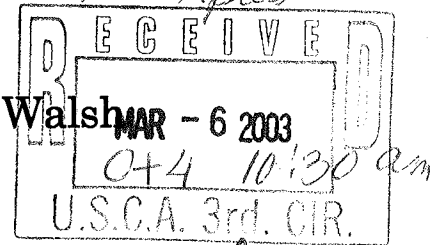


W

McCusker, Anselmi, Rosen, Carvelli & Walsh

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
127 MAIN STREET, CHATHAM, NEW JERSEY 07928
TEL: (973) 635-6300 FACSIMILE: (973) 635-7044
Writer's Direct Dial: (973) 457-0123
e-mail: brosen@marc-law.com
Website: www.marcw.com



*Argued
closed*

JOHN B. McCUSKER
ANDREW E. ANSELM
BRUCE S. ROSEN
PAUL F. CARVELLI
JOSEPH T. WALSH, III
JONATHAN T.K. COHEN

AMY C. GROSSMAN
MARITZA BERDOTE BYRNE
GAIL E. SLAUGHTER
PAUL G. McCUSKER
MICHAEL T. MILLAR
WENDY B. GREEN
JAMES A. MESZAROS
SCOTT H. GOLDSTEIN
JAMES P. SPIELBERG
ALICYN B. CRAIG
EDWARD A. STURCHIO, JR.

SUZANNE M. MURPHY
ROSEMARIE DASILVA
Of Counsel

New York City Office:

The Chrysler Building
405 Lexington Avenue, 42nd Floor
New York, New York 10174
Tel: (212) 308-0070

Toms River Office:

98 East Water Street
Toms River, NJ 08753
Tel: (732) 914-9114
Facsimile: (732) 914-8024

March 5, 2003

VIA FEDERAL EXPRESS

Carmen Hernandez, Case Manager
United States Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790

**Re: Tenafly Eruv Assn., et al. v. Borough of Tenafly, et al.
Case No.: 01-3301
Plaintiffs-Appellants' Fee Application**

Dear Ms. Hernandez:

This office represents Defendants-Appellees in the above-referenced matter. Please accept this letter as a Motion to Strike the Reply Memorandum and Affirmation in submitted by Plaintiffs-Appellants Tenafly Eruv Association, Inc. and Stefanie Dardik Gotlieb in further support of their fee application so that the Court does not consider these inappropriate submissions during its review of the fee applications at issue, which have been stayed.

Pursuant to LAR 108.0, a prevailing party may make an application for attorneys' fees and expenses. In response thereto, the other party to the action may file an opposition to said

Received and Filed

3/6/03

M. Waldron

March 5, 2003

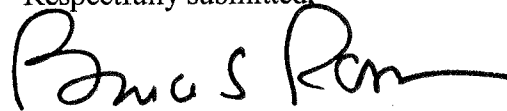
Page 2

application. Importantly, however, the Local Appellate Rules do not provide an opportunity for the prevailing party to reply to the opposition, nor has any motion been made to permit a reply.

Plaintiffs-Appellants Tenafly Eruv Association, Inc. and Stefanie Dardik Gotlieb in their reply papers, assert arguments not addressed in their initial fee application. It is in that initial application that the prevailing party has the burden of proving its entitlement to any attorneys' fees or costs. These Plaintiffs-Appellants did not do so. They did not provide sufficient evidence as to the proper hourly rates, they did not provide evidence as to the appropriateness of the costs requested, and they did not provide adequate explanations for the hours billed. Instead, they attempt to address these "missed" issues in the Reply Memorandum and Affirmation. This is impermissible as per the rules of this Court and it is unfair to defendants-appellees. As such, Defendants-Appellees respectfully request that the Reply Memorandum and Affirmation of Plaintiffs-Appellants Tenafly Eruv Association, Inc. and Stefanie Dardik Gotlieb be stricken and that the Court not consider these papers in determining the appropriate attorneys' fees to be awarded in this matter if and when the issue is considered.

Please file the enclosed document, and return a filed copy in the self-addressed stamped envelope. Thank you for your assistance.

Respectfully submitted,

A handwritten signature in black ink that reads "Bruce S. Rosen". The signature is written in a cursive, flowing style.

Bruce S. Rosen

BSR:abc

cc: Robert G. Sugarman, Esq. (via regular mail)
Nathan Lewin, Esq. (via regular mail)
Richard D. Shapiro, Esq. (via regular mail)
Noah R. Feldman, Esq. (via regular mail)