

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ESURANCE PROPERTY & CASUALTY
INSURANCE COMPANY,

Plaintiff,

v.

CASE NO. 8:22-cv-2228-SDM-UAM

JASON CARLETTI and
WILLIAM HARRISON,

Defendants.

ORDER

The defendant William Harrison moves (Doc. 49) unopposed for an attorney's fee under Section 627.428, Florida Statutes. Section 627.428, now repealed, orders a trial court upon entering a judgment favorable to the insured to grant the insured a reasonable sum for the attorney's fee. "This rule also applies when the insured and the insurer settle an action." *Canal Ins. Co. v. SP Transport, Inc.*, 272 F. App'x 825, 827.

Although the statute is repealed, the statute (and thus Harrison's right to an attorney's fee) existed when the parties executed the insurance contract pertinent to this action. Because the right to an attorney's fee is a substantive right, the repeal of that right has no retroactive effect. *See Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873, 878-880 (Fla. 2010). Harrison is therefore entitled to an attorney's fee, and the unopposed motion (Doc. 49) is **GRANTED**. The clerk must enter a

judgment for Harrison and against Esurance Property & Casualty
Insurance Company for \$250,000.

ORDERED in Tampa, Florida, on September 29, 2023.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE