

## United States Court of Appeals

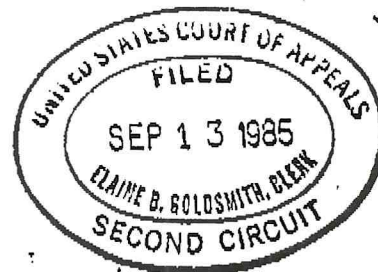
FOR THE  
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 13th day of September, one thousand nine hundred and eighty-five.

## Present:

HONORABLE WILFRED FEINBERG,  
Chief Judge

HONORABLE IRVING R. KAUFMAN,

HONORABLE THOMAS J. MESKILL,  
Circuit Judges.

-----X  
HYMAN RAFFE, individually and on behalf  
of PUCCINI CLOTHES, LTD.,

Plaintiffs-Appellants,

- against -

85-7251

85-7471

CITIBANK, N.A., et al.,

Defendants-Appellees.  
-----X

Appeal from the United States District Court for the Eastern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Eastern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged and decreed that the judgment of said district court is AFFIRMED.

1. We find that the fee requests submitted by the defendants' counsel are in compliance with the standards set forth in New York Association for Retarded Children v. Carey, 711 F.2d 1136, 1147-48 (2d Cir. 1983).

2. We reject appellants' apparent claim that an evidentiary hearing was required on the fee awards; since appellees established a reasonable basis on which to award fees and the district court heard any objections thereto, it did not abuse its discretion in not holding an evidentiary hearing.

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3. Since an award of fees to the defendants in this case has already been affirmed by this court by summary order dated January 22, 1985, any claim that the Attorney General is not entitled to fee is barred by the doctrine of res judicata.

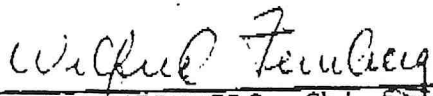
4. Appellants' objection to Judge Nickerson's method of calculating fees is meritless in light of authority in this circuit supporting similar computations. New York Association for Retarded Children v. Carey, 711 F.2d at 1146.

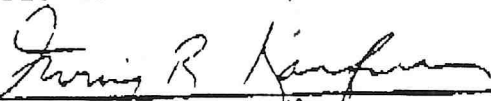
5. Because the basis of the contempt order was appellants' failure to respond to orders requiring their testimony, not the non-payment of the judgment, appellants' jurisdictional objection to the contempt order is groundless. Furthermore, we find appellants' claims that they made full payment prior to the contempt order unsupported by the record.

6. We are particularly unimpressed with appellants' excuses for their numerous defaults and their attempts to shift the burden to appellees on the basis of one late appearance by their counsel.

7. Finally, we find Judge Nickerson's contempt order appropriate under the circumstances. We have reviewed appellants' claim that criminal contempt entitles them to a hearing and find no merit to appellants' procedural objections, in view of their failure to respond adequately to Judge Nickerson's order to show cause and the statement in Mr. Sassower's affidavit dated June 6, 1985, that no personal appearance was necessary.

8. We have considered all of appellants' arguments and find them to be without merit.

  
WILFRED FEINBERG, Chief Judge

  
IRVING R. KAUFMAN,

  
THOMAS J. MESKILL,  
Circuit Judges.

N.B. Since this statement does not constitute a formal opinion of this Court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.