

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Goldsmith v Cavuoti

2026 NY Slip Op 01494 · No. 2024-11156 · Decided March 18, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order holding the defendant in civil contempt for failing to pay agreed-upon child support add-on expenses under the parties' stipulation of settlement. The court also upheld an award of \$6,000 in attorneys' fees and concluded that no hearing was required because the defendant failed to raise a factual dispute or challenge the fee amount.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Deborah A. Dowling, J.; Janice A. Taylor, J.; James P. McCormack, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	March 18, 2026
DOCKET	2024-11156
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant appealed from an order in a matrimonial action that held him in civil contempt for failing to comply with a child-support add-on-expenses provision and awarded the plaintiff \$6,000 in attorneys' fees.
STANDARD OF REVIEW	A motion to punish a party for civil contempt is addressed to the sound discretion of the motion court. A hearing is required only when the opposing papers raise a factual dispute concerning the elements of civil contempt or the existence of a defense.
PRECEDENTIAL VALUE	published
PARTIES	Mickey Cavuoti v. Marisa Goldsmith

TOPICS

contempt

child support

attorney fees

family law procedure

appellate procedure

PRACTICE AREAS

family law

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remedies

QUESTIONS PRESENTED

1. Whether the Supreme Court properly held the defendant in civil contempt for violating the child-support add-on-expenses provision without first conducting a hearing.
2. Whether the Supreme Court properly awarded the plaintiff \$6,000 in attorneys' fees without conducting a hearing.

HOLDINGS

1. The Supreme Court properly held the defendant in civil contempt without conducting a hearing because the defendant's opposition papers failed to raise a factual dispute concerning the elements of civil contempt or a defense such as inability to comply.
2. The Supreme Court properly awarded the plaintiff \$6,000 in attorneys' fees without conducting a hearing because the defendant neither requested a hearing nor challenged the amount demanded, and in any event failed to raise an issue of fact warranting a hearing.

KEY QUOTATIONS

*“To prevail on a motion to hold a party in civil contempt, the movant must establish by clear and convincing evidence: (1) that a lawful order of the court was in effect, clearly expressing an unequivocal mandate; (2) the appearance, with reasonable certainty, that the order was disobeyed; (3) that the party to be held in contempt had knowledge of the court's order; and (4) prejudice to the right of a party to the litigation” (*1)*

*“A hearing is required only if the papers in opposition raise a factual dispute as to the elements of civil contempt, or the existence of a defense” (*2)*

FACTUAL BACKGROUND

The parties were married in 2011 and have two children. Their judgment of divorce, dated March 15, 2023, incorporated but did not merge their stipulation of settlement, which required the defendant to pay child support and 60 percent of certain agreed add-on expenses, including summer camps. The plaintiff moved to hold the defendant in contempt for failing to comply with that provision and sought attorneys' fees; the defendant's opposition did not raise a factual dispute requiring a hearing.

PROCEDURAL HISTORY

The parties' judgment of divorce incorporated but did not merge their stipulation of settlement. After the defendant allegedly failed to pay 60 percent of agreed add-on expenses, including summer camps, the plaintiff moved for civil contempt and attorneys' fees. The Supreme Court, Nassau County, granted the contempt relief and awarded \$6,000 in attorneys' fees without conducting a hearing. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Shemtov v Shemtov, 153 AD3d 1295, 1295-1296
- El-Dehdan v El-Dehdan, 26 NY3d 19, 29
- Mollah v Mollah, 136 AD3d 992, 993-994
- Kudla v Kudla, 173 AD3d 1149, 1151-1152
- Winter v Winter, 307 AD2d 963, 964

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