

SUPREME COURT OF TEXAS

Jenna Tabakman v. Gary Tabakman

Tabakman · No. No. 24-0919 · Decided December 5, 2025

SUMMARY

The Supreme Court of Texas held that Jenna Tabakman satisfied the Craddock requirements for setting aside a default divorce judgment and obtaining a new trial. The Court concluded that her lack of awareness that she had been served through alternative service negated intentional or consciously indifferent conduct, and that her alleged meritorious defense and showing regarding delay or injury satisfied the remaining elements. The Court reversed the court of appeals’ judgment and remanded the case to the trial court for further proceedings.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Supreme Court of Texas
DECIDED	December 5, 2025
DOCKET	No. 24-0919
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jenna Tabakman sought review of a court of appeals judgment affirming the denial of her motion for a new trial after entry of a default divorce decree. The Supreme Court of Texas granted review without oral argument, reversed the court of appeals, and remanded for a new trial.
STANDARD OF REVIEW	The court applied the Craddock standard governing motions for new trial following default judgments. Under that standard, the defendant's factual assertions concerning the first element are accepted if true unless controverted, while the defendant need only set up a meritorious defense under the second element and must initially show that a new trial would not cause delay or injury under the third element, after which the burden shifts to the plaintiff to prove injury.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Texas.
PARTIES	Jenna Tabakman v. Gary Tabakman

TOPICS

default judgment

motion for new trial

divorce

family law procedure

appellate procedure

PRACTICE AREAS

family law

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether Jenna's failure to answer was not intentional or the result of conscious indifference under the first element of the Craddock test when she knew of the divorce lawsuit but was unaware that alternative service had been completed and did not receive the posted citation.
2. Whether Jenna set up a meritorious defense under the second Craddock element by asserting and supporting a reimbursement claim from the community estate to her separate estate.
3. Whether Jenna satisfied the third Craddock element by showing that a new trial would not cause undue delay or injury to Gary.
4. Whether the court of appeals erred in affirming the denial of Jenna's motion for a new trial.

HOLDINGS

1. A defendant who knows that a lawsuit is pending but is unaware that she was served through alternative service and did not receive the citation may satisfy the first Craddock element if her factual assertions, supported by evidence, negate intentional or consciously indifferent failure to answer and are not controverted.
2. A defendant satisfies the second Craddock element by setting up a meritorious defense through allegations of facts that would constitute a legal defense, supported by affidavits or other evidence providing prima facie proof; the defendant need not overcome controverting evidence at this stage.
3. A defendant satisfies the third Craddock element by showing that granting a new trial will not cause undue delay or injury; after that initial showing, the plaintiff must prove injury that would disadvantage the plaintiff in presenting the merits at the new trial, rather than merely general financial or emotional harm.
4. Jenna Tabakman was entitled to a new trial because she satisfied all three Craddock elements.

KEY QUOTATIONS

“Accordingly, any doubts about a default judgment—not just doubts about service—“must be resolved against the party who secured the default.”” (at 3)

“The overarching question guiding this inquiry is: “Why did the defendant not appear?”” (at 4)

“Absent service, waiver, or citation, mere knowledge of a pending suit does not place any duty on a defendant to act.” (at 7)

“not receiving the citation and being unaware of its service generally suffices to excuse a failure to answer before judgment, even if the defendant is aware of the lawsuit.” (at 7)

FACTUAL BACKGROUND

After thirteen years of marriage and the birth of one child, Jenna Tabakman left the marital home and moved temporarily to her parents' house. Gary Tabakman filed for divorce, and after unsuccessful service attempts the trial court authorized alternative service by posting the citation, petition, and order on the parents' front door. Jenna testified that she did not know she had been served and did not receive the posted citation; after learning of the oral default judgment, she promptly retained counsel, filed an answer, and moved for a new trial before the default decree was signed. She also asserted a reimbursement claim concerning funds allegedly contributed from her separate estate toward the marital home's down payment.

PROCEDURAL HISTORY

Gary Tabakman filed for divorce after Jenna Tabakman left the marital home. After unsuccessful attempts at personal service, the trial court authorized alternative service, and a citation, petition, and order were posted on the front door of Jenna's parents' house. The trial court orally rendered a default judgment and later signed a default divorce decree after Jenna filed an answer and motion for new trial. The trial court denied the motion, the court of appeals affirmed, and the Supreme Court of Texas reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the trial court for a new trial and further proceedings consistent with the opinion.

CASES CITED

- Craddock v. Sunshine Bus Lines, Inc., 133 S.W.2d 124, 125-26 (Tex. [Comm'n Op.] 1939)
- In re Lakeside Resort JV, LLC, 689 S.W.3d 916, 920-22, 925 (Tex. 2024)
- In re Marriage of Williams, 646 S.W.3d 542, 545 (Tex. 2022)
- In re R.R., 209 S.W.3d 112, 114-15, 117 (Tex. 2006)
- Fid. & Guar. Ins. Co. v. Drewery Constr. Co., 186 S.W.3d 571, 574-76 (Tex. 2006)
- Smith v. Babcock & Wilcox Constr. Co., 913 S.W.2d 467, 468 (Tex. 1995)
- Milestone Operating, Inc. v. ExxonMobil Corp., 388 S.W.3d 307, 310 (Tex. 2012)
- Sutherland v. Spencer, 376 S.W.3d 752, 755-56 (Tex. 2012)
- Bank One, Tex., N.A. v. Moody, 830 S.W.2d 81, 81-82 (Tex. 1992)
- Tex. Nat. Res. Conservation Comm'n v. Sierra Club, 70 S.W.3d 809, 813 (Tex. 2002)
- Wilson v. Dunn, 800 S.W.2d 833, 837 (Tex. 1990)
- State Farm Fire & Cas. Co. v. Costley, 868 S.W.2d 298, 299 (Tex. 1993)
- Red Bluff, LLC v. Tarpley, 713 S.W.3d 412, 415 (Tex. 2025)
- Cliff v. Huggins, 724 S.W.2d 778, 780 (Tex. 1987)
- Walker v. Baptist St. Anthony's Hosp., 703 S.W.3d 339, 345-46 (Tex. 2024)

- Dolgencorp of Tex., Inc. v. Lerma, 288 S.W.3d 922, 927-29 (Tex. 2009)
- Dir., State Emps. Workers' Comp. Div. v. Evans, 889 S.W.2d 266, 270 (Tex. 1994)
- In re Marriage of Sandoval, 619 S.W.3d 716, 723 (Tex. 2021)

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