

NO. 2023-39943

**CONRELL HADLEY,
Plaintiff,**

V.

**U.S. BANK
Defendant.**

§ **IN THE DISTRICT COURT**
§
§
§ **125TH JUDICIAL DISTRICT**
§
§
§ **HARRIS COUNTY, TEXAS**

PLAINTIFF'S VERIFIED MOTION TO REINSTATE

Plaintiff, Conrell Hadley, referred to hereinafter by name or as "Plaintiff", asks the Court to reinstate this case on its docket, under the authority of Texas Rule of Civil Procedure 165a.

INTRODUCTION

1. Plaintiff sued Defendant, U.S. Bank ("Defendant") for, inter alia, breach of contract and fraud, and relating to certain real property located in Harris County, Texas.
2. On January 17, 2024, the Court signed an order granting Plaintiff's Motion for Nonsuit With Prejudice, filed by Plaintiff's previous attorney. ("Motion").
3. Plaintiff was not aware of the Motion being filed.
4. Indeed, despite making several attempts to contact his previous counsel, Plaintiff only discovered the filing of the Motion after he engaged in his independent search of the Court records.
5. Plaintiff never approved of the Motion and would not have approved if properly advised by his previous counsel.

ARGUMENT & AUTHORITIES

6. A court should grant a motion to reinstate if the plaintiff's failure to appear at a

trial or hearing was not intentional or the result of conscious indifference, but was the result of a mistake or an accident or can otherwise be reasonably explained. Tex. R. Civ. P. 165a(3); *Smith v. Babcock & Wilcox Constr. Co.*, 913 S.W.2d 467, 468 (Tex. 1995); *Melton v. Ryander*, 727 S.W.2d 299, 301–02 (Tex. App.—Dallas 1987, writ ref'd n.r.e.). A party's failure to appear is not intentional or due to conscious indifference within the meaning of Rule 165a merely because it is deliberate. *Smith*, 913 S.W.2d at 468. To support a dismissal, the failure to appear must be without adequate justification. *Id.* Proof of such justification—accident, mistake, or other reasonable explanation—negates the intent or conscious indifference for which reinstatement can be denied. *Id.*; *Bank One v. Moody*, 830 S.W.2d 81, 84 (Tex. 1992).

7. The Court should reinstate this case because the filing of the Motion was done without Plaintiff's consent or knowledge.

PRAYER

8. For these reasons, the parties ask the Court to set this motion for reinstatement and, after reviewing, grant the motion and reinstate this case on the docket. The Parties also pray for general relief.

Respectfully submitted,

THE RHODES LAW FIRM, P.C.,

/s/ Eric L. Rhodes

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on February 16, 2024, a true and correct copy of the foregoing instrument has been forwarded to all counsels of record pursuant to the TRCP 21a:

/s/ Eric L. Rhodes
Eric L. Rhodes

Unofficial Copy Office of Marilyn Burgess District Clerk

VERIFICATION


STATE OF TEXAS
COUNTY OF HARRIS

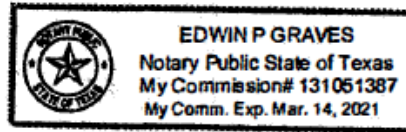
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§

Before me, the undersigned notary, on this day, personally appeared Eric L. Rhodes, individually, a person whose identity is known to me. After I administered an oath to him, upon his oath, he said he has read the foregoing instrument and that the facts stated in it are within his personal knowledge and are true and correct.


Eric L. Rhodes

SUBSCRIBED AND SWORN TO, BEFORE ME, on this February 16, 2024, to certify which witness my hand and seal of office.





Unofficial Copy Office of Malynn Burgess District Clerk