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## Fifth Circuit Upholds Precedent on Bankruptcy Fee Awards

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August 15, 2012

The Fifth Circuit found in a decision on Friday that a U.S. Supreme Court ruling curtailing district courts' authority to award fee enhancements in fee-shifting cases does not apply to bankruptcies, Law360.com reported yesterday. "It's a very important case, it's one of the most comprehensive circuit court opinions on fee enhancements in bankruptcy, and it thoroughly reviews all of the precedent and broadly stands for the proposition that the bankruptcy courts will be given wide discretion in awarding fee enhancements, particularly where the creditors are paid in full," said **James**



**F. Wallack** of Goulston & Storrs PC, who represents CRG Partners. The decision — which affirmed a Texas bankruptcy court's \$1 million fee enhancement award to CRG Partners Group LLC for its work on the restructuring of poultry producer Pilgrim's Pride Corp. — limits the application of the high court's 2010 ruling in *Perdue v. Kenny A. ex rel. Winn*, which U.S. Trustee **William Neary** had argued made the fee award improper. "There may be sound justifications for implementing a *Perdue*-like approach to the compensation of professionals ... but those justifications must be voiced to our en banc court, the Supreme Court or Congress," the three-judge panel wrote. "We hold that *Perdue* did not unequivocally, *sub silentio* overrule our prior precedent, and we are, therefore, bound to apply it." Click here to read the opinion: <http://www.ca5.uscourts.gov/opinions/pub/11/11-10774-CV0.wpd.pdf>

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