

September 08, 2009

Our Access to Justice Campaign is urging the U.S. Supreme Court to reject defendants' efforts to eliminate civil rights plaintiffs' ability to recover reasonable attorneys' fees for "exceptional" work and results! Asking the Court to overturn decades of well-established law, the Governor of Georgia is arguing that Congress only wanted civil rights plaintiffs to obtain "competent" counsel and that forcing him to compensate counsel for winning "sweeping relief" of "far-reaching significance" over his opposition would somehow be unfair. **We say Congress intended fair and reasonable compensation for all civil rights' attorneys -- including those who perform exceptional work and win extraordinary results!**



The Civil Rights Attorneys Fees Award Act of 1976 says that, when plaintiffs win, defendants have to pay their "reasonable" attorneys' fees. For decades, the courts, including the Supreme Court, have repeatedly held that, to decide what attorneys' fees are "reasonable" in each case, courts must look at the hours appropriately worked, the hourly rate charged by similarly-experienced attorneys in the community, the quality of work performed, and the results obtained. If the quality and results are poor, the fee is decreased. If the quality and results are exceptional, the fee is enhanced. Now, the Governor of Georgia, having fought and finally settled a groundbreaking lawsuit reforming the state's horrific foster care system, is urging the Supreme Court to hold in *Perdue v. Kenny A.* that -- even though the U.S. district court specifically found that plaintiffs' counsel provided "unparalleled legal representation" and achieved results that were "truly exceptional" -- they cannot be paid more than average lawyers would be paid for achieving a routine victory. We say that is not what Congress intended.

The plaintiffs in *Perdue* are 3,000 foster children who alleged that Georgia's foster care system is irretrievably broken and characterized by horrific abuse and neglect. After years of hard-fought litigation, plaintiffs and their counsel achieved a consent decree that the district court described as "truly exceptional" and that will substantially reform Georgia's foster care system.

In light of the *Perdue* plaintiffs' outstanding result, the district court awarded their counsel an enhanced attorneys' fee. The district court judge found that counsel's success exceeded anything he had seen in 58 years as a lawyer, and that counsel demonstrated more "skill, commitment, dedication, and professionalism" than "in any other case" he had presided over on the bench. The Eleventh Circuit affirmed, and the Supreme Court granted review to decide whether an enhanced attorneys' fee is ever appropriate under federal fee-shifting statutes for superior skill and exceptional results.

Our *amici* brief -- authored by Jeffrey White of the Center for Constitutional Litigation and joined by The Impact Fund and the National Employment Lawyers Association -- argues that plaintiffs' attorneys are entitled to full and fair compensation when they achieve outstanding success. Congress did not intend to compensate attorneys only for the minimum effort necessary to achieve an average result. To the contrary, Congress intended to encourage vigorous enforcement of the law by compensating attorneys for superior work and exceptional results. Injured plaintiffs deserve no less.

To read Public Justice's *amici* brief, [click here](#).

We thank Jeff White for writing this outstanding brief, as well as Public Justice Staff Attorneys Claire Prestel and Vicky Ni for their work on it.

We thank you, too, for supporting Public Justice and our Access to Justice Campaign. To make a tax-deductible gift in support of this work, please [click here](#).

Thanks for your interest, dedication, and service. Keep fighting!

Arthur Bryant
Executive Director
Public Justice
& the Public Justice Foundation

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