

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

_____)	
In re:)	Chapter 11
)	
ZACHRY HOLDINGS, INC., <i>et al</i> ¹)	Case No. 24-90377 (MI)
)	
Debtors.)	(Jointly Administered)
_____)	
AVIS LAMOTTE, <i>on behalf of herself and those similarly situated</i>)	
)	
Plaintiff)	
)	
v.)	Adv. Pro. No. 24-03122 (MI)
)	
ZACHRY INDUSTRIAL, INC.,)	
)	
Defendants.)	
_____)	

**DECLARATION OF MOHSIN Y. MEGHJI IN SUPPORT OF THE DEBTORS’
EMERGENCY MOTION FOR INTERIM AND FINAL ORDERS APPROVING THE
SETTLEMENT BY AND BETWEEN AVIS LAMOTTE, ON HER OWN BEHALF AND
ON BEHALF OF OTHERS SIMILARLY SITUATED, AND THE DEBTORS**

I, Mohsin Y. Meghji, the Chief Restructuring Officer of Zachry Industrial, Inc. (“Zachry”), declare pursuant to 28 U.S.C. §1746 as follows:

1. I am the Chief Restructuring Officer (“CRO”) of Zachry. I am also the Managing Partner of M3 Advisory Partners, LP, which is the Debtors’ restructuring advisor in the above-captioned chapter 11 cases.

¹ The last four digits of Zachry Holdings, Inc.’s tax identification number are 6814. A complete list of each of the Debtors in these chapter 11 cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.veritaglobal.net/ZHI>. The location of the Debtors’ service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.



2. I submit this declaration (the “Declaration”) in support of *Debtors’ Emergency Motion for Interim and Final Orders (A)(I) Approving the Settlement by and Between Avis Lamotte, on Her Own Behalf and on Behalf of Others Similarly Situated, and the Debtors, (II) Certifying a Class for Settlement Purposes Only, (III) Appointing the Plaintiff as Class Representative and Plaintiff’s Counsel as Class Counsel for Settlement Purposes Only, (IV) Approving the Form and Manner of Service of the Settlement Class Notice, (V) Appointing the Settlement Administrator, and (IV) Scheduling Final Hearing; and (B) Granting Related Relief* (the “Motion”), filed contemporaneously herewith.²

3. On May 21, 2024, (the “Petition Date”), each Debtor (collectively, the “Debtors”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), commencing the chapter 11 cases.

4. As CRO, I am generally familiar with the Debtors’ business, financial condition, policies and procedures, day-to-day operations, and books and records. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my discussions with members of the Debtors’ management team and external advisors, my review of relevant documents and information, and my opinion based upon my experience and knowledge of the Debtors’ industry, operations, and financial condition.

Background

5. Based on information provided to me, I understand that on June 17, 2024, Avis Lamotte (the “Plaintiff” or “Class Representative”), on behalf of herself and all other similarly situated (the “Settlement Class”, with each individual person who is a member of the Settlement Class, including Plaintiff, a “Class Member”) (and, together with the Debtors, the “Parties”)

² Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Motion.

commenced an adversary proceeding, *Avis Lamotte v. Zachry Industrial, Inc.*, Adversary No. 4:24-AP-03122 (the “Class Action” or the “Adversary Proceeding”), against Zachry, on behalf of herself and purportedly on behalf of the Class Members, asserting certain claims under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101–2109 (the “WARN Act”).

6. I understand that the Debtors have been in discussion with the Plaintiff since the Adversary Proceeding was filed.

7. I understand that on July 22, 2024, the Debtors filed an Answer and Affirmative Defenses to the Complaint, denying all liability in respect of the allegations in the Complaint. [Adv. D.I. 20].

8. I understand that, in an effort to resolve the Adversary Proceeding, the Parties participated in mediation with Ms. Gloria Portela (the “Mediator”). This included preparation of confidential mediation statements for the Mediator and multiple Zoom sessions with the Mediator, which culminated in a full day, in-person mediation session on September 3, 2024. I worked with counsel to preparing for and participated in the September 3, 2024, mediation session.

The Settlement

9. It is my understanding that after weeks of good-faith and arms-length negotiation and mediation since the Adversary Proceeding was filed on June 2024, the Parties have reached a settlement (the “Settlement”) that would fully and completely resolve all disputes, claims, and causes of action relating to the allegations asserted in the Plaintiff’s Class Action Complaint (the “Complaint”). I believe that, in light of the foregoing, the Settlement is fair and equitable.

10. **First**, the Settlement provides all Parties with certainty regarding the Class Action. Class Members will enjoy the definite benefit of receiving their respective shares of proceeds from the Settlement (the “Settlement Award”), rather than waiting for an uncertain future amount, if any. Further, in limiting potential liability for the Debtors, it will create certainty as they begin the

process of confirming and soliciting a chapter 11 plan and preparing to exit chapter 11. I believe that it is highly unlikely that these disputes would be litigated to conclusion in the chapter 11 cases, as any judgment would very likely lead to appeal that could significantly delay the Debtors' prospect of emergence from chapter 11.

11. It is my opinion, that based on the foregoing alone, the Settlement exceeds the lowest point in the range of plausible litigation outcomes for the Debtors. It is my belief that the material benefits to all Parties are far superior to the uncertain outcome of the continued dispute.

12. *Second*, the Settlement efficiently resolves expensive and distracting matters, preserving vital estate resources. The Parties seek to resolve the Class Action consensually. Further negotiation and mediation would be costly and time-consuming both in the process itself and through the delay it could cause in these chapter 11 cases. If the Adversary Proceeding were to proceed to litigation, the costs incurred therewith would be exponentially higher.

13. *Third*, the Settlement is the culmination of weeks of arm's-length negotiations and discussions among the Parties and their respective professionals, including through mediation. All Parties support the terms as a superior alternative to extensive and uncertain litigation.

Conclusion

14. Based on the foregoing considerations, I respectfully submit that the Settlement represents a fair and reasonable transaction that is in the best interest of the Debtors' estates.

[Remainder of page intentionally left blank]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: September 26, 2024

/s/ Mohsin Y. Meghji

Mohsin Y. Meghji
Chief Restructuring Officer of Zachry
Holdings, Inc.