

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC23-250

UNITED AUTOMOBILE INSURANCE COMPANY,

Petitioner,

vs.

CHIRONEX ENTERPRISES, INC.,  
a/a/o EMILY ECHEGARAY,

Respondent.

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**RESPONDENT'S MOTION FOR APPELLATE ATTORNEY'S FEES**

COMES NOW the Respondent, CHIRONEX ENTERPRISES, INC., a/a/o EMILY ECHEGARAY, by and through its undersigned counsel, pursuant to section 627.428, Florida Statutes, and Florida Rule of Appellate Procedure 9.400, and moves for entry of an order establishing its entitlement to appellate attorney's fees, stating as follows:

1. Section 627.428, Florida Statutes, provides that:

Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured

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or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

2. This suit was filed by the Respondent based on Petitioner's failure to pay PIP benefits for medical services rendered by Respondent to Petitioner's insured.

3. The Petitioner has appealed from a Final Judgment in favor of the Respondent and against the Petitioner.

4. As this Court is aware, an award of appellate attorney's fees to an insured is mandatory in any dispute regarding insurance coverage which proceeds to judgment against the carrier. *Ivey v. Allstate Ins. Co.*, 774 So. 2d 679, 684 (Fla. 2000); *Progressive Express Ins. Co. v. Physician's Injury Care Ctr., Inc.*, 906 So. 2d 1125, 1127 (Fla. 5th DCA 2005) ("section 627.428(1) specifically provides for an award of appellate attorney's fees upon rendition of a judgment or decree in actions in which the insured prevails").

5. Accordingly, in the event this Court denies Petitioner the relief sought in this appeal, Respondent respectfully requests that this Court enter an order establishing Respondent's entitlement to appellate attorneys' fees, and remand the cause to the trial court to determine the amount of fees and costs.

WHEREFORE the Respondent, CHIRONEX ENTERPRISES, INC. a/a/o EMILY ECHEGARAY respectfully requests that this Court grant its Motion to Tax Appellate Attorneys' Fees and grant any other such relief as this Court deems appropriate.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was filed with the clerk of court and furnished via electronic mail to Sean Sweeney, Esquire, House Counsel of United Automobile Insurance Company, HC\_Service@uaig.net, and Gregory Willis, Esquire and Michael Rosenberg, Esquire, Cole, Scott, Kissane, [Gregory.willis@csklegal.com](mailto:Gregory.willis@csklegal.com) and [michael.rosenberg@csklegal.com](mailto:michael.rosenberg@csklegal.com) on this 27th day of February, 2023.

/s/ Chad A. Barr

CHAD A. BARR, ESQ.

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