

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**

---

**LEDERER WESTON CRAIG PLC**

By: /s/ Gregory M. Lederer  
Gregory M. Lederer  
AT0004668  
4401 Westown Parkway  
Suite 310  
West Des Moines, Iowa 50266  
Telephone: 515-224-3911  
Facsimile: 515-224-2698  
Email:  
glederer@lwclawyers.com  
ATTORNEYS FOR APPELLEE/  
CROSS-APPELLANT

**TABLE OF CONTENTS**

TABLE OF AUTHORITIES .....2

LATE FEES. ....3

COSTS OF COLLECTING ASSESSMENTS .....4

CONCLUSION .....5

CERTIFICATE OF COMPLIANCE.....6

CERTIFICATE OF COST .....7

CERTIFICATE OF SERVICE AND FILING .....7

**TABLE OF AUTHORITIES**

<b>Statutes</b>	<b>Page(s)</b>
Section 513C.10(1).....	3

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.

**LEDERER WESTON CRAIG PLC**  
By: /s/ Gregory M. Lederer

Gregory M. Lederer  
AT0004668  
4401 Westown Parkway  
Suite 310  
West Des Moines, Iowa 50266  
Telephone: 515-224-3911  
Facsimile: 515-224-2698  
Email:  
glederer@lwclawyers.com

ATTORNEYS FOR APPELLEE/  
CROSS-APPELLANT

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME  
LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE  
REQUIREMENTS**

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) or (2) because:

this brief contains 515 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1) or

this brief uses a monospaced typeface and contains [state the number of] lines of text, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(2).

2. This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because:

this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14 font size and Times New Roman style, or

[ ] this brief has been prepared in a monospaced typeface using [state name and version of word processing program with [state number of characters per inch and name of type style].

/s/ Gregory M. Lederer  
Gregory M. Lederer

February 28, 2023  
Date

### **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.

**Brenna Bird**

Attorney General of Iowa

**Jordan Esbrook**

Assistant Attorney General

Hoover Building, Second Floor

1305 East Walnut Street

Des Moines, IA 50319

Phone: 515-281-4931

Fax: 515-281-7291

Emails:

[Brenna.bird@ag.Iowa.gov](mailto:Brenna.bird@ag.Iowa.gov)

[Jordan.esbrook@ag.Iowa.gov](mailto:Jordan.esbrook@ag.Iowa.gov)

/s/ Gregory M. Lederer  
Gregory M. Lederer