IN THE DISTRICT COURT OF APPEAL
SECOND DISTRICT OF FLORIDA

MONIER RAHALL,

Appellant, Case No. 2D23-0103

v.

INXS VII, LLC, et al., L.T. Case No. 22-CA-010469

Appellees.

ON APPEAL FROM THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

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INTRODUCTION

Appellees, INXS VII, LLC and the other Plaintiffs below (collectively, "INXS"), reject the Statement of the Case and of the Facts presented by Appellant Monier Rahall ("Rahall") because it is full of argument, speculation, and irrelevant matters. *See Williams v. Winn-Dixie Stores, Inc.*, 548 So. 2d 829, 830 (Fla. 1st DCA 1989) (striking initial brief for being unduly argumentative and for containing immaterial matters); *see also* Fla. R. App. P. 9.210(b)(2). Rather than moving to strike the initial brief on that basis, however, INXS respectfully submits a proper statement of the case and of the facts and asks this Court to consider that statement instead.

Likewise, because Rahall's Second Amended Appendix is incomplete, not bookmarked, and otherwise not in compliance the applicable rules, INXS has prepared and filed a proper appendix referred to as Appellees' Appendix, which INXS abbreviated herein as "AA." All citations in this brief will be to Appellees' Appendix.

STATEMENT OF THE CASE AND OF THE FACTS

This case arises out of the trial court's entry of a temporary injunction without notice (the "Temporary Injunction") which temporarily prohibited Rahall, Middletown Property Management,

LLC (Florida), Middletown Property Management, LLC (Delaware) (collectively, "Middletown"), and Langee Realty, Inc., from interfering with or meddling in INXS's business as it relates to certain real properties, tenant relationships, or court proceedings. AA.210-15. The only questions before this Court related to the injunction are whether: 1) the Verified Complaint for Injunctive relief and attached exhibits (the "Complaint") and the Emergency Verified Motion for *Ex-Parte* Temporary Injunction and attached exhibits (the "Motion") allege specific facts to show the existence of a *prima facie* clear legal right to the relief requested, *see Colonial Bank, N.A. v. Taylor Morrison Services, Inc.*, 10 So. 3d 653, 656 (Fla. 5th DCA 2009), 2) the trial court abused its discretion by granting the temporary injunction without notice to Rahall; and 3) the relief granted exceeded the status quo or granted a final decision on the merits. Given those limited questions, INXS's Statement of the Case and of the Facts will focus only on the allegations contained in the Complaint and the Motion, and the findings and conclusions in the Temporary Injunction itself. *See Santos v. Tampa Medical Supply*, 857 So. 2d 315, 316 (Fla. 2d DCA 2003); *see also* Fla. R. Civ. P. 1.610(a)(2).

The Complaint

In the Complaint, INXS alleged that it owned a portfolio of approximately seventy-four parcels of real estate (the "Properties") that are primarily single-family residential homes occupied by tenants ("Tenants") pursuant to residential leases. AA.35, 42-57. Collectively, the Properties generate tens of thousands of dollars in rental income each month. AA.35.

After INXS acquired the Properties in April 2021 (AA.86-175), Jamie Rand, as INXS's authorized representative or agent, entered into an oral property management agreement with Rahall. AA.35. Under that agreement, Rahall was required to provide certain property management services to the Properties on INXS's behalf. AA.35. At times, Rahall provided those services through the Middletown companies which Rahall owns or controls. AA.35. Sometimes, Rahall would subcontract with Langee to require Langee to provide property management services. AA.35. INXS will refer to Langee and Middletown collectively as the "Corporate Defendants."

On or about November 8, 2022, INXS verbally terminated its property management agreement with Rahall. AA.35. Despite that verbal termination, Rahall and the Corporate Defendants continued

to hold themselves out to Tenants and others as either the Properties' managers or even their owners. AA.35. Rahall and the Corporate Defendants informed some Tenants that INXS was a "scammer" and instructed the Tenants to pay rent only to Rahall or the Corporate Defendants. AA.35-36. Rahall's and the Corporate Defendants' scheme was designed to, among other things, allow Rahall or the Corporate Defendants to seize rental income belonging to INXS. AA.36.

After the termination of Rahall's agreement, some of the Tenants stopped paying rent to Rahall or the Corporate Defendants. AA.36, 61. INXS alleged that upon information and belief, Rahall or the Corporate Defendants sent those Tenants default notices and harassed or threatened them with eviction for non-payment. AA.36. Although INXS made this allegation based upon information and belief, it attached to the Complaint examples of default notices that Rahall or the Corporate Defendants sent to certain identified Tenants after the date INXS had verbally terminated the property management agreement. AA.65, 68.

The exhibits to the Complaint also include certain eviction actions Rahall or the Corporate Defendants initiated against certain

Tenants. AA.58-68. In addition, as evidenced by the examples attached to the Complaint and the Motion, Rahall or the Corporate Defendants purported to bring those eviction actions on behalf of INXS. AA.36-37, 59-62, 63-65, 66-68, 194-98, 200-02, 204-06.

Thus, INXS alleged that through their actions, Rahall and the Corporate Defendants were actively sabotaging and damaging INXS's relationship with its Tenants as well as its ownership interests in the Properties. AA.37. In addition, INXS alleged they were interfering with INXS's property rights and interests, including that of quiet enjoyment. AA.37. Indeed, Rahall and the Corporate Defendants changed the locks on some of the Properties thereby preventing INXS from inspecting or repairing them. AA.37. INXS alleged that it believed that Rahall's actions, individually and through the Corporate Defendants, were causing waste to and the diminution in value of the Properties. AA.37.

Because Rahall and the Corporate Defendants ignored INXS's verbal termination of the property management agreement, on or about December 9, 2022, INXS sent Rahall and Middletown a written termination letter which, again, terminated any contracted-for services to be provided by Rahall or the Corporate Defendants related

to the Properties. AA.37. In the termination letter, INXS advised Rahall and Middletown that: 1) any entry on the Properties would be considered a trespass; 2) further communication with the Tenants would be considered a tortious interference; and 3) any failure to cease the prosecution or defense of any lawsuits related to the Properties, regardless of whether they were captioned in Rahall's or the Corporate Defendants' names or in INXS's name, would be regarded as a fraud upon the court. AA.37, 69-70. INXS demanded that by December 12, 2022, Rahall and the Corporate Defendants deliver or remit to INXS: 1) all keys, leases, correspondence, documents, and things related to the Properties; 2) an accounting of all the monies collected since the inception of the property management services with INXS; and 3) any monies collected or received related to the Properties. AA.70. INXS reiterated that any monies related to the Properties were owned by INXS and must be immediately delivered to it. AA.70. INXS warned that any failure to deliver the listed items to INXS would be considered civil theft and conversion among other things. AA.70.

Rahall acknowledged his receipt of the termination notice. AA.37. Despite that acknowledgement, however, Rahall and the

Corporate Defendants continued to act, and to hold themselves out to the Tenants and others as the property managers or the Properties' owners. AA.37. As of the filing of the Complaint, INXS had information and belief that Rahall and the Corporate Defendants were continuing to unlawfully divert rent monies from INXS and deposit those monies into their own pockets. AA.37-38. Thus, INXS alleged that Rahall and the Corporate Defendants did not abide by any of INXS's requests in the termination notice. AA.38. INXS further alleged that through their actions, Rahall and the Corporate Defendants were creating untold potential legal liability to the Tenants and others, including by wrongfully withholding Tenant's security deposits. AA.38.

Although INXS anticipated in the Complaint that Rahall or Middletown might try to argue that they own the Properties or have some other interest in or encumbrance upon them, INXS alleged that it was undisputed that INXS owned the Properties in fee simple, that INXS had terminated Rahall's and Middletown's services, and that the defendants had no interest or role in INXS's business. AA.38.

Jamie Rand, INXS's authorized representative or agent, verified the allegations of the Complaint. AA.39. Rand's verification read:

"Under penalties of perjury, I declare that I have read the foregoing and that to the best of my knowledge and belief the facts stated in it are true." AA.39.

After the verification, and based upon the foregoing factual allegations, INXS set forth its claim for a temporary injunction that would include but not be limited to prohibiting Rahall and the Corporate Defendants from: 1) trespassing on the Properties; 2) harassing and threatening the Tenants; 3) prosecuting or defending any lawsuits related to the Properties, regardless of whether they were captioned in their names or in INXS's name; 4) collecting any rent monies from the Tenants; 5) holding any Tenant security deposits or other property that should be in INXS's possession; and 6) interfering with INXS's contractual interests related to the Properties. AA.39.

INXS asserted that, as set forth in the verified facts, without the entry of the requested temporary injunction, INXS would suffer irreparable harm and other injury in the form of interference with INXS's interests in the Properties, its contractual relationships with the Tenants and others, and the initiation and prosecution of litigation in its name or, ostensibly, on its behalf. AA.39-40. INXS

also claimed that the harm that it and others would suffer in the absence of an injunction could not be completely remedied by an award of monetary damages and that it lacked an adequate remedy at law. AA.39-40. INXS further alleged that it had a substantial likelihood of success on the merits and that the threatened injury to INXS outweighed any possible harm to Rahall and the Corporate Defendants. AA.40. Moreover, INXS alleged that an injunction was in the best interests of the public to prevent unwarranted infringement upon real property and contractual rights, to discourage the unjust harassment of residential tenants by unlawful intermediaries, to prevent harm to innocent third parties, and to enjoin and punish the bad acts described in the Complaint. AA.40. Finally, INXS reserved the right to amend the Complaint to assert additional causes of action or to seek punitive damages. A.40.

The Verified Motion

Two days after it filed the Complaint, INXS filed the Motion. AA.28, 71-209. In the Motion, INXS expanded upon the allegations it had made in the Complaint. AA.71-209. For example, INXS attached all the Trustee's Warranty Deeds it received from the bankruptcy proceedings (AA.87-175) as well as the list of the specific

Properties at issue in the Complaint and Motion (AA.177-92). The Trustee's Warranty Deeds and exhibits demonstrate that, at all relevant times, INXS was and is the fee title owner of the relevant Properties. AA.87-192. INXS asserted that *ex parte* relief was required, and an injunction should issue, because no harm or prejudice would befall Rahall or the Corporate Defendants since they have no recognized or cognizable rights related to the Properties or any valid interests in the tenancies on those Properties. AA.74.

The Motion also alleged that, upon information and belief, even after their management services were verbally terminated, Rahall and the Corporate Defendants continued to send default notices to Tenants and to prosecute eviction actions against some of those Tenants to sabotage and damage INXS's relationships with its Tenants. AA.75-76. Again, even though this allegation was made upon information and belief, INXS attached examples of those default notices and eviction actions as exhibits to the Motion. AA.193-206. INXS explained that the Tenants are confused and do not know who to believe or to whom to pay rent, which may result in Tenants having to pay rent twice. AA.76-77.

In addition, INXS asserted that Rahall and the Corporate Defendants had gone rogue and were pretending to the Tenants either that they were still the property managers notwithstanding their termination or, worse yet, the actual owners of the Properties. AA.73. INXS argued that Rahall and the Corporate Defendants made these representations to steal tens of thousands of dollars per month in rental income paid by the Tenants. AA.73. INXS noted that with the January 2023 rent about to come due, INXS would stand to lose additional monies if the injunction were not granted amongst other damages. AA.74.

INXS also asserted, however, that *ex parte* relief in the form of a temporary injunction was required because Rahall and the Corporate Defendants would suffer no harm or prejudice from a lack of notice because they have no cognizable rights to or regarding the Properties or the relevant tenancies. AA.74. In addition, INXS alleged that any prior notice of the action would accelerate Rahall's and the Corporate Defendants' bad acts, which would, among other things, place INXS's real estate and contractual interests at greater risk. AA.74, 80. Finally, INXS stated that it was ready to post a bond

as required by Rule 1.610 of the Florida Rules of Civil Procedure. AA.74.

Once again, Rand signed a verification, which read: "Under penalties of perjury, I declare that I have read the foregoing and that to the best of my knowledge and belief the facts stated in it are true." AA.9.

Then, in the argument section of the Motion, INXS argued all the facts and relevant elements required to support a temporary injunction under Rule 1.610 of the Florida Rules of Civil Procedure, including the likelihood of irreparable harm, the lack of an adequate remedy at law, the substantial likelihood of success on the merits, and that the injunction would serve the public interests. AA.79-85.

As to the issue of why notice of the Motion should not be required, INXS asserted that, if it gave Rahall notice, it would "actually" accelerate, precipitate, or otherwise enable the threatened irreparable injury to occur. AA.80. INXS gave examples, including that Rahall could further damage or destroy the Properties, further harass Tenants, and steal more rent monies. AA.80. In addition, in the attorney certification, INXS's counsel certified that he had previously attempted to give notice to Rahall about other matters to

no avail. AA.83-84. He also certified that for the reasons set forth in the Motion, including the actual acceleration of harm, notice should not be required "at this time." AA.83-84.

In the end, the Motion requested that the trial court enter an injunction preventing Rahall and the Corporate Defendants from: 1) prosecuting or defending any lawsuits related to the Properties 2) trespassing on the Properties; 3) harassing or threatening Tenants; 4) collecting rents from Tenants, including rents for January 2023; and 5) wrongfully withholding Tenant security deposits or INXS's other property. AA.84. In addition, INXS requested that the Temporary Injunction require Rahall and the Corporate Defendants to: 1) turn over to INXS all Tenant security deposits and keys related to the Properties; 2) turn over other property that should be in INXS's possession including leases, correspondence, and documents; 3) refrain from destroying or causing to be destroyed, any and all information and documents that are relevant to the [Properties] and Tenant claims, including but not limited to electronic files or data; and 4) provide an accounting of all monies collected by [Rahall and the Corporate Defendants], including Tenant security deposits. AA.84.

The Temporary Injunction

The day after INXS filed the Motion, the trial court granted the Temporary Injunction without notice to Rahall. AA.28, 210-15. The trial court made specific, detailed factual findings. AA.211-12. Notably, the trial court did not make any findings of fact specifically related to the allegations that INXS had made based upon information and belief. AA.211-12. Rather, the trial court's findings were based upon INXS's direct and specific allegations that Rahall and his cohorts were interfering with INXS's real property and contractual rights and interests without any colorable legal right to do so. AA.211-12.

The trial court then set forth its conclusions of law related to each part of the four-part test for the issuance of an injunction. AA.212-14.

Based upon the court's factual findings and conclusions, the trial court entered the Temporary Injunction, which prohibited Rahall and the Corporate Defendants from: 1) prosecuting or defending any lawsuits related to the Properties without prior review and approval of the court; 2) trespassing upon the Properties; 3) communicating with Tenants; 4) collecting rent monies from Tenants,

including for January 2023; and 5) wrongfully holding Tenant security deposits and other property that should be in INXS's possession. AA.214-15. In addition, the trial court mandated that Rahall and the Corporate Defendants: 1) give INXS all Tenant security deposits and keys related to the Properties; 2) turn over all other property to INXS, including but not limited to leases, correspondence, and documents; 3) refrain from destroying or causing to be destroyed any and all information and documents that are relevant to the Properties and Tenants, including but not limited to electronically stored information; and 4) provide an accounting of all monies collected by Rahall and the Corporate Defendants. AA.214-15. As security for the Temporary Injunction, the trial court required INXS to post a bond. AA.215.

The Appeal and the Court's Jurisdiction

INXS filed the Complaint on December 17, 2022. Two days later, on December 19, 2022, INXS filed the Motion. AA.28, 71-209. On December 20, 2022, without notice to Rahall or the Corporate Defendants, the trial court entered the Temporary Injunction. AA.210-15. Although Rahall filed a motion to dismiss on December 22, 2022 (AA.28), Rahall later abandoned that motion and timely filed

a Notice of Appeal on January 13, 2023 (AA.23, 216-22).[1] Because Rahall filed his Notice of Appeal within thirty (30) days of the issuance of the Temporary Injunction, his individual appeal is timely. *See* Fla. R. App. P. 9.130(b). As a result, this Court has jurisdiction to hear this appeal. *See* Fla. R. App. P. 9.030(b)(1)(B).

SUMMARY OF THE ARGUMENT

The trial court did not abuse its discretion by entering the Temporary Injunction. The specific facts INXS alleged in the Complaint and Motion properly established the elements of irreparable harm and a lack of an adequate remedy at law. The

[1] Not one of the Corporate Defendants joined in Rahall's Notice of Appeal. Because the time for them to appeal has expired, this Court lacks jurisdiction to hear any appeal they may have related to the Temporary Injunction or any arguments for reversal Rahall may make on their behalf. *See* Fla. R. App. P. 9.130(b) (requiring non-final appeal to be filed within thirty (30) days of the rendition of the order at issue); *Day v. Norman*, 42 So. 2d 273, 274 (Fla. 1949) (concluding that because no appeal had been taken by any of the other defendants, the court should not consider the position they took below nor can the court consider any right to reversal asserted on their behalf by the only party that filed a notice of appeal); *see also Soundbar, LLC v. BYM Commercial*, 328 So. 3d 1097 (Fla. 5th DCA 2021). Therefore, the Temporary Injunction will remain in force as to the Corporate Defendants regardless of the outcome of this appeal. Alternatively, if Rahall asserts that the Corporate Defendants are necessary parties to this appeal, then the appeal should be dismissed as to Rahall because the Corporate Defendants did not join in the Notice of Appeal. *See Eversfield v. Mayhew*, 98 Fla. 230 (1929).

Complaint and Motion demonstrated that, without an injunction, Rahall would continue to wrongfully interfere with INXS ownership interests in the Properties as well as its contractual and business interests related to the Tenants and their lease obligations. In addition, INXS showed that Rahall would continue to cause confusion in the courts and create incalculable legal liability for INXS if his actions were not stopped. That harm could not be adequately compensated for by a monetary judgment alone. Because the trial court concluded, based upon those alleged facts, that INXS had pled irreparable harm and a lack of an adequate remedy at law, the trial court did not abuse its discretion by granting the Temporary Injunction based upon INXS's allegations. As a result, it should be affirmed.

The Temporary Injunction should also be affirmed because INXS's attorney's certification of the reasons why Rahall should not be given notice of the application for an injunction was sufficient under Rule 1.610(a)(1)(B) of the Florida Rules of Civil Procedure. That certification explained that giving notice to Rahall would "actually" accelerate, precipitate, or enable Rahall's wrongful conduct. Although rule 1.610(a)(1)(B) states that a certification must

explain the efforts to give notice and why notice should not be required, Florida courts have nevertheless concluded that it would not make sense to require an attorney's certification to explain the efforts to give notice in a situation where notice should not be required. Consequently, because INXS's attorney's certification properly explained the reasons why notice to Rahall should not be required, the trial court did not abuse its discretion by granting the Temporary Injunction based upon that certification.

Likewise, the trial court did not abuse its discretion by granting the Temporary Injunction without notice based upon Rand's verification that the facts alleged were true based upon his "knowledge and belief." Only three of the allegations in the Complaint and Motion were made based upon information and belief. The balance of the other allegations was more than sufficient to support the Temporary Injunction, even if those three assertions are ignored entirely. In addition, the trial court made no findings of fact based upon those allegations. Consequently, those three allegations made upon information and belief are irrelevant and the trial court did not abuse its discretion by granting the Temporary Injunction. Therefore, the Temporary Injunction should be affirmed.

Finally, the Temporary Injunction should be affirmed because it did not exceed the status quo or otherwise grant INXS a final judgment on the merits of the underlying controversy. The status quo as alleged at the time INXS sought an injunction was that INXS owned the Properties and had terminated Rahall's property management agreement, thereby terminating any right Rahall had to act on INXS's behalf with respect to the Properties, Tenants, or the courts. Then, Rahall suddenly and secretly changed that status quo by simply ignoring the agreement's termination and by holding himself out as the owner of the Properties. He even went so far as to initiate and continue eviction actions against INXS's Tenants without any legal authority to do so. Thus, the trial court did not abuse its discretion by returning the parties to the status quo. Because the trial court's actions in this regard were proper and not an abuse of discretion, the Temporary Injunction should be affirmed.

ARGUMENT

Standard of Review. Because the trial court granted the Temporary Injunction without notice, the only documents the trial court could, and now this Court may, consider are the complaint, the motion, and the injunction itself. *See Santos*, 857 So. 2d at 316. In

addition, "[a] trial court's ruling on a motion for a temporary injunction is clothed with a presumption of correctness, subject to reversal only for an abuse of discretion." *Salazar v. Hometeam Pest Defense, Inc.*, 230 So. 3d 619, 620-21 (Fla. 2d DCA 2017) (quoting *Orkin Extermination Co. v. Tfank*, 766 So. 2d 318, 319 (Fla. 4th DCA 2000)). In contrast, the Florida Rules of Civil Procedure are interpreted in accordance with the principles of statutory construction and any interpretation of court rules is subject to *de novo* review. *Saia Motor Freight Line, Inc. v. Reid*, 930 So. 2d 598, 599 (Fla. 2006).

THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY GRANTING THE TEMPORARY INJUNCTION WITHOUT NOTICE AND, THEREFORE, IT SHOULD BE AFFIRMED

Given the allegations of specific facts in the Complaint and Motion, the trial court did not abuse its discretion by issuing the Temporary Injunction without notice to Rahall. Those documents, and the attached exhibits, set forth sufficient, specific facts to establish that, even after INXS terminated the property management agreement, Rahall continued to act as if he had some interest in the Properties, the Tenant relationships, and the tenancies themselves when he did not. And, if not stopped, Rahall would continue to cause

havoc in the courts and irreparable harm to INXS's real property and contractual interests for which INXS had no adequate remedy at law. In addition, INXS established that it had a clear legal right to the requested relief and that the interests of the public would be served by the entry of an injunction. As a result, it should be affirmed.

Rahall's initial brief is written in a stream-of-consciousness-like format without any logical progression of the issues presented. Although there are multiple undeveloped references to various legal concepts, like the inclusion of indispensable parties or freedom of speech or association under the First Amendment for example,[2] it appears that Rahall seeks a reversal of the Temporary Injunction because Rahall claims that: 1) INXS did not allege specific facts to demonstrate irreparable harm for which there is no adequate remedy

[2] Because these and other legal concepts are merely mentioned in a cursory fashion and are not developed or supported by legal authority, INXS objects to any attempts by Rahall to fully articulate or otherwise argue those concepts for the first time in the reply brief. *See*, *e.g.*, *Johnson v. State*, 135 So. 3d 1002, 1033 n.12 (Fla. 2014) (concluding that arguments raised for the first time in a reply brief are barred); *Martina v. Ipox*, 925 So. 2d 448, 450 (Fla. 2d DCA 2006) (concluding that an issue was waived because it was raised for the first time in the reply brief). INXS reserves the right to move to strike Rahall's reply brief in the event he argues those matters in any detail or based upon legal authority for the first time in the reply brief.

at law; 2) INXS's attorney's certification did not justify a lack of notice under Rule 1.610(a)(2) of the Florida Rules of Civil Procedure; 3) Rand's verification was not proper and could not support an injunction; and 4) the Temporary Injunction is overbroad in that it exceeds the status quo and amounts to a ruling on the merits of the underlying controversy. None of these arguments should result in the reversal of the Temporary Injunction, however. Instead, it should be affirmed.

1. INXS pled specific facts related to irreparable harm and the lack of an adequate remedy at law and, therefore, the grant of the Temporary Injunction based upon those allegations was not an abuse of discretion.

The trial court did not abuse its discretion by granting the Temporary Injunction. In the Complaint and the Motion, INXS pled specific facts to establish that, in the absence of an injunction, INXS would suffer irreparable harm for which there was no adequate remedy at law. Based upon those specific, alleged facts, the trial court properly found that INXS was entitled to relief. Therefore, the Temporary Injunction should be affirmed.

In the initial brief, Rahall argues that INXS did not allege specific facts to establish irreparable harm and a lack of adequate

remedy at law. In doing so, Rahall seems to assert that the pleading standard INXS must meet for a temporary injunction is tantamount to the requirement that certain claims be pled with particularity. *See* Fla. R. Civ. P. 1.120. For example, Rahall claims that INXS failed to name any affected Tenant or parcel of property. Even though Rahall is just wrong about that claim (*see* AA.42-68; 86-206), that is not the standard, however. Rather, prior to issuing a temporary injunction, a trial court must only be certain that the petition or other pleadings allege a *prima facie* clear legal right to the relief requested. *Colonial Bank,* 10 So. 3d at 656. As demonstrated below, INXS established a *prima facie* clear legal right to the Temporary Injunction to avoid irreparable harm for which there was no adequate remedy at law. As a result, the Temporary Injunction should be affirmed.

Although the concepts of irreparable harm and the lack of an adequate remedy at law are different elements of the temporary injunction test, they are related to one another. *Florida Association of Realtors v. Orange County*, 350 So. 3d 115, 130 (Fla. 5th DCA 2022) (citation omitted). "An injury is irreparable where the damage is estimable only by conjecture, and not by any accurate standard." *Data Payment Sys., Inc. v. Caso*, 253 So. 3d 53, 57 (Fla. 3d DCA 1018)

(quoting *Air Ambulance Network, Inc. v. Floribus*, 511 So. 2d 702, 702-03 (Fla. 3d DCA 1987) (quoting 42 Am. Jur. 2d Injunctions § 49)). In addition, the question of whether an injury is "irreparable" depends on whether there is an adequate remedy available. *Corp. Mgmt. Advisors, Inc. v. Boghos*, 756 So. 2d 246, 247 (Fla. 5th DCA 2000) (citations omitted). As a result, those two injunction-related factors are often discussed together. *See Florida Association of Realtors*, 350 So. 3d at 130.

Irreparable harm for which there is no adequate remedy at law can take many forms. Relevant to this case, "[t]emporary injunctions have been recognized as a viable form of relief in a suit for tortious interference with a contract." *Heavener, Ogier Services, Inc. v. R.W. Florida Region, Inc.*, 418 So. 2d 1074, 1075 (Fla. 5th DCA 1982) (citations omitted). Irreparable harm has also been established where the requesting party alleges that the opposing party is interfering with and endangering the movant's business. *See Pecora v. Pecora*, 697 So. 2d 1267, 1268-69 (Fla. 5th DCA 1997). Similarly, actions that impede the moving party's day-to-day business operations can create irreparable harm for which there is no adequate remedy at law. *See Zuckerman v. Prof'l Writers of Florida,*

Inc., 398 So. 2d 870, 872 (Fla. 4th DCA 1981). Likewise, the diversion or dissipation of property can also result in irreparable harm. *See DeSilva v. First Cmty. Bank of Am.*, 42 So. 3d 285, 289 (Fla. 2d DCA 2010). Thus, irreparable harm which lacks an adequate remedy at law varies depending upon the specific facts alleged.

In the case at bar, INXS alleged specific facts to establish a *prima facie* case that Rahall was wrongfully interfering with its ownership of the Properties and its business and contractual interests related to them such that INXS had a clear legal right to the relief requested to avoid irreparable harm for which there is no adequate legal remedy. *See Colonial Bank*, 10 So. 3d at 656. INXS alleged that: 1) as of April 2021, INXS acquired and, therefore, owned the Properties; 2) after it acquired the Properties, INXS, through Rand, entered into a property management agreement with Rahall related to the Properties; 3) INXS orally terminated that agreement on November 9, 2022; 4) when Rahall ignored that termination, INXS terminated the property management agreement again, this time in writing, on December 9, 2022; 5) in the written termination letter, INXS demanded the return of its leases and other property and the provision of an accounting by a December 12 deadline to permit INXS

to operate its day-to-day business; 6) after the oral and written terminations, Rahall continued to act as property owner or manager to INXS's detriment by initiating or continuing eviction actions against certain Tenants related to specific parcels of property; and 7) if not stopped, Rahall would continue to interfere with INXS's ownership interests in the Properties as well as its contractual and business relationships with the Tenants and others, all while creating untold legal liabilities on INXS's behalf without any legal authority to do so. Thus, INXS pled specific facts that established a *prima facie* case that it had a clear legal right and would suffer irreparable harm caused by Rahall's interference with its business operations, property rights, and contractual interests that could not fully be compensated for by a judgment for money damages. *See Heavener, Ogier*, 418 So. 2d at 1075; *Pecora*, 697 So. 2d at 1268-69; *Zuckerman*, 398 So. 2d at 872; *DeSilva*, 42 So. 3d at 289.

In the initial brief, to argue that INXS has an adequate remedy at law, however, Rahall focuses solely on the collection of rents and the withholding of money in the form of security deposits while ignoring the myriad of other allegations INXS made in the Complaint and Motion. Indeed, this case is about far more than just rents and

security deposits. Clearly, if rent money was all that was at issue, INXS would likely concede that it would have an adequate remedy at law. *See Hiles v. Auto Bahn Fed'n, Inc.*, 498 So. 2d 997, 998 (Fla. 4th DCA 1986) (distinguished *infra*). But the heart of the Complaint and the Motion is not about money or rents; it is about Rahall's exercise of an ownership or contractual interest in the Properties and INXS's Tenant relationships that he simply does not have as a matter of fact or law. It is also about the legal liabilities Rahall was creating by acting as if he were the Properties' owner and by initiating and continuing eviction actions against Tenants purportedly on INXS's behalf, even though he lacked the legal authority to do so. The harm caused by those legal liabilities and Rahall's tortious interference with INXS's Properties and Tenants cannot be quantified or estimated without conjecture or speculation, which makes it irreparable and without an adequate remedy. *See Data Payment*, 253 So. 3d at 57.

In the end, if all the allegations in the Complaint and Motion are accepted as true as they must be, *see Watson v. Buchanan*, 344 So. 2d 644, 646 (Fla. 2d DCA 1977), INXS has alleged specific facts that established a clear legal right to the Temporary Injunction to prevent

it from suffering irreparable harm for which it lacks an adequate remedy at law.

Rahall's reliance upon *Sammie Investments, LLC v. Strategica Capital Associates, Inc.*, 247 So. 3d 596 (Fla. 3d DCA 2018) to argue to the contrary is misplaced. *Sammie Investments* is procedurally and factually distinguishable from this one. Indeed, unlike the injunction in *Sammie Investments,* the Temporary Injunction here was not the result of an evidentiary hearing which undermined the plaintiff's allegations in the application for the injunction. Rather, the only documents the trial court could and did consider here were the Complaint and the Motion. *See Santos*, 857 So. 2d at 316. And those documents alleged specific facts related to the elements of irreparable harm and a lack of an adequate remedy at law. As established above, if those allegations are accepted as true, INXS demonstrated that the injuries Rahall would cause in the absence of an injunction are irreparable and could not be adequately compensated for by a money judgment alone. In addition, in *Sammie Investments*, the plaintiff sought the injunction to ensure that any money judgment was collectible. That is not what INXS did here. Rather, INXS was trying to prevent irreparable harm for which there

is no adequate remedy at law. Thus, *Sammie Investments* is inapplicable here.

For the same reasons, *Hiles v. Auto Bahn Federation, Inc.*, 498 So. 2d 997 (Fla. 4th DCA 1986), does not support a reversal or dissolution of the Temporary Injunction. Like *Sammie Investments*, the injunction in *Hiles* appears to have been entered after an evidentiary hearing because the court indicated that the plaintiff did not plead or prove the existence of irreparable harm or the lack of an adequate remedy at law. *Id.* at 998-99. Also, because the only issue in *Hiles* related to the loss of money from a corporate bank account, a matter that could be compensated for by a money judgment, the court found that the plaintiff did not prove a clear legal right to the requested relief. *See id.* at 998-99. Therefore, the injunction in that case was reversed.

In contrast, in the Complaint and the Motion, INXS did not allege that an injunction must be granted solely to avoid the dissipation of assets that could readily be valued in money or because Rahall may be uncollectible in the event a money judgment was obtained. Instead, INXS alleged that without an injunction, among other things, it would suffer irreparable harm in the form of

unquantifiable legal liability, tortious interference with its Properties and tenancies, and harm to the third-party Tenants and others. This is a completely different set of circumstances than those that presented themselves in *Hiles*. Therefore, *Hiles* does not support the reversal of the Temporary Injunction in this case.

Rather, because the well-pleaded allegations in the Complaint and Motion establish irreparable harm for which there is no adequate remedy at law, the trial court did not abuse its discretion by granting the Temporary Injunction. Therefore, it should be affirmed.

2. The trial court did not abuse its discretion by granting the Temporary Injunction without notice to Rahall based upon INXS's attorney's certification.

The Temporary Injunction should also be affirmed because, given Rahall's conduct as alleged in the Complaint and Motion, the trial court did not abuse its discretion by not requiring notice to Rahall. INXS alleged, and its attorney certified, that giving notice to Rahall would "actually" accelerate, precipitate, or enable Rahall's wrongful conduct in violation of INXS's real property, contractual, business, and legal interests. AA.80. Thus, INXS's attorney's certification complied with rule 1.610(a)(1)(B). As a result, the trial court did not abuse its discretion by granting the Temporary

Injunction without notice based upon that certification, and it should be affirmed.

Rule 1.610(a)(1)(B) states that for an injunction to be granted without notice, the movant's attorney must certify in writing "any efforts that have been made to give notice **and** the reasons why notice should not be required." Fla. R. Civ. P. 1.610(a)(1)(B). Rahall suggests that INXS's counsel's certification was insufficient because it did not: 1) describe the efforts he made to provide notice to Rahall related to the application for an injunction; **and** 2) set forth the reasons why notice should not be required. Rahall asserts that because INXS's attorney's certification did not include both explanations, the Temporary Injunction was defective and must be dissolved. Rahall's argument on this issue is without merit.

Even though the drafters of rule 1.610(a)(1)(B) used the word "and" rather than the word "or" to describe the requirements of an attorney's certification, this provision has been interpreted to require either a statement of the efforts to give notice **or** an explanation of the reasons notice should not be required. *See*, *e.g.*, *Lewis v. Sunbelt Rentals, Inc.*, 949 So. 2d 1114, 1115 (Fla. 2d DCA 2007) (concluding that injunction should not have been granted without notice where

movant's attorney did not certify in writing any efforts to give notice **or** the reasons why notice should not be required); *McKeegan v. Ernst*, 84 So. 3d 1229, 1230 (Fla. 4th DCA 2012) (requiring attorney to certify in writing any efforts to give notice **or** the reasons why notice should not be required). This disjunctive interpretation of the word "and" is appropriate because, even though the rule is written in the conjunctive, "it makes no common sense to require certification of efforts to give notice to a party when there are good reasons not to give notice." *Bansal v. Bansal*, 748 So. 2d 335, 336-37 (Fla. 5th DCA 1999). Thus, verified allegations as to why notice should not be given in a particular case are sufficient by themselves. *See id.*

In this case, INXS's attorney certified that notice of the proceedings would "actually" accelerate, precipitate, or otherwise enable the irreparable injury described in the Complaint and the Motion. AA.80, 83-84; *see Hunter v. Hunter*, 36 So. 3d 148, 150 (Fla. 2d DCA 2010) (stating that a motion seeking *ex parte* relief must demonstrate how and why giving notice would accelerate or precipitate the injury); *Kilgore Groves v. Mayo*, 187 So. 256, 257 (Fla. 1939) (same); *Smith v. Knight*, 679 So. 2d 359, 361-62 (Fla. 4th DCA 1996) (same). By way of example, INXS's attorney certified that with

notice, Rahall could further damage or destroy some or all the Properties and INXS's Tenant relationships. AA.80. In addition, INXS's attorney described past attempts to give notice to Rahall which attempts were ignored, rejected, or returned to sender. AA.83-84. INXS's attorney also asserted that given Rahall's past egregious conduct and the specific facts alleged in the Motion, notice should not be required. AA.80, 83-84. These allegations sufficiently suggest the peril inherent in giving notice to Rahall prior to the entry of an injunction. *See Pecora*, 697 So. 2d at 1269. Therefore, the trial court properly entered the Temporary Injunction without notice based upon INXS's attorney's certification. *See Bansal*, 748 So. 2d at 336-37.

Also, the Temporary Injunction should be affirmed even though it did not state why notice was not required. That omission was not prejudicial to Rahall because any defect in that regard was cured by the Motion, which explained why notice was not required. *See Soud v. Kendale, Inc.*, 788 So. 2d 1051, 1053 (Fla. 1st DCA 2001) (stating that the order's failure to state why notice was not given could have been forgiven had the complaint or motion stated why notice should not have been required, which they did not); *Bookall v. Sunbelt*

Rentals, Inc., 995 So. 2d 1116, 1118 (Fla. 4th DCA 2008) (stating that the order's failure to say why notice was dispensed with could be cured if the motion or complaint had stated why notice was not given). Because the Motion explains that giving notice of the injunction proceedings to Rahall would accelerate, precipitate, or enable the irreparable harm Rahall was causing, the trial court did not abuse its discretion by omitting from the Temporary Injunction a statement as to why notice was not required. *See Soud*, 788 So. 2d at 1053; *Bookall*, 995 So. 2d at 1118.

Rahall's reliance upon *Shouman v. Am. Exp. Travel Related Services Co., Inc.*, 566 So. 2d 875, 876 (Fla. 3d DCA 1990), to argue to the contrary is misplaced. In that case, the court reversed a temporary injunction without notice because, without explanation, the plaintiff had waited four months before seeking judicial relief. *Id.* The court concluded that, given the unexplained four-month delay, the grant of a temporary injunction without notice was inappropriate because there was no reason the plaintiff could not have given the defendant notice during that extended delay. *Id.* at 877.

Shouman is distinguishable. Here, INXS's allegations do not establish any unexplained delay in seeking relief from the trial court

that would otherwise indicate that an injunction without notice was not warranted. Instead, the allegations established that INXS acted quickly to ask the trial court to stop Rahall's harmful conduct. INXS alleged that it terminated Rahall's property management agreement verbally and in writing on November 9 and December 9, 2022, respectively. On December 9, 2022, INXS demanded the return of its keys and other property by a December 12, 2022, deadline. Then, when Rahall did not meet that deadline, INXS filed suit on December 17, 2022, a mere five days after the production deadline expired. INXS then filed the Motion just two days later, on December 19, 2022. Thus, the allegations here are that INXS acted expediently and without delay to avoid any future irreparable harm resulting from Rahall's improper conduct. As a result, *Shouman* is inapposite and should not persuade this Court to reverse the Temporary Injunction for the lack of notice or a statement in the injunction as to why notice was not required. *See Soud*, 788 So. 2d at 1053; *Bookall*, 995 So. 2d at 1118. Therefore, the trial court did not abuse its discretion by not stating why notice was not required in the Temporary Injunction.

3. The trial court did not abuse its discretion by relying on Rand's verification, which was based upon "information and belief."

The Temporary Injunction should also be affirmed even though Rand's verifications of the Complaint and Motion stated that the facts alleged therein were true to the best of his knowledge and belief.

First, as in the Complaint (AA.36, 37-38), INXS made only three allegations in the Motion based upon information and belief. AA.75-76, 77. The trial court could, and this Court may, excise from the Complaint and Motion the allegations made solely upon information and belief and determine whether the pleadings are sufficient without them. *See Kilgore Groves*, 187 So. at 257 (evaluating application for injunction without considering allegations based upon belief). Indeed, the trial court's findings of fact and conclusions of law indicate that the trial court did just that. The trial court made no factual findings pertaining to the allegations made solely upon information and belief. Thus, Rahall's complaint here appears to be much ado about nothing. Therefore, because the other allegations were direct and based upon Rand's knowledge and attached documentation, the Temporary Injunction was supported by a proper verification, and it should be affirmed.

Second, Rahall may very well be wrong about the law here, given the different ways in which INXS pled the allegations in the Complaint and Motion. Rule 1.610(a)(2) indicates that, where an injunction is without notice, no evidence other than the affidavit or verified pleading shall be used to support an application for a temporary injunction unless the adverse party appears at the hearing or has received reasonable notice of the hearing. Fla. R. Civ. P. 1.610(a)(2). Unlike some of the other rules of civil procedure, like rule 1.115 of the Florida Rules of Civil Procedure, however, rule 1.610(a)(2) does not define or describe the required verification to be used in a verified pleading. INXS is aware, however, of this Court's decisions in *Ballinger v. Bay Gulf Credit Union*, 51 So. 2d 528, 529 (Fla. 2d DCA 2010), and *Tampa Port Authority v. Deen*, 179 So. 2d 416, 418 (Fla. 2d DCA 1965), which concluded that verifications based upon "knowledge and belief" are not sufficient because they are qualified by the word "belief." Those cases are distinguishable, however, and do not require the reversal of the Temporary Injunction.

First, *Ballinger* involved a summary judgment proceeding in which a verified pleading must meet the affidavit standards of Rule 1.510 of the Florida Rules Civil Procedure. Rule 1.610 does not

contain any such requirement. Rather, rule 1.610 states that an "affidavit or verified pleading" may be filed in support of the injunction. *See* Fla. R. Civ. P. 1.610(a)(2). Generally, the word "or" is interpreted to mean that the words it connects must be given separate meanings. *Loughrin v. United States*, 573 U.S. 351, 357 (2014). As a result, rule 1.610 indicates that an affidavit is different from a verified pleading but that either type of document will suffice to support an application for a temporary injunction. Indeed, the only times INXS could find where a verification is described or defined in the civil rules of procedure, the verification must state that the facts are true to the best of the signatory's knowledge and belief. *See* Fla. R. Civ. P. 1.115; Fla. Prob. R. 5.020.

Second, in both *Ballinger* and *Tampa Port Authority*, the decisions do not indicate how the allegations were pled in the relevant complaints or motions. In this case, however, INXS alleged dozens of specific facts in a direct, positive manner that indicated that they were based upon Rand's personal knowledge. In addition, INXS attached documents and exhibits that confirmed those allegations. On only three occasions did INXS make allegations based upon information and belief. Given the way INXS pled the allegations –

some based upon knowledge and some based upon information and belief, it would have been wrong for Rand to verify unequivocally that all the facts alleged were true. As a result, Rand stated that the facts were true based upon his knowledge and belief.

Moreover, like the "and" in rule 1.610(a)(1)(B), the "and" in Rand's verification should be interpreted to mean "or." *See*, *e.g.*, *Lewis*, 949 So. 2d at 1115; *McKeegan*, 84 So. 3d at 1230. Rand had knowledge of the direct allegations but only believed to be true those allegations made based upon information and belief. Thus, Rand had knowledge or belief, depending upon the specific factual allegation involved. Nothing in either *Ballinger* or *Tampa Port Authority* indicates that Rand's verification may not be interpreted in this manner. Therefore, because the other, direct allegations were properly verified and supported the injunction, the trial court did not abuse its discretion and the Temporary Injunction should be affirmed. *See Kilgore Groves*, 187 So. at 257.

4. The trial court did not abuse its discretion by exceeding the status quo or otherwise granting a decision on the merits in the Temporary Injunction.

Finally, the Temporary Injunction should be affirmed because it did not exceed the status quo or otherwise grant a decision on the

merits of the underlying controversy. Therefore, the trial court did not abuse its discretion and the Temporary Injunction should be affirmed.

In this context, the Supreme Court of Florida has defined the status quo, which will be preserved by a preliminary injunction, to mean the "last actual, peaceable, non-contested condition which preceded the pending controversy …." *Bowling v. Nat'l Convoy & Trucking Co.* 135 So. 541, 544 (Fla. 1931) (quoting 1 High on Injunctions 9). The court has also stated, however, that equity will not allow a wrongdoer to protect himself by suddenly and secretly changing that status quo, even if he did so before the courts could stop him. *Id.* Indeed, where a defendant has changed the condition of things before the granting of the injunction, the court may not only restrain him from further action, but it may also, through a preliminary mandatory injunction, compel him to restore the subject matter of the suit to its former condition. *Id.* In doing so, the court acts without regard to the ultimate merits of the controversy. *Id.*

In this case, the status quo alleged in the Complaint and the Motion was that INXS owned the Properties and the tenancies thereon and had terminated Rahall's property management contract,

thereby withdrawing Rahall's authority to act on INXS's behalf related to the Properties, the Tenants, or the courts. Nevertheless, after INXS terminated the property management agreement, and before any court could stop him, Rahall secretly and suddenly changed that status quo by asserting that he, not INXS, was the owner of the Properties, providing Tenants with notices of default,[3] and by initiating or continuing eviction actions against Tenants despite knowing he had no legal right to do so. He also wrongfully retained INXS's keys, leases, and other items INXS would need to conduct its business operations related to the Properties. Given Rahall's actions, the trial court was not only correct to restrain Rahall from further actions related to the Properties, Tenants, or the courts but also to compel him to restore the subject matter of the suit to its former condition, *i.e.*, where INXS owned the Properties and Rahall had no right or role related to them. *See Bowling*, 135 So. at 544. Indeed, the trial court's injunction was narrowly tailored to prevent

[3] Although the allegation regarding notices of default was alleged "upon information and belief," INXS attached to the Complaint and the Motion copies of default notices sent by Rahall through Middletown that were dated after the oral termination of the property management agreement. AA.65, 68, 202, 206.

irreparable harm while allowing INXS to conduct its day-to-day business related to the Properties pending a final hearing on the merits. As a result, the trial court did not abuse its discretion and the Temporary Injunction should be affirmed.

To argue that the Temporary Injunction was an improper ruling on the merits before notice and a hearing could be had, Rahall relies upon *Gulf Coast Commercial LLC v. KOS Corp.*, 351 So. 3d 1212 (Fla. 2d DCA 2022). Rahall's reliance on that case is misplaced.

In *Gulf Coast*, Hybridge appealed the trial court's nonfinal order granting the property owners' motion for a temporary injunction. *Id.* at 1214. The property owners owned and operated shopping centers which Hybridge managed pursuant to property management agreements. *Id.* at 1214. Under the terms of the agreements, if the property owners terminated Hybridge for any reason, Hybridge was allegedly required to deliver to the owner a final accounting and all records, contracts, leases, etc. related to the managed properties. *Id.* Upon termination, Hybridge refused to deliver the final accounting or other records. The property owners sought and obtained an injunction requiring Hybridge to deliver those things pursuant to the agreement. *Id.* at 1214. Hybridge appealed. *Id.*

On appeal, this Court reversed the injunction because it went beyond preserving the status quo. In doing so, the Court noted that, in its response, Hybridge had alleged that it was not required to provide the records or the accounting because the property owners had breached the agreement first by not paying the contracted-for management fees. Thus, the Court reasoned that the current dispute was whether Hybridge had a contractual obligation to do the very thing it was ordered to do by the temporary injunction, *i.e.*, provide a final accounting and other documents. The Court observed, however, that while the trial court's order could arguably have preserved some incidental aspect of the status quo by allowing the property owners to continue to conduct their affairs without Hybridge, the trial court did not preserve the last peaceable, uncontested status quo because the property owners' assertion that Hybridge had an obligation to perform the accounting was precisely what Hybridge contested in the lawsuit.

The property owners argued, however, that preservation of the status quo does not "permit a wrongdoer to shelter himself behind a suddenly and secretly changed status." *Id.* at 1215-16 (quoting *Bowling*, 135 So. at 544). This Court agreed that "where, before the

granting of the injunction, the defendant has … changed the condition of things [suddenly and secretly], the court … may … by preliminary mandatory injunction, compel him to restore the subject-matter of the suit to its former condition" and that "in doing so the court acts without any regard to the ultimate merits of the controversy." *Id.* at 1216 (quoting *Bowling*, 135 So. at 544). But in *Gulf Coast*, this Court found that *Bowling* did not apply because Hybridge did not "suddenly and secretly" change the status quo. *Id.*

Hybridge had not recently begun doing something that must be enjoined to limit further damage, *i.e.*, a request to restore the status quo to a point in time before the allegedly deleterious behavior of Hybridge began. *Id.* at 1216. Instead, Hybridge had been refraining from providing the accounting, something the property owners insisted Hybridge was required to do. *Id.* But the ultimate merits of the case involved whether Hybridge was even required to provide that final accounting where Hybridge claimed the property owners anticipatorily breached the parties' agreement. *Id.* at 1216. Thus, by requiring the accounting without regard to the property owners' anticipatory breach, the Court found that the trial court ruled on the

ultimate merits of the controversy. As a result, it abused its discretion by granting the temporary injunction. *Id.*

Gulf Coast is distinguishable. First, *Gulf Coast* involved an injunction with notice, whereas this case involves a temporary injunction without notice. As a result, the only relevant allegations in this case are those contained in the Complaint and the Motion. *See Santos*, 857 So. 2d at 316. Any defenses Rahall may have to the entry of the injunction were not before the trial court at the relevant time. And, although Rahall may now be trying to argue for the first time on appeal that he was not required to provide an accounting or the other documents and things pursuant to his property management agreement with INXS because INXS anticipatorily breached the agreement or because Rahall is, in fact, the owner of the Properties, those arguments were not before the trial court when it entered the Temporary Injunction.[4] As a result, those arguments are irrelevant for our purposes here. They simply were not before the trial court when it entered the Temporary Injunction. Thus, *Gulf*

[4] Indeed, Rahall's first attempt at an initial brief was stricken more than five months ago because Rahall was arguing matters like these that are outside the very limited record in this case.

Coast, which was based upon Hybridge's asserted defenses before a hearing, is distinguishable.

Second, *Gulf Coast* is also distinguishable because the trial court required Hybridge to produce a **final** accounting – the very thing Hybridge argued it was not required to provide because of the owner's anticipatory breach. In contrast, INXS sought the accounting and the return of keys and leases pending a final hearing on the merits so that it could conduct its business related to the Properties in the meantime. Thus, the trial court did nothing more than restore the status quo and grant incidental relief to INXS so that it could operate its business pending a final hearing on a permanent injunction. That action was fully within the trial court's discretion. *See Gulf Coast*, 351 So. 3d at 1216. One way or another, Rahall will have an opportunity to present his defenses and any relevant evidence to support them. But, given the limited record here, now is not that time. *See Santos*, 857 So. 2d at 316.

Rahall picked his procedural poison. After the entry of the Temporary Injunction, Rahall filed a motion to dismiss. He later abandoned that motion and filed the Notice of Appeal. In doing so, Rahall limited this Court's review to the Complaint, the Motion, and

the Temporary Injunction. *See Santos*, 857 So. 2d at 316. He is bound by the record he chose and cannot now raise the types of defenses that were available to Hybridge in *Gulf Coast*. And, unfortunately for Rahall, at this juncture, any defensive claims are irrelevant because they are not contained within the allegations presented by the Complaint and the Motion.

Third, through his actions after the termination of the property management agreement, Rahall suddenly and secretly changed the status quo. He claimed to own the Properties, told Tenants INXS was a "scammer," changed the locks on some residences, and initiated and continued eviction actions on INXS's behalf, all without any legal authority to do so. In one case, Rahall pursued an eviction action against a Tenant even though that Tenant had already paid rent to INXS. AA.61, 197. Because of Rahall's sudden and secret change to the status quo, the trial court had the discretion to restore the subject-matter of the lawsuit to its former condition, and by doing so, acted without any regard for the ultimate merits of the controversy. *See Gulf Coast*, 351 So. 3d at 1216.

And finally, unlike in *Gulf Coast*, the Temporary Injunction as granted in this case was narrowly drafted to restore or preserve the

original status quo. It merely provided INXS with the things it needed to conduct its day-to-day business until a final hearing could be held. Thus, from both a factual and a procedural basis, *Gulf Coast* is distinguishable from this case and should not persuade this Court to reverse the Temporary Injunction. Instead, because the Temporary Injunction did not exceed the status quo or otherwise provide INXS with a judgment on the merits, the Temporary Injunction should be affirmed.

CONCLUSION

For the foregoing reasons, the trial court did not abuse its discretion by granting the Temporary Injunction without notice to Rahall. As a result, the Temporary Injunction should be affirmed.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the Florida Courts E-Filing Portal on all counsel in the service list below on this 4th day of December 2023.

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I HEREBY CERTIFY that this brief complies with the font requirements of Florida Rule of Appellate Procedure 9.045(b) and the word limitation requirements of Florida Rule of Appellate Procedure 9.210(a)(2)(B). This brief contains 9,812 words.

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