

Third District Court of Appeal

State of Florida

Opinion filed December 10, 2014.
Not final until disposition of timely filed motion for rehearing.

No. 3D14-1625
Lower Tribunal No. 11-712 AP, 12-197 AP

Hialeah Medical Associates, Inc., etc.,
Petitioner,

vs.

United Automobile Insurance Company,
Respondent.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Bertila Soto, Stanford Blake and Reemberto Diaz, Judges.

Marlene S. Reiss, for petitioner.

Michael J. Neimand, General Counsel for United Automobile Insurance Company, respondent.

Before SHEPHERD, C.J., and SUAREZ and SALTER, JJ.

SHEPHERD, C.J.

Based on United Automobile Insurance Company's concession that the Petitioner, Hialeah Medical Associates, Inc., was entitled to appellate attorney fees below as the prevailing party, pursuant to section 627.428(1) of the Florida Statutes and clear case law from this district requiring the same, see, e.g. A. Carlo Guadagno, D.C., P.A. v. United Auto. Ins. Co., 88 So. 3d 246, 247 (Fla. 3d DCA 2011) (finding, on petition for certiorari, a departure from the essential requirements of law for the failure to conditionally award attorney fees under section 627.428(1) to the prevailing party), we grant certiorari, quash the portion of the opinion denying appellate attorney fees below, and remand the case to the circuit court appellate division for a determination of an amount of attorney fees to be awarded, conditioned upon the Petitioner prevailing in the underlying proceedings.