

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Denise Blumberg v. Security First Insurance Company

Case No. 5D2024-1214 · No. 5D2024-1214 · Decided August 28, 2025

SUMMARY

The Fifth District Court of Appeal of Florida held that statutory amendments eliminating an insured’s right to recover attorney’s fees could not be applied retroactively to Denise Blumberg’s property insurance policy, which was issued before the amendments. Applying the Florida Supreme Court’s Menendez retroactivity framework and its prior decision in Smith, the court concluded that the amendments lacked clear retroactive intent and impaired a substantive contractual right. The court reversed the order denying attorney’s fees and remanded for determination of an appropriate fee award.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	PRATT, J.; WALLIS, J.; HARRIS, J.
JURISDICTION	Florida Fifth District Court of Appeal
DECIDED	August 28, 2025
DOCKET	5D2024-1214
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the County Court of Volusia County denying the insured's motion for attorney's fees following settlement of a breach-of-contract action against her property insurer.
STANDARD OF REVIEW	De novo review applies to whether a statute operates retroactively or prospectively because that question is one of law.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Denise Blumberg v. Security First Insurance Company

TOPICS

- insurance coverage
- statutory interpretation
- contract interpretation
- appellate procedure
- remedies

PRACTICE AREAS

- insurance coverage
- insurance litigation
- statutory interpretation
- appellate procedure
- attorney's fees

QUESTIONS PRESENTED

1. Whether amendments and repeals eliminating an insured's statutory right to attorney's fees in property-insurance litigation could be applied retroactively to a policy issued before the amendments took effect.
2. Whether retroactive application of the amendments would impermissibly impair a substantive contractual right to attorney's fees.
3. Whether the statutory right to attorney's fees was incorporated into Blumberg's insurance policy when the policy was issued.

HOLDINGS

1. The amendments and repeals to sections 627.428 and 627.70152, Florida Statutes, cannot be applied retroactively because the Legislature did not clearly express an intent for retroactive application.
2. The statutory right to attorney's fees is substantive, and eliminating that right cannot be applied retroactively to an insurance policy issued before the statutory changes.
3. The statutory right to attorney's fees was incorporated into Blumberg's insurance policy when it was issued, so Security First could not avoid the right by relying on later statutory amendments.

KEY QUOTATIONS

“Substantive statutes are presumed to apply prospectively absent clear legislative intent to the contrary.” (at 4)

“The statutory changes do not delay the recovery of attorney’s fees, but instead deny the right to them altogether.” (at 6)

“In conclusion, Blumberg’s insurance policy incorporated a statutory right to attorney’s fees at the time it issued.” (at 8)

FACTUAL BACKGROUND

Blumberg purchased a one-year property insurance policy from Security First in March 2022, and her property suffered a covered loss during the summer of 2022. After filing a claim in January 2023, Security First refused to pay the full amount, and Blumberg sued for breach of contract in July 2023, expressly claiming attorney's fees. The parties settled the underlying claim while leaving fees unresolved. The policy was issued before legislative amendments and repeals that eliminated or restricted statutory attorney's fees for property-insurance litigation, but those changes took effect before Blumberg filed suit.

PROCEDURAL HISTORY

Blumberg sued Security First in the County Court of Volusia County for breach of an insurance contract after Security First refused to pay the full amount of a covered claim. The parties settled the claim but left attorney's fees unresolved. The trial court denied Blumberg's motion for attorney's fees, concluding that statutory amendments effective before suit eliminated her right to fees. The Fifth District Court of Appeal reversed and remanded for determination of an appropriate fee award.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for determination of an appropriate attorney's-fee award.

CASES CITED

- Menendez v. Progressive Express Insurance, 35 So. 3d 873, 875-80 (Fla. 2010)
- Bionetics Corp. v. Kenniasty, 69 So. 3d 943, 947-48 (Fla. 2011)
- Hassen v. State Farm Mutual Automobile Insurance, 674 So. 2d 106, 108 (Fla. 1996)
- Cole v. Universal Property & Casualty Insurance, 363 So. 3d 1089, 1093-95 (Fla. 4th DCA 2023)
- Hughes v. Universal Property & Casualty Insurance, 374 So. 3d 900, 905-10 (Fla. 6th DCA 2023)
- Smith v. Universal Property & Casualty Insurance, 396 So. 3d 860, 861 (Fla. 5th DCA 2024)
- Fla. Insurance Guaranty Ass'n v. Devon Neighborhood Ass'n, 67 So. 3d 187, 196 (Fla. 2011)
- Division of Workers' Compensation v. Brevda, 420 So. 2d 887, 889-92 (Fla. 1st DCA 1982)
- L. Ross, Inc. v. R.W. Roberts Construction Co., 466 So. 2d 1096, 1097 (Fla. 5th DCA 1985)
- State Farm Fire & Casualty Co. v. Palma, 629 So. 2d 830, 832 (Fla. 1993)
- Grant v. State Farm Fire & Casualty Co., 638 So. 2d 936, 938 (Fla. 1994)
- Standard Marine Insurance Co. v. Allyn, 333 So. 2d 497, 499 (Fla. 1st DCA 1976)
- Petty v. Florida Insurance Guaranty Association, 80 So. 3d 313, 315-16 (Fla. 2012)