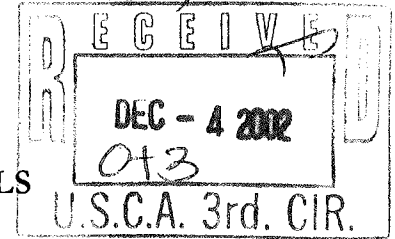


IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT



No. 01-3301

TENAFLY ERUV ASSOCIATION, INC., et al.,

*Plaintiffs-Appellants,*

v.

THE BOROUGH OF TENAFLY, et al.,

*Defendants-Appellees.*

On Appeal from the United States District Court  
for the District of New Jersey

**MOTION OF PLAINTIFFS-APPELLANTS  
CHAIM BOOK, YOSIFA BOOK AND STEPHEN  
BRENNER FOR AWARD OF ATTORNEYS'  
FEES**

Plaintiffs-Appellants Chaim Book, Yosifa Book and Stephen Brenner hereby move, pursuant to Local Appellate Rule Misc. 108.1 and 42 U.S.C. § 1988, for the award of \$74,924.50 attorneys' fees for the successful prosecution of the instant appeal.

As shown in the Affidavits of Nathan Lewin and Alyza D. Lewin submitted in support of this motion, counsel for the appellants Chaim Book, Yosifa Book and Stephen Brenner spent 118.3 and 31.30 hours, respectively, in preparation of the motion for a stay, appellate briefs and the oral argument. The standard hourly rate charged to its clients by the firm of Mintz Levin Cohn Ferris Glovsky & Popeo, PC, for the services of Nathan Lewin and Alyza D. Lewin during the time the services were performed was \$550 per hour and \$315 per hour respectively.

Received and Filed

*12-4-02*  
Marcia M. Waldron,  
Clerk

The motion for stay, briefs and argument submitted on behalf of Chaim Book, Yosifa Book and Stephen Brenner presented different legal contentions than the motion for stay, briefs and argument of the Tenafly Eruv Association, Inc. and Stefanie Dardik Gotlieb. The rationale for reversal announced by this Court was based, in large part, on the arguments made by counsel for Chaim Book, Yosifa Book and Stephen Brenner. There was, in any event, no duplication in the briefs submitted by the two sets of appellants.

Appellants are entitled to an award of attorneys' fees in the amount of \$74,924.50 based upon the reversal of the District Court's judgment and this Court's direction that a preliminary injunction be issued by the District Court. *Truesdell v. Philadelphia Housing Authority*, 290 F.3d 159 (3d Cir. 2002); *Planned Parenthood of Central New Jersey v. Attorney General of the State of New Jersey*, 297 F.3d 253 (3d Cir. 2002).

Undersigned counsel appeared *only* on the appeal of this case. The District Court proceedings were initiated and prosecuted by the firm of Weil, Gotshal & Manges LLP for *all* the plaintiffs, and, in any future proceedings in the District Court, that firm will represent all plaintiffs. It is appropriate, therefore, that this Court grant attorneys' fees to the undersigned counsel who participated *only* in the appeal.

Respectfully submitted,



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NATHAN LEWIN  
LEWIN & LEWIN, LLP  
1025 Connecticut Avenue, N.W.  
Suite 1000  
Washington, DC 20036  
(202) 828-1000

*Counsel for Plaintiffs-Appellants Chaim Book, Yosifa Book and Stephen Brenner*

Dated: December 3, 2002

**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

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No. 01-3301

TENAFLY ERUV ASSOCIATION, INC., et al.,

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On Appeal from the United States District Court  
for the District of New Jersey

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**AFFIDAVIT OF NATHAN LEWIN**

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NATHAN LEWIN hereby affirms under penalty of perjury:

1. I am a partner in Lewin & Lewin, LLP, and am counsel for Chaim Book, Yosifa Book, and Stephen Brenner, who were appellants in this Court in *Tenafly Eruv Association, Inc., et al. v. The Borough of Tenafly, et al.*, No. 01-3301, that was decided with an opinion issued on October 24, 2002. A timely petition for rehearing and rehearing *en banc* was denied by this Court on November 20, 2002.

2. I have been a member of the Bar of this Court since October 3, 1980, and argued a number of cases before this Court during that time. I have also argued 27 cases in the Supreme Court of the United States, many of them dealing with liberties protected by the First Amendment to the United States Constitution. I graduated in 1960 from the Harvard Law

School, served as a Law Clerk on the United States Court of Appeals for the Second Circuit, and in 1961-1962 as a Law Clerk to Associate Justice John M. Harlan of the Supreme Court of the United States. Between 1963 and 1967 I served as an Assistant to Solicitors General Archibald Cox and Thurgood Marshall, and in 1968-1969 I was Deputy Assistant Attorney General in the Civil Rights Division of the Department of Justice. I have taught Constitutional Law at Harvard Law School, Georgetown Law School, University of Chicago Law School, and Columbia Law School (where I am currently teaching).

3. In August 2001, shortly after issuance of the opinion of the District Court in this case, I was asked by Chaim Book to represent him, his wife Yosifa Book, and Stephen Brenner on appeal from the judgment of the District Court. The legal arguments I proposed to present on their behalf differed from, and did not duplicate, the arguments that I understood would be presented on behalf of the Tenafly Eruv Association and Stefanie Dardick Gotlieb by the law firm of Weil Gotshal & Manges that had jointly represented all the appellants in the District Court.

4. I agreed to undertake the representation and prepared the motion for a stay and the briefs submitted on behalf of Chaim Book, Yosifa Book, and Stephen Brenner in this Court. Assisting me in this representation was my daughter Alyza D. Lewin, who is currently my partner in Lewin & Lewin, LLP.

5. At the relevant time, I was a Member of Mintz Levin Cohn Ferris Glovsky & Popeo, PC. That firm maintained time records for the work that I and Alyza D. Lewin did with respect to this appeal.

6. I and Alyza D. Lewin terminated our relationship with Mintz Levin Cohn Ferris Glovsky & Popeo, PC, as of May 1, 2002. A provision in the agreement under which we left assigned to us any award of attorneys' fees for work we had done in this case while at the firm.

7. The records of Mintz Levin Cohn Ferris Glovsky & Popeo, PC, reflect that I spent the following hours on this appeal:

8/13/01	Review of opinion	1.20
8/15/01	Research regarding opinion (1.2)	1.70
	Telephone conferences with C. Book (0.5)	
8/16/01	Conference with C. Book	1.00
8/20/01	Research regarding stay, etc. (1.7)	2.20
	Telephone conference with C. Book (0.5)	
08/21/01	Revise draft stay motion (4.7)	5.70
	Emails with C. Book and conference with A. Lewin (1.0)	
08/22/01	Research and draft stay motion (5.2)	5.90
	Telephone conferences with Mr. Osen and Mr. C. Book (.7)	
08/23/01	Revise stay motion (6.0)	6.40
	Emails regarding stay motion (.4)	
08/24/01	Telephone conferences regarding filing	0.80
08/28/01	Emails regarding Weil Gotshal filing	0.50
08/29/01	Review Weil Gotshal application	1.00
09/06/01	Review Tenafly opposition papers	1.50
09/07/01	Draft reply memo	2.50
09/10/01	Telephone conference with C. Book	0.20
09/21/01	Review order (.4)	0.90
	Emails regarding order (.5)	
09/28/01	Telephone conference with C. Book (.3)	0.60
	Telephone conference with R. Sugarman (.3)	
10/04/01	Telephone conference with R. Sugarman	0.60
10/16/01	Review contents of Appendix	1.00
10/22/01	Review cases and research	1.20
10/26/01	Draft brief	2.50
10/28/01	Draft brief	5.00
10/29/01	Draft brief	5.20
10/30/01	Revised brief	4.70
10/31/01	Finalized brief	6.10
11/06/01	Reviewed OU brief	0.40
11/09/01	Reviewed Motion to Strike	0.50
11/12/01	Reviewed Becket Fund amicus brief	0.50

11/13/01	Review opposition motion	0.40
11/14/01	Draft reply to opposition motion	1.00
01/02/02	Review Tenafly brief	1.20
01/03/02	Review of Tenafly brief and motion; telephone conference with A. Lewin regarding research	1.80
01/22/02	Reply brief	3.50
01/23/02	Reply brief	4.00
01/24/02	Reply brief	1.30
01/25/02	Finalize reply brief	1.50
02/04/02	Discussion regarding notice of argument date (.2) Telephone conference with B. Sugarman regarding argument (.5)	0.70
03/08/02	Letter from Third Circuit	1.00
03/11/02	Draft response to Third Circuit	3.00
03/12/02	Research for Third Circuit letter (3.8) Review Weil Gotshal draft (.4)	4.20
03/13/02	Revise Response to Third Circuit (2.2) Research (2.7) Telephone conference with Sugarman, etc.(1.0)	5.90
03/14/02	Revise letter to Third Circuit	1.20
03/15/02	Review other parties' letters	1.70
03/18/02	Prepare for oral argument	2.00
03/19/02	Prepare for oral argument	4.20
03/20/02	Prepare for oral argument	5.00
03/21/02	Travel and argument in Court of Appeals	8.00
03/31/02	Letter from appellees	1.00
04/01/02	Drafted reply (3.0) Reviewed transcript (1.3)	4.30
04/22/02	Research regarding Supreme Court decisions	1.00
04/22/02	Prepare letter to Third Circuit	0.60
TOTAL HOURS		118.3

8. My hourly rate of \$550 per hour was paid by regular clients of my former firm and is the rate I am currently charging for my services. The total fees for my services in this appeal therefore come to \$65,065.00.

Pursuant to 28 U.S. § 1746 I declare under penalty of perjury that the foregoing is true and correct.

December 3, 2002



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NATHAN LEWIN

**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

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No. 01-3301

TENAFLY ERUV ASSOCIATION, INC., et al.,

*Plaintiffs-Appellants,*

v.

THE BOROUGH OF TENAFLY, et al.,

*Defendants-Appellees.*

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On Appeal from the United States District Court  
for the District of New Jersey

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**AFFIDAVIT OF ALYZA D. LEWIN**

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**ALYZA D. LEWIN** hereby affirms under penalty of perjury:

1. I am a partner in Lewin & Lewin, LLP. Prior to May 1, 2002, I was Counsel to the firm of Mintz Levin Cohn Ferris Glovsky & Popeo, PC. I assisted Nathan Lewin, Esq., while we were both at Mintz Levin Cohn Ferris Glovsky & Popeo, PC, in preparation of the briefs and oral argument in this case.

2. Mintz Levin Cohn Ferris Glovsky & Popeo, PC, charged regular clients of the firm \$315 per hour for my services while I was at the firm. I am a 1992 graduate of New York University Law School. I served as Law Clerk to Justice Menachem Elon of the Supreme Court of Israel in 1992-93. Thereafter, I was an associate at Wilmer Cutler & Pickering from 1993 to



1999. I joined Miller Cassidy Larroca & Lewin as Of Counsel in 1999, and became Counsel at Mintz Levin Cohn Ferris Glovsky & Popeo, PC, on February 1, 2001.

3. The records of Mintz Levin Cohn Ferris Glovsky & Popeo, PC, show that I performed the following services with regard to this appeal:

8/21/01	Conference with N. Lewin	0.20
8/22/01	Conferences with N. Lewin, P. Hosner, D. Charnet; review draft stay application; review affidavits; conference via e-mail with C. Book	4.00
10/29/01	Telephone call with N. Diamant; review draft brief	1.60
10/30/01	Conference with J. Friedman (and via e-mail with D. Charnet); review draft brief; conference with N. Lewin, conference with S. Schopf [associate]	1.80
10/31/01	Review, finalize and file brief with Third Circuit	3.50
11/5/01	Telephone conference with Beckett Fund counsel regarding consent to file amicus; conference with D. Charnet regarding consent letter to Agudath Israel	0.30
11/13/01	Review files	0.10
12/13/01	Telephone conferences (x3) with C. Lowenthal regarding motion for extension of time	0.50
12/18/01	Telephone conference with D. Zwiebel regarding amicus brief; conference with P. Hosner regarding files	0.60
1/2/02	Telephone conference regarding ACLU amicus brief; conference with N. Lewin regarding same	0.20

1/3/02	Conference with N. Lewin regarding appellees' brief	0.20
1/4/02	Conference with D. Shapiro regarding raising new constitutional argument on appeal	0.30
1/8/02	Conference with D. Shapiro and N. Lewin	0.30
1/22/02	Telephone conference with C. Lowenthal	0.20
1/23/02	Conferences with N. Lewin and D. Shapiro and P. Hosner; review and edit brief; fax materials to N. Lewin	2.10
1/24/02	Telephone conferences with C. Lowenthal (x2), B. Sugarman, C. Tolchin; conferences with N. Lewin, C. Tolchin and P. Hosner; review and edit brief	3.30
1/25/02	Finalize reply brief; conference with N. Lewin	2.50
3/13/02	Leave message for J. Friedman regarding oral argument binders; conference with P. Hosner; conference with N. Lewin regarding argument binders and regarding telephone conference with B. Sugarman regarding Beckett Fund participating in oral argument	1.20
3/14/02	Review letter to Court regarding symbolic speech; conferences with N. Lewin, J. Friedman, P. Hosner regarding oral argument binders; conference with N. Lewin regarding discussions with N. Diamant of Agudath	1.70
3/19/02	Research opinions by panel regarding religion and free speech	3.00
3/20/02	Research opinions by panel regarding free speech	3.70
TOTAL HOURS		31.30

4. The total amount of fees assessed according to the hours that I spent on this appeal is \$9,859.50.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

December 3, 2002

  
ALYZA D. LEWIN

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing Motion of Plaintiffs-Appellants Chaim Book, Yosifa Book and Stephen Brenner for Award of Attorneys' Fees to be served by Federal Express on December 3, 2002, on the following individuals:

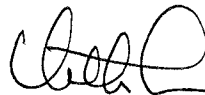
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NATHAN LEWIN