

# Third District Court of Appeal

State of Florida

Opinion filed December 1, 2021.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D20-1724  
Lower Tribunal No. 14-17706

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**Luis Rodriguez Lopez,**  
Appellant,

vs.

**American Sales and Management Organization, LLC, etc.,**  
Appellee.

An Appeal from a non-final order from the Circuit Court for Miami-Dade County, William Thomas, Judge.

Dorta Law, and Matias R. Dorta; Kula & Associates, P.A., and Elliot B. Kula, and William D. Mueller, for appellant.

Greenberg Traurig, P.A., and Joseph Mamounas, and Jay A. Yagoda, for appellee.

Before EMAS, LINDSEY, and GORDO, JJ.

LINDSEY, J.

Appellant Luis Rodriguez Lopez appeals from a non-final order denying his motion for advancement of appellate attorney's fees.<sup>1</sup> Rodriguez seeks advancement of appellate fees in connection with a separate merits appeal stemming from Appellee American Sales and Management Organization, LLC's July 2014 lawsuit against Rodriguez, its former CEO and manager, for allegedly conspiring to form a competitor.

In 2017, this Court issued an opinion holding that the parties' Operating Agreement requires American Sales to advance expenses until final disposition. See American Sales & Mgmt. Org., LLC v. Lopez, 217 So. 3d 230 (Fla. 3d DCA 2017). American Sales advanced expenses until a final judgment was entered below. Following entry of the judgment, American Sales appealed and Rodriguez cross-appealed. This merits appeal remains pending.<sup>2</sup>

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<sup>1</sup> We have jurisdiction pursuant to Florida Rule of Appellate Procedure 9.130(a)(3)(C)(ii). See Local Door Coupons Franchise, Inc. v. Mayers, 261 So. 3d 726, 729 (Fla. 3d DCA 2018) ("An interlocutory order that outright denies a party's claim for advancement of litigation expenses under an indemnification provision contained in a shareholder's agreement most assuredly determines a party's right to immediate possession of property: it determines that the party has no such right. Ergo, review of an order denying entitlement to advancement is warranted under rule 9.130(a)(3)(C)(ii).").

<sup>2</sup> In the merits appeal (3D20-0563), Rodriguez continues to be in the position of defending against American Sales' claim that he breached his duties as an officer and manager. See American Sales, 217 So. 3d at 230 ("Section 5.15(b) of the parties' Operating Agreement requires that [American Sales]

Rodriguez then filed a post-judgment motion in the trial court seeking advancement of fees and costs incurred in the pending merits appeal. The trial court denied the motion. Because this Court’s prior opinion interpreting the parties’ Operating Agreement requires advancement until a final disposition, we reverse and remand with instructions to grant Rodriguez advancement of his appellate expenses. See Sun-Times Media Grp., Inc. v. Black, 954 A.2d 380, 397 (Del. Ch. 2008) (holding that the phrase “final disposition” in an advancement provision “is most plausibly read as meaning the final, non-appealable conclusion of a proceeding”).

Reversed and remanded.

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shall indemnify and hold harmless any person it sues by reason of the fact that such person was a manager or officer of [American Sales].”).