

IN THE SUPREME COURT OF IOWA
No. 22-1213

IOWA INDIVIDUAL HEALTH BENEFIT
REINSURANCE ASSOCIATION,

Appellee/Cross-Appellant,

vs.

STATE UNIVERSITY OF IOWA, IOWA STATE UNIVERSITY
OF SCIENCE AND TECHNOLOGY, and UNIVERSITY OF
NORTHERN IOWA,

Appellants/Cross-Appellees,

Appeal from the Iowa District Court for Polk County
Celene Gogerty, District Judge

APPELLEE’S/CROSS-APPELLANT’S FINAL REPLY BRIEF

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Plaintiff Iowa Individual Health Benefit Reinsurance Association (IIHBRA) submits this Reply Brief on its Cross-Appeal.

In addition to its principle claim against the three universities for payment of their assessments, IIHBRA submitted two additional claims: late fees for each university's failure to pay the assessments on time, and the cost to IIHBRA of obtaining the universities' compliance with the assessments imposed by the operation of section 513C.10(1).

LATE FEES

The universities argue in their brief on the cross-appeal that the District Court properly found a lack of evidentiary support for the claim of late fees. The universities do not articulate, however, what exactly is missing. They cannot do so, because nothing is missing from the record.

The universities take no issue with the undisputed fact that IIHBRA's plan of operation authorizes IIHBRA to collect late fees on a percentage basis. The universities take no issue with the undisputed fact that the amount of fees that IIHBRA seeks falls well within the amount authorized by IIHBRA's plan of operation. The universities take no issue with the calculation itself. In other words, the District Court had before it an undisputed calculation of late fees and the

undisputed legal basis for collecting the fees. The District Court should have awarded the late fees requested.

COST OF COLLECTING ASSESSMENTS

The universities argue that IIHBRA has no statutory basis for collecting from the universities the cost of recovering the assessments owed by the universities. This is simply not accurate.

The universities take no issue with the undisputed fact that IIHBRA's plan of operation authorizes IIHBRA to include in the assessments its expenses. IIHBRA functions as a pass-through entity. The only money it has is money paid by members pursuant to assessment and then paid out by IIHBRA to those entities that sold the required policies of insurance at a loss. The expense incurred by IIHBRA in obtaining the universities' compliance with the assessments has been paid by all members, even though only three members have caused the expense to be incurred.

The universities also take no issue with the amounts of the expenses sought by IIHBRA. They do not argue that the expenses were not incurred, that they were unfair or unreasonable, or that there is a math error. In other words, there is no evidentiary issue.

IIHBRA has argued from the perspective of basic fairness that the Court should impose the expenses of collection upon the three members who caused IIHBRA to incur the expense. Aside for observing that litigation can be frustrating,

the universities offer no argument against the notion that imposing the costs on just the three universities is both logical and fair. If IHBRA can impose the costs on all members, it ought to be able to impose them on just the members who caused IHBRA to incur the costs.

Since the plan of operation authorizes IHBRA to include its expenses in the assessments, IHBRA argues that the Court should impose those costs in the assessments owed by the three universities and no other members. The District Court erred in rejecting IHBRA request to recover those expenses from the three universities.

CONCLUSION

For the reasons stated in its initial brief and in this reply brief, IHBRA asks the Court to reverse and remand with directions to enter judgment against the three universities for the late fees and for the expenses and costs of enforcing and collecting the assessments.

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/s/ Gregory M. Lederer
Gregory M. Lederer

February 28, 2023
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CERTIFICATE OF COST

No costs were incurred to print or duplicate paper copies of this reply brief because the reply brief is only being filed electronically.

/s/ Gregory M. Lederer
Gregory M. Lederer

CERTIFICATE OF SERVICE

I certify that on February 28, 2023, this document was electronically filed with the Clerk of Court and served on all counsel of record below to this appeal using EDMS.

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