

**DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH
DISTRICT**

**Jose Anthony Hernandez and Safeco Insurance Company of Illinois
a/k/a Safeco Insurance Company of Illinois, Inc. v. Rebecca L.
Heikka**

No. 4D17-0905 · No. No. 4D17-0905 · Decided April 4, 2018

SUMMARY

The Fourth District Court of Appeal of Florida reviewed an attorney's-fee award of \$361,775 to Rebecca Heikka under sections 627.428 and 57.105, Florida Statutes. The court held that although the award under section 627.428 was erroneous, the error was harmless because the award was properly supported as a sanction under section 57.105, and it affirmed.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Damoorgian, J.; Gerber, C.J.; May, J.
JURISDICTION	Florida
DECIDED	April 4, 2018
DOCKET	No. 4D17-0905
DISPOSITION	affirmed
PROCEDURAL POSTURE	Safeco appealed a final judgment awarding Rebecca Heikka \$361,775 in attorney's fees and costs under section 627.428, Florida Statutes, and as a sanction under section 57.105, Florida Statutes.
PRECEDENTIAL VALUE	published
PARTIES	Jose Anthony Hernandez, Safeco Insurance Company of Illinois a/k/a Safeco Insurance Company of Illinois, Inc. v. Rebecca L. Heikka

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court properly awarded attorney's fees and costs under section 627.428, Florida Statutes.
2. Whether any error in awarding fees under section 627.428 was harmless because the award was independently proper under section 57.105, Florida Statutes.

HOLDINGS

1. The trial court erred in awarding attorney's fees under section 627.428.
2. The error was harmless because the trial court properly awarded attorney's fees and costs under section 57.105, Florida Statutes.

FACTUAL BACKGROUND

The trial court entered a final judgment awarding Rebecca Heikka \$361,775 in attorney's fees and costs. The award was based both on section 627.428, Florida Statutes (2017), and section 57.105, Florida Statutes (2017).

PROCEDURAL HISTORY

The Circuit Court for the Seventeenth Judicial Circuit in and for Broward County entered a final judgment awarding Heikka attorney's fees and costs. Safeco appealed to the Fourth District Court of Appeal, which held that the award under section 627.428 was erroneous but affirmed because the award was properly supported by section 57.105.

DISPOSITION

affirmed

OPINION

PER CURIAM.

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT JOSE ANTHONY HERNANDEZ and SAFECO INSURANCE COMPANY OF ILLINOIS a/k/a SAFECO INSURANCE COMPANY OF ILLINOIS, INC., Appellants, v. REBECCA L. HEIKKA, Appellee. No. 4D17-0905 [April 4, 2018] Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Carlos A. Rodriguez, Judge; L.T.

Case No. CACE-09- 039965-14. J. Pablo Cáceres and Hudson Jones of Butler Weihmuller Katz Craig LLP, Tampa, for appellant Safeco Insurance Company of Illinois a/k/a Safeco Insurance Company of Illinois, Inc. Kenneth D. Cooper, Fort Lauderdale, for appellee. DAMOORGIAN, J. Safeco Insurance Company of Illinois appeals from a final judgment awarding Rebecca Heikka \$361,775 in attorney's fees and costs pursuant to section 627.428, Florida Statutes (2017) and as a sanction under section 57.105, Florida Statutes (2017).

Although we agree with Appellant that the trial court erred in awarding fees under section 627.428, the error was harmless because the trial court properly awarded fees under section 57.105. We accordingly affirm without further comment. Affirmed. GERBER, C.J., and MAY, J., concur. * * * Not final until disposition of timely filed motion for rehearing.

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