

Third District Court of Appeal

State of Florida

Opinion filed March 1, 2023.
Not final until disposition of timely filed motion for rehearing.

No. 3D22-0826
Lower Tribunal No. 18-24350 CC

Danny L. Curry,
Appellant,

vs.

Crescent Bank and Trust,
Appellee.

An Appeal from the County Court for Miami-Dade County, Diana Gonzalez-Whyte, Judge.

Renita Henry Law, PLLC, and Renita F. Henry (Ft. Lauderdale), for appellant.

Andreu, Palma, Lavin & Solis, PLLC, and Jorge L. Palma, and Carlos Cruanes, for appellee.

Before LINDSEY, MILLER, and GORDO, JJ.

PER CURIAM.

Appellant Danny L. Curry appeals a final judgment entered against him in favor of Appellee Crescent Bank and Trust following a bench trial at which he did not appear. The trial court sua sponte and unilaterally set the case for trial 17 days in advance of the trial date. Curry claims that though he received notice, he was unavailable on that date and that he was unsuccessful in obtaining a new trial date from the trial court.¹

Because the trial court noticed the case for trial only 17 days in advance of the trial date, we reverse and remand for the trial court to vacate the final judgment and set the case for a new trial in accordance with Florida Rule of Civil Procedure 1.440(c), which requires that a “[t]rial shall be set not less than 30 days from the service of the notice for trial.”

Reversed and remanded with instructions.

¹ Crescent Bank has been precluded from filing an answer brief in this appeal for failure to timely do so.