

NINTH COURT OF APPEALS OF TEXAS AT BEAUMONT

CE Acquisition, LLC v. On-Site Construction

No. 09-24-00285-CV · No. No. 09-24-00285-CV · Decided April 30, 2026

SUMMARY

The Ninth Court of Appeals of Texas reversed a default judgment against CE Acquisition, LLC and remanded for a new trial. The court held that CE Acquisition satisfied all three Craddock requirements because its failure to answer was not consciously indifferent, it presented a meritorious defense, and granting a new trial would not cause undue delay or prejudice to On-Site Construction.

CASE DETAILS

COURT	Ninth Court of Appeals of Texas at Beaumont
WRITING FOR THE COURT	Jay Wright; Golemon, C.J.; Chambers, J.
JURISDICTION	Ninth Court of Appeals of Texas at Beaumont
DECIDED	April 30, 2026
DOCKET	No. 09-24-00285-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	CE Acquisition, LLC appealed the denial of its motion for new trial following a default judgment entered against it jointly and severally with Patriot Services Network LLC.
STANDARD OF REVIEW	Abuse of discretion. A trial court abuses its discretion when it acts without regard to guiding rules or principles.
PRECEDENTIAL VALUE	Published
PARTIES	CE Acquisition, LLC v. On-Site Construction

TOPICS

- default judgment
- motion for new trial
- civil procedure
- standard of review
- construction law

PRACTICE AREAS

- civil procedure
- appellate procedure
- construction law
- remedies
- commercial litigation

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying CE Acquisition's motion for new trial under the three-part Craddock test.
2. Whether CE Acquisition established that its failure to answer was not intentional or the result of conscious indifference, that it had a meritorious defense, and that granting a new trial would not cause On-Site injury or undue delay.

HOLDINGS

1. CE Acquisition satisfied the first Craddock factor because its uncontroverted affidavit, if true, established that it lacked knowledge of the suit and that its failure to answer was accidental rather than intentional or consciously indifferent.
2. CE Acquisition satisfied the second Craddock factor by presenting an uncontroverted affidavit and related defenses that, if believed, could cause a factfinder to reach a different result at a new trial.
3. CE Acquisition satisfied the third Craddock factor because it moved for a new trial promptly and agreed to pay On-Site's attorney's fees incurred through the hearing, demonstrating that a new trial would not cause undue delay or prejudice.
4. Because CE Acquisition satisfied all three Craddock factors, the trial court abused its discretion by denying the motion for new trial.

KEY QUOTATIONS

“If the motion for new trial satisfies these requirements, the trial court must grant the motion.” (9)

“Even if, as On-Site argues, CEA knew of On-Site’s suit, such knowledge does not convert CEA’s failure to answer from a mistake to intentional or consciously indifferent conduct, since case law does not hold that either service or knowledge of a suit is the deciding factor in differentiating between these states of mind.” (13)

FACTUAL BACKGROUND

CE Acquisition contracted with Patriot Services Network for the build-out of a Café Express restaurant, and Patriot subcontracted with On-Site Construction for labor and materials. The project expanded through written and alleged oral change orders, and On-Site claimed that Patriot and CE Acquisition failed to pay the full amount allegedly owed. CE Acquisition's representative submitted an affidavit stating that CE Acquisition itself had no knowledge of the lawsuit before the default judgment and that its registered agent could not establish delivery of the suit papers to CE Acquisition. CE Acquisition also presented defenses disputing liability, payment, notice of the work, misapplication of trust funds, unjust enrichment, and any contractual relationship with On-Site.

PROCEDURAL HISTORY

On-Site Construction sued CE Acquisition, LLC and Patriot Services Network LLC for payment allegedly owed for labor and materials supplied for a restaurant build-out. After both defendants failed to answer, the trial court entered a joint and several default judgment for damages, attorney's fees, interest, costs, and foreclosure of a mechanic's and materialman's lien. CE Acquisition moved for a new trial, supported by affidavits asserting that it

did not receive the suit papers, had not acted with conscious indifference, possessed meritorious defenses, and would reimburse On-Site's fees. The trial court denied the motion, and CE Acquisition appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must grant CE Acquisition's motion for new trial and conduct further proceedings consistent with the opinion.

CASES CITED

- Director, State Employees' Workers' Compensation Division v. Evans, 889 S.W.2d 266, 268 (Tex. 1994)
- Strackbein v. Prewitt, 671 S.W.2d 37, 38-39 (Tex. 1984)
- Craddock v. Sunshine Bus Lines, Inc., 133 S.W.2d 124, 126 (Tex. 1939)
- Sutherland v. Spencer, 376 S.W.3d 752, 755 (Tex. 2012)
- In re Sandoval, 619 S.W.3d 716, 721 (Tex. 2021)
- Ivy v. Carrell, 407 S.W.2d 212, 214 (Tex. 1966)
- Dolgencorp of Tex., Inc. v. Lerma, 288 S.W.3d 922, 928 (Tex. 2009)
- United Beef Producers, Inc. v. Lookingbill, 532 S.W.2d 958, 959 (Tex. 1976)

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