendant one last  
23 time.

24 DR. MINKINA: Thank you, Your Honor. First of all  
25 Attorney Casher's statement that she did not see the Exhibits

1 until today is misleading. Because on the 1st of June when I  
2 was filing the motions there was disc filed. It's in Court  
3 and it's documented that the disc with all the information was  
4 filed so it is available.

5 THE COURT: Did you send her a copy?

6 DR. MINKINA: Yeah, of course.

7 THE COURT: Of the disc?

8 DR. MINKINA: Yes. So she has -- and this is not the  
9 first time she's stating that she doesn't. And in the past,  
10 she was forced to apologize to Judge Hallal because she  
11 mislead him; Number 1.

12 Number 2, yes, there is that magic number \$800,000 equity  
13 in the house which both Judge Davis and Hallal brought up  
14 several time. In fact, Judge Ricciuti during September 29th  
15 hearing stated, "She can't repossess your house. That's the  
16 problem."

17 I said well, then what about the valuation, is it  
18 relevant? And Judge Ricciuti said, "Not really." So the  
19 potential valuation of \$800,000 is not relevant.

20 Number 3, I have two mortgages on this house. So, it's  
21 not like I have \$800,000 lying in my safe deposit box or  
22 deposited in a hidden account where I can walk in and just  
23 withdraw it. I don't. And we're talking about my retirement  
24 account and about my home, which I own jointly with my husband  
25 and which have declared Homestead. So these are exempt

1 equities. I do not have any non-exempt equities. Not to  
2 mention that when RPS, client of Attorney Casher, "Represented  
3 me," and butchered my case, I sustained damages of \$100,000.  
4 After that I spent \$300,000 on legal fees in legal malpractice  
5 case. That's where my money went. I'm not printing money in  
6 my basement. Yes, I have good salary, but my salary is  
7 garnished to the maximum amount allowed by the law. And  
8 Attorney Casher loves to talk about how rich I am, but she  
9 always forgets to mention about my debt. How much do I owe?  
10 To how many places. That kind of eludes her.

11 And the final issue, what she said about taxes. This is  
12 such nonsense. I never heard anything like that in my life.  
13 Because when I asked Fidelity to transfer money from my  
14 retirement account, I was not ordered. I did it voluntarily.  
15 They will not release the money, if they will not withhold  
16 taxes.

17 Attorney Casher is a debt collection attorney. If she  
18 doesn't know that, what are we talking about? I would be left  
19 with nothing. And I'm really puzzled because she attached  
20 herself to my other case, which is slowly but surely moving to  
21 resolution. ProMutal tried file for summary judgment. Judge  
22 Sullivan denied it and during last hearing, Judge Hallal  
23 ordered that the trial will start in February. So, Attorney  
24 Casher attached RPS to that case.

25 So, in case of any award, she will be first in line to

1 get the money. All she needs to do, let me finish the case.  
2 But what she's trying to do, she's trying to derail the other  
3 case and ruin me emotionally, financially and psychologically.  
4 And the only thing I can find as an explanation that maybe  
5 she's trying to help ProMutual. Because she would be --- she  
6 should be very interested that I finish the case and pay the  
7 money. Right now I'm paying what I can. I'm not running  
8 anywhere; what's the point of putting me in jail? I have a  
9 job. I go to work every day. I am writing my motions after  
10 work. I work five days a week. What else can I do? Do you  
11 think I would escape to Mexico or Canada?

12 THE COURT: I don't know, ma'am. I know that there were  
13 several orders of this Court that you have ignored. And --

14 DR. MINKINA: May --

15 THE COURT: -- and -- and -- and/or chosen to interpret  
16 in a way that you now today you think was reasonable and  
17 permissible. And two other Judges have found that they were  
18 not. I know that you have exhausted your appeals rights for  
19 those and I know that the only reason that I came out here  
20 today to listen to your emergency motion was because of the  
21 attachments that you applied, that you attached to the motion  
22 with regard to Fidelity. It seemed to me a fairness issue,  
23 and although it may be technically in violation of Judge  
24 Ricciuti's order, because he ordered that you could not mix  
25 expenses in this way, and you, as a practical matter, for you

1 to get this money to pay your attorney you needed to -- to get  
2 the money out of the Fidelity account you needed to  
3 effectively take a larger amount of money. You needed to ask  
4 permission to do so under his order. And that was plain under  
5 the language of that order.

6 DR. MINKINA: Paying taxes --

7 THE COURT: Your property is Homesteaded and I'm not  
8 going to order, as the -- as the plaintiff has asked me to do,  
9 something that I think is beyond the scope of what the law  
10 allows me to do.

11 DR. MINKINA: Your Honor, may I just ask you one  
12 question?

13 THE COURT: No.

14 MS. CASHER: For what it's worth, Your Honor, I raised  
15 that only because that was the basis she put in her emergency  
16 motion for seeking a delay.

17 THE COURT: I understand that, but I don't think I can  
18 order her to do what you've asked me to do under Homestead  
19 law.

20 MS. CASHER: I understand.

21 THE COURT: And she's not --

22 DR. MINKINA: But if I -- if I will try? If I will try  
23 to get this -- and I wrote in my motion that I will go and I  
24 will try. I don't know how much I will get, but I will try.  
25 Give me two weeks and I will report to you on the progress.

1 Again, I'm not running anywhere. I will come and you can  
2 incarcerate me then.

3 THE COURT: I want to hear from counsel within, I'm going  
4 to give you the amount of time and I -- I -- I speak to this  
5 in terms of days. I'm going to do two different things.

6 I'm going to order that you -- you -- first I want to  
7 hear from plaintiff's counsel with regard to whether or not if  
8 I order defendant to take steps to refinance her house, and  
9 whether or not that order can withstand the law under the  
10 Homestead rule.

11 If it cannot -- and -- and this is presuming that she  
12 agrees to do so, and that she seeks the appropriate waivers of  
13 her husband to do so. If the law permits me to order you with  
14 the agreement of your husband to refinance your house, then I  
15 will allow that to take place and I will put you on a very  
16 short order. That is, you're going to have to have filed  
17 that, all the necessary documents, with the waiver of your  
18 husband within two weeks.

19 If the law doesn't permit me to do so, you're going to  
20 see an order that you must show up with the amount that Judge  
21 Hallal has ordered. And in light of what I've heard today,  
22 I'm not going to change that amount, \$78,000.

23 How long does -- do -- counsel do you need to look into  
24 this issue for the Court?

25 MS. CASHER: I don't, Your Honor. The Homestead Act

1 provides, my understanding is, Dr. Minkina is under sixty  
2 years old. The Homestead Act protects up to \$500,000 worth of  
3 equity in the property. By her own financial statements on  
4 file with this Court she has \$814,000 in equity --

5 THE COURT: Even after the two mortgages?

6 MS. CASHER: -- in the property.

7 THE COURT: Even after the two mortgages?

8 MS. CASHER: That's after the two mortgages. The two  
9 mortgages together, Your Honor, total less than \$200,000. She  
10 has two --

11 THE COURT: What's the outstanding amount of the  
12 judgment?

13 MS. CASHER: The judgment?

14 THE COURT: So the divide of -- between the Homestead Act  
15 of \$500,000 and the three -- and the \$814,000 if that's a  
16 correct figure, there's a divide of \$314,000?

17 MS. CASHER: The existing amount of the judgment  
18 including interest, Your Honor, is \$249,702.82. I have a  
19 chalk to that effect if you're interested.

20 THE COURT: But there's enough equity in the house to pay  
21 it off?

22 MS. CASHER: There is. Without intruding on the  
23 Homestead protection.

24 THE COURT: All right. Ms. Minkina, I am going to issue  
25 the following order.



1           That by 2 p.m., in two weeks from today, that you need to  
2 be here. And you need to be here with provision of documents  
3 that ensure the Court that you have filed an application to  
4 refinance your property. If you do not, have not filed an  
5 application to refinance your property -- and then we'll take  
6 it from there what the next step is going to be. If you have  
7 not filed an application to refinance your property with a  
8 legitimate bank, bring your toothbrush that day because I'm  
9 going to send you to jail. That's the order of the Court.

10           DR. MINKINA: I understand, Your Honor.

11           THE COURT: There is no more appeals. I don't want you  
12 to file anything else. I don't need any more paper. You  
13 don't have any more rights of appeal, at this point. You've  
14 exhausted your rights of appeal.

15           DR. MINKINA: Your Honor, there is one technical issue.  
16 I have a lien on my property. So plaintiff needs to lift it,  
17 otherwise I will not get anything.

18           MS. CASHER: Not so, Your Honor. At the time of closing  
19 the lien would be paid and I would get paid and the lien would  
20 be dissolved, Your Honor.

21           THE COURT: Right. The lien would get paid. You do the  
22 refinancing. The lien gets paid. And if there's anything  
23 left over, you get it.

24           DR. MINKINA: I'm very confused. So --

25           THE COURT: There's a lien for the judgment.

1 DR. MINKINA: Yes.

2 THE COURT: So you get it -- you get -- you refinance.

3 DR. MINKINA: Yes.

4 THE COURT: Get a new mortgage. They'll give you a new  
5 mortgage in a certain amount. And the amount of money that --  
6 the first amount of money is going to go to satisfy that lien.

7 DR. MINKINA: But --

8 THE COURT: And you're going to be done with this case.

9 DR. MINKINA: Okay. I was under the impression, that I  
10 will be asking when I will be -- either refinancing or asking  
11 to increase my equity line. We are talking about \$78,000, not  
12 \$250,000 roughly.

13 THE COURT: No. You're going to have to get a loan for a  
14 larger amount of money. To pay off the debt that you owe to  
15 these people.

16 DR. MINKINA: Well, what will happen if I will file, I  
17 will go through all the procedures and bank will refuse. They  
18 will say I have too much debt. I have debt on credit cards  
19 and other obligations and I have equity, so they will not lend  
20 me this money.

21 THE COURT: If that happens, then you're back to this --  
22 to square one. But we're going to take it one step at a time.  
23 But if you don't make a good faith basis to file the  
24 application within two weeks, you're not going to find out  
25 whether the banks going to give it to you or not. The time

1 has come that you need to pay this debt that's owed.  
2 Refinance your house and get on with it. Pay what they owe  
3 you and move on with your life -- what you owe them and move  
4 on with your life. That's what needs to happen at this point.

5 DR. MINKINA: I'll do my best.

6 THE COURT: I will see you back here in two weeks at 2  
7 p.m.

8 THE CLERK: Return date of July 24th at 2 p.m.

9 MS. CASHER: Thank you, Your Honor.

10 COURT OFFICER: All rise.

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(Adjourned)



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