

A:\IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORMAN WOLGIN and	:	CIVIL ACTION
ROBERT WOLGIN,	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
KENNINGTON LTD., INC.,	:	
Defendant.	:	No. 98-5956

MEMORANDUM AND ORDER

J. M. KELLY, J. OCTOBER , 2001

Presently before the Court is a Motion For Reimbursement of Legal Fees (Doc. No. 34) filed by the Plaintiffs, Norman Wolgin and Robert Wolgin ("Plaintiffs"). This Court previously affirmed a portion of an Arbitration Award in the dispute between the parties. See Wolgin v. Kennington Ltd., No. CIV.A.98-5956, 1998 WL 221034 (E.D. Pa. May 6, 1998). On August 12, 1999, this Court found Kennington Ltd., Inc. ("Kennington") in contempt of the Court's May 6, 1998 Order and awarded the Plaintiffs attorney's fees and expenses. See Wolgin v. Kennington Ltd., No. CIV.A.98-5956, 1999 WL 615869 (E.D. Pa. Aug. 12, 1999). On December 6, 1999, this Court ordered Kennington to pay Plaintiffs \$78,080, the amount of attorneys fees and costs to which the parties stipulated.

Kennington appealed this Court's August 12, 1999 Order, which the Third Circuit affirmed. Thereafter, Kennington paid a total of \$78,080 in attorney's fees and expenses, all of which were incurred before the appeal. Plaintiffs come before this

Court seeking additional attorney's fees and expenses incurred in connection with Kennington's unsuccessful appeal. For the following reasons, Plaintiffs' motion is denied.

Third Circuit Miscellaneous Local Appellate Rules 108.1 and 108.2 govern the Application for Fees incurred in filing cases in the Third Circuit Court of Appeals. Rule 108.1 expressly states:

(a) Except as otherwise provided by statute, all applications for an award of attorney's fees and other expenses relating to a case filed in this Court, regardless of the source of authority for assessment, shall be filed within thirty (30) days after the entry of this Court's judgment, unless a timely petition for rehearing or suggestion for rehearing en banc has been filed, in which case a request for attorney's fees shall be filed within fourteen (14) days after the Court's disposition of such petition or suggestion. Such application shall be filed with the Clerk in the time set forth above whether or not the parties seek further action in the case or further review from any Court.

(b) The Court shall strictly adhere to the time set forth above and grant exceptions only in extraordinary circumstances.

The language of the rule is clear. In order to recover attorney's fees and expenses relating to any case filed in the Third Circuit Court of Appeals, parties must file in accordance with Rule 108.1. Therefore, this matter is not before the proper court. Accordingly, Plaintiffs' Motion is DENIED.

BY THE COURT:

JAMES MCGIRR KELLY, J.