

No. 2025-18024

EDDIE C. LINDSEY,

Plaintiff,

VS.

WBL SPO I, LLC and
WORLD BUSINESS LENDERS, LLC,

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

152ND JUDICIAL DISTRICT

DEFENDANTS' RULE 91a MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, WBL SPO I, LLC and WORLD BUSINESS LENDERS, LLC
("Defendants"), Defendants in the above-styled and numbered cause, and file this their Rule 91a
Motion to Dismiss, and in support thereof would show:

I.

BACKGROUND

1. On or about May 7, 2020, Axos Bank made a \$220,000 business loan to Legacy Airways, LLC ("Legacy"). The loan was assigned to Defendant WORLD BUSINESS LENDERS, LLC ("World") who subsequently assigned the loan to Defendant WBL SPO I, LLC ("WBL").
2. Plaintiff personally guaranteed the loan. In addition, the loan was collateralized by a deed of trust lien against real property owned by Plaintiff.
3. The loan went into default, and WBL scheduled a non-judicial foreclosure sale.
4. To stop the foreclosure sale, Plaintiff, by and through a licensed Texas attorney, filed a lawsuit against Defendants in Cause No. 2022-54765; In the 152nd Judicial District Court of Harris

County, Texas (hereafter, the “Prior Lawsuit”). In conjunction with filing the Prior Lawsuit, Plaintiff obtained a temporary restraining order which stopped the foreclosure sale.

5. In the Prior Lawsuit, Plaintiff filed an amended petition in which he asserted seven (7) causes of action against Defendants:

1. Declaratory Judgment.
2. Breach of contract.
3. Breach of fiduciary duty.
4. Violations of the Texas Debt Collection Act.
5. Common law fraud.
6. Statutory usury.
7. Violation of Texas Finance Code, Chapter 302.

6. Thereafter, WBL filed a counterclaim against Plaintiff in the Prior Lawsuit.

7. In the Prior Lawsuit, Defendants filed a No Evidence Motion for Summary Judgment.

On May 21, 2024, the Court granted the Motion and entered a take nothing judgment against Plaintiff with respect to his seven causes of action enumerated in paragraph 5 above.

8. In the Prior Lawsuit, Defendants filed a Traditional Motion for Summary Judgment against Plaintiff. On May 21, 2024, the Court granted the Motion and signed a Final Summary Judgment in which the Court granted monetary relief to WBL against Plaintiff.

9. Importantly, Plaintiff did not appeal the Order (paragraph 7) or the Final Summary Judgment (paragraph 8).

10. Plaintiff filed the instant Bill of Review case on March 17, 2025.

11. Pursuant to Rule 91a.3, the instant Motion is timely filed in that it is being filed within 60 days after the first pleading containing the challenged cause of action is served on the

movant. The petition was served on the undersigned counsel on March 17, 2025 (via email), and the instant Motion is being filed within the 60-day period (the 60th day after March 17 being May 16).

II.

APPLICABLE LAW (Rule 91a)

12. Rule 91a, Tex. R. Civ. P., empowers the court to dismiss a cause of action if the court concludes that the cause of action has no basis in law or fact.

III.

APPLICABLE LAW (Bill of Review)

13. To obtain a bill of review, a petitioner must plead and prove: (1) a meritorious defense to the cause of action alleged to support the judgment; (2) the petitioner was prevented from asserting the meritorious defense by the opposing party's fraud, accident, or wrongful act or by official mistake; and (3) the petitioner was not at fault or negligent. *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751 (Tex. 2003).

IV.

ARGUMENT

14. Plaintiff's bill of review has no basis in law or fact. In order to obtain a bill of review, the petitioner must plead and prove a meritorious defense which he was prevented from making by the opposing party. Although his discussion is rambling, it appears that Plaintiff is promoting usury as his meritorious defense. In his Petition, Plaintiff freely admits that, in the Prior Lawsuit, he filed suit against both Defendants (*see* ¶ 10: "Plaintiff initiated a lawsuit against Defendants"). In addition, Plaintiff freely admits that, in the Prior Lawsuit, he amended his complaint by alleging usury and other violations of the Texas Finance Code (*see* ¶¶ 10, 15, and 52). Further, Plaintiff

freely admits that, in the Prior Lawsuit, Defendants filed a No Evidence Motion for Summary Judgment in which they defended against Plaintiff's usury claims by asserting that the underlying loan was expressly governed by Nevada law (*see* Petition ¶¶ 11, 16). Even without looking at any pleadings from the Prior Lawsuit, Plaintiff's Petition provides ample proof that principles of res judicata prevent Plaintiff from litigating his usury claims again in the instant case. For that reason, Plaintiff's meritorious defense has no basis in law. Accordingly, this Court should dismiss Plaintiff's petition for bill of review.

15. Alternatively, the bill of review petitioner must show that he was prevented from asserting his meritorious defense by the opposing party's fraud, accident, or wrongful act. Here, Plaintiff alleges that his usury rights are "unadjudicated" (*see* the second unnumbered paragraph on the first page as well as ¶¶ 26, 55, and 56).¹ However, on closer inspection, it appears that Plaintiff is not alleging that he was defrauded at the inception of the loan. Instead, he appears to be complaining about [1] this Court's "reliance on Defendants' interpretation of only one Nevada law" (*see* ¶ 26); and [2] Defendants' "selective application" of Nevada law (*see* ¶ 43), Defendants' "selective misrepresentation in both motions" (*see* ¶ 44), and Defendants' "deceptive misinterpretation" of Nevada law (*see* ¶ 44). Boiled down to its essence, what Plaintiff is really complaining about is that this Court allegedly "erred" by accepting Defendants' view of the case. That is ludicrous for obvious reasons. Plaintiff's position is even more frivolous when one considers the fact that [1] he had a full and fair opportunity to respond to Defendants' motions in the Prior Lawsuit; [2] he, in fact, filed written responses to both motions; [3] he was represented by a licensed Texas attorney at all times in the Prior Lawsuit; [4] he did not file a Motion for New Trial in the

¹ Although Plaintiff uses the term "unadjudicated rights" liberally as if the term is well known in Texas jurisprudence, an unscientific Google Scholar search reveals that the term has **never** been cited by any Texas appellate court.

Prior Lawsuit; and [5] **most importantly, he did not appeal the Order or the Final Summary Judgment.** His argument (that he was somehow prevented in the Prior Lawsuit from making the arguments he is making in his Petition) is completely unconvincing. All of the arguments he is now making in the Petition were available to him during the Prior Lawsuit. The fact that he didn't bother to make those arguments "when it counted" is completely his fault. As a matter of law, and contrary to his way of thinking, Plaintiff's arguments do not come anywhere close to showing that he was somehow prevented from asserting his meritorious defense by any fraud or wrongful act on the part of Defendants. Accordingly, this Court should dismiss Plaintiff's petition for bill of review.

V.

ATTORNEYS' FEES

16. Rule 91a.7 permits this Court to award the prevailing party all costs and reasonable and necessary attorneys' fees incurred with respect to the challenged cause of action. If this Court is inclined to grant the instant Motion, Defendants would show they incurred \$1,645.00 in reasonable and necessary attorneys' in responding to and defending against Plaintiff's Bill of Review. *See* Affidavit of James E. Cuellar which is attached hereto as Exhibit "A" and is incorporated herein by reference for all purposes as if set forth herein verbatim. Defendants request the Court to award them \$1,645.00 in reasonable and necessary attorneys' fees.

VI.

RELIEF REQUESTED

17. Defendants request this Court to grant the instant Motion; to dismiss Plaintiff's petition for bill of review with prejudice to refile; and to award Defendants the sum of \$1,645.00 in reasonable and necessary attorneys' fees.

Respectfully submitted,

WELLS & CUELLAR, P.C.

/s/ James E. Cuellar

James E. Cuellar

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendants' Rule 91a Motion to Dismiss** has been forwarded to:

Eddie C. Lindsey
2700 Spring Creek Drive
Spring, Texas 77373

by electronic filing notification and/or electronic mail and/or facsimile and/or certified mail, return receipt requested, this the 16th day of May, 2025.

/s/ James E. Cuellar

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Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Tina Grant on behalf of James Cuellar

Bar No. 05202345

tgrant@wellscuellar.com

Envelope ID: 100949198

Filing Code Description: Motion (No Fee)

Filing Description: Defendants' Rule 91a Motion to Dismiss

Status as of 5/16/2025 4:02 PM CST

Case Contacts

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