

**05-1429 TRAVELERS CASUALTY & SURETY CO. V. PACIFIC GAS AND ELECTRIC CO.**

DECISION BELOW:167 Fed. Appx. 593

LOWER COURT CASE NUMBER: 04-15605

**QUESTIONS PRESENTED:**

Petitioner and Respondent entered into a contract that included a provision that Petitioner is entitled to recover its attorneys' fees incurred in connection with the enforcement, protection, or litigation of its contractual and legal rights. Petitioner incurred attorneys' fees litigating its rights during the course of Respondent's bankruptcy case and sought to recover them from Respondent. Adhering to its prior decision in *Fobian v. Western Farm Credit Bank (In re Fobian)*, 951 F.2d 1149 (9th Cir. 1991), the Ninth Circuit held that Petitioner could not recover its attorneys' fees because the relevant litigation in the bankruptcy court involved issues of federal bankruptcy law. The court reasoned that, as a matter of general federal common law, a party may not recover its attorneys' fees pursuant to a contract or state statute where the issues litigated involve matters of federal law because only federal law may authorize such a recovery. The question presented is: Should the Court grant certiorari to resolve a conflict among nine courts of appeals concerning whether a litigant may recover attorneys' fees under a contract or state statute where the issues litigated involve matters of federal bankruptcy law?

CERT. GRANTED 10/6/2006