# IN THE MISSOURI COURT OF APPEALS
# WESTERN DISTRICT

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**COMPLETE TITLE OF CASE**

LYNN SCHIEVE, Individually and as a Member of the Carroll Meyer Family Limited Liability Company, LLC,

Respondent,

v.

JOHN MEYER,

Appellant.

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**DOCKET NUMBER WD**83700

**MISSOURI COURT OF APPEALS**
**WESTERN DISTRICT**

**DATE:** June 1, 2021

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**APPEAL FROM**

The Circuit Court of Clay County, Missouri
The Honorable David P. Chamberlain, Judge

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**JUDGES**

Division Two: Pfeiffer, P.J., and Ahuja and Mitchell, JJ. CONCURRING.

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**ATTORNEYS**

Jerry D. Rank, Overland Park, KS, Attorney for Respondent.

Jonathan Sternberg, Kansas City, MO, Attorney for Appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS**
**WESTERN DISTRICT**

**LYNN SCHIEVE, Individually and as a Member of the Carroll Meyer Family Limited Liability Company, LLC, Respondent,**

**v.**

**JOHN MEYER, Appellant.**

**WD83700** **Clay County**

**Before Division Two Judges:** Mark D. Pfeiffer, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

John Meyer appeals, following a bench trial, a judgment in the amount of $205,982.55 plus court costs entered against him in favor of Lynn Schieve on her claim that Meyer, as acting manager of the Carroll Meyer Family Limited Liability Company, breached his fiduciary duty to the members of the LLC by taking the LLC's money for his own personal use and failing to issue distributions required by the LLC's Operating Agreement. Meyer raises three points on appeal. He argues first that Schieve lacked standing to bring a direct claim against Meyer and that she could proceed only in a derivative action on behalf of the LLC, rather than as an individual member. Second, he argues that there was no substantial evidence to support the trial court's finding that Meyer owed any duties for which he could be personally liable. And, finally, he argues that the court misapplied the law in awarding Schieve attorneys' fees. Finding no error, we affirm.

**AFFIRMED AND REMANDED FOR ATTORNEYS' FEES ON APPEAL.**

**Division Two holds:**

1. Meyer's true challenge is not to Schieve's standing but to the sufficiency of her petition to allege a derivative action. Because he failed to raise this claim below, we will not review it on appeal.

2. The provision in the Articles of Organization that tracked § 347.057, RSMo, did not preclude individual liability for a manager where liability was premised on acts of the manager benefiting himself, rather than acts benefiting the LLC.

3. Though an LLC's Operating Agreement can limit or define the scope of the fiduciary duties imposed upon an LLC's members and managers, the Operating Agreement here shielded Meyer from liability for only those actions done in good faith.

4. The Operating Agreement allowed for attorneys' fees to be awarded to the prevailing party in any dispute with respect to enforcement of the agreement. Because Schieve was the prevailing party, she was entitled to attorneys' fees.

**Opinion by: Karen King Mitchell, Judge** June 1, 2021

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.