§ 438. Counsel fees. (a) In any proceeding under this article, including proceedings for support of a spouse and children, or for support of children only, or at any hearing to modify or enforce an order entered in that proceeding or a proceeding to modify a decree of divorce, separation, or annulment, including an appeal under article eleven, the court may allow counsel fees at any stage of the proceeding, to the attorney representing the spouse, former spouse or person on behalf of children.

(b) In any proceeding for failure to obey any lawful order compelling payment of support of a spouse or former spouse and children, or of children only, the court shall, upon a finding that such failure was willful, order respondent to pay counsel fees to the attorney representing the petitioner or person on behalf of the children. Representation by an attorney pursuant to paragraph (b) of subdivision nine of section one hundred eleven-b of the social services law shall not preclude an award of counsel fees to an applicant which would otherwise be allowed under this section.