

[US Supreme Court Limits Fee Enhancements to "Exceptional Cases"](#)

Posted on April 30, 2010 by [Gary A. Bresee](#)

In a much anticipated legal fee decision, the [U.S. Supreme Court](#) ruled on April 21, 2010, that trial courts may award fee enhancements above the “lodestar” amount to lawyers for superior performance, but only in *rare* and *well-documented circumstances*.

The case of [Perdue v. Kenny A.](#) was one which had been carefully watched by civil rights and public interest groups, many of which rely on fee-shifting statutes when they prevail in litigation.

The Supreme Court’s 5-4 majority rejected the fee enhancement request of \$6 million by plaintiffs’ lawyers in a successful class-action suit on behalf of 3,000 children in Georgia, which the court recognized had helped reform the Georgia foster care system.

The trial judge awarded the lawyers \$6 million using the lodestar method of calculating legal fees — hours worked multiplied by the local hourly market rate for lawyers of comparable experience and skill. The judge then added an “enhancement” of \$4.5 million for what he said was work of exceptionally high quality.

Justice Alito, writing for the majority, said fee enhancements for superior attorney performance are permissible, but *only in exceptional cases*. In this case, however, he believed that the trial judge did not provide “*proper justification*” for the enhancement under a series of factors listed in the opinion.

Justice Alito made it clear that the purpose of fee enhancements was not to enrich the lawyers. He said that federal fee-shifting law,

... serves an important public purpose by making it possible for persons without means to bring suit to vindicate their rights. But unjustified enhancements that serve only to enrich attorneys are not consistent with the statute’s aim.

In a footnote, Alito added that if the \$4.5 million fee enhancement that was awarded by the trial judge had remained in place, the attorneys representing the foster care plaintiffs “...*would earn as much as the attorneys at some of the richest law firms in the country.*”

In conclusion, the 5-4 majority opinion overturned the trial court’s award of a \$4.5 million lodestar enhancement to plaintiffs’ attorneys and remanded the case back to the district court.