UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

	) CASE NO: 24-90391-mpi
	)
COMPUTER SIMULATION & ANALYSIS, INC.,	) Houston, Texas
	)
	) Monday, November 17, 2025
Reorganized Debtor.	)
	) 2:00 p.m. to 2:37 p.m.
----------	)

HEARING

BEFORE THE HONORABLE MARTIN P. ISGUR
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For Computer Simulation & Analysis, Inc.:	CHARLES R. KOSTER ALEX KONSTANTYNOVSKI White & Case 609 Main Street Houston, TX 77002
For Encina Development Group, LLC:	KATHRYN JUNE SKAGERBERG Nelson Mullins Riley & Scarborough LLP 1222 Demonbreun Street Nashville, TN 37203
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Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

HOUSTON, TEXAS; MONDAY, NOVEMBER 17, 2025; 2:00 PM

(Call to Order)

THE COURT: Please be seated. All right, good afternoon. We're here in the Zachry Holding Company case. It is 24-903 -- excuse me, Zachry Holdings case. 24-90377. If you're here in court, please come forward and make your appearance. If you're on the phone and wish to appear, please press 5* on your phone and turn on your camera.

MR. KOSTER: Good afternoon, Your Honor. Charles Koster, White & Case for the reorganized debtors, joined by my colleague, Alex Konstantynovski.

THE COURT: Thank you.

MS. SKAGERBERG: Good afternoon, Your Honor. Kate Skagerberg of Nelson Mullins on behalf of movant Encina Development Group.

THE COURT: Thank you. All right, Ms. Skagerberg. I think it's your motion. Why don't you proceed?

MS. SKAGERBERG: This is my first time appearing before you, Your Honor. Am I okay here at the podium or -- okay.

THE COURT: Whatever makes you comfortable.

MS. SKAGERBERG: Thank you. I thought it would be helpful to give a brief overview of the key dates that brought us to where we are today with this motion to allow the late-filed proof of claim and then really start digging

into those pioneer factors that I think really are at the key of the motion and the response today.

THE COURT: Okay, who's going to be your witness today?

MS. SKAGERBERG: I have not named any witness aside from myself. I can testify as to the date that my firm received notice of the -- of the order that the Court issued, but that would be the only witness.

THE COURT: Okay, and any documentary evidence today?

MS. SKAGERBERG: I did file eight exhibits, Your Honor, and I have a hard copy for the Court if you would like. The filing is Docket Number 322.

THE COURT: Three -- 322? That doesn't sound right.

MS. SKAGERBERG: It is 322 in Case Number 424-90391.

THE COURT: No, there's -- something is wrong. Tell me the case number?

MS. SKAGERBERG: Case Number 424 --

THE COURT: No, we don't have a Case 424. It starts with a two-digit number, a year number.

MS. SKAGERBERG: 24.

THE COURT: Okay.

MS. SKAGERBERG: 90391.

THE COURT: Thank you. All right, and they are your Exhibits 322 One through Eight, right?

MS. SKAGERBERG: Yes, Your Honor.

THE COURT: Okay, when you're ready you can move those into evidence and put on your witness, but if you want to make an opening statement first, that's fine.

MS. SKAGERBERG: Thank you, Your Honor. As an overview of the state trial court matter, just the key dates in that matter, I think that that's going to be instructive in understanding the context of this motion. Zachry Engineering Corporation, which is one of the subsidiary debtors, filed suit against my client, Encina, in Harris County District Court in January of 2021. They asserted a cause of action for a breach of contract. A few months later in April of 2021, Encina filed a counterclaim against that Zachry entity -- ZEC is how we often refer to it -- also asserting breach of contract, so cross-claims were going back and forth. ZEC filed a motion to dismiss Encina's counterclaim, and that was heard by the trial court in March of 2022.

The trial court denied ZEC's motion to dismiss and ZEC took it up on appeal. It went first to the Court of Appeals, which affirmed the trial court's ruling, and then ZEC filed a petition for review with the Supreme Court of Texas in July of 2023. Merits briefing on that petition for

review was completed in February of 2024. That's where the case was at the time that Zachry filed for bankruptcy. It filed for bankruptcy on May 21st of 2024 and ZEC filed suggestions of bankruptcy in the state court case on June 12th of 2024. Now, just to bring it full circle, since the bankruptcy stay was lifted, the Supreme Court of Texas has denied the petition for review and sent the case back to the trial court. The trial court has generated its case management order. Nothing further has been done on the trial court case since then.

A little over a month after ZEC filed its suggestions of bankruptcy in the state court case, this court entered the bar date order in this case, and that was on January 26th, 2024, that set a bar date of September 16th, 2024.

THE COURT: Hold on. I -- I've got something written down wrong. I thought you said the suggestion of bankruptcy was filed in June of 2024.

MS. SKAGERBERG: Yes, June --

THE COURT: And the bar date was in January of '24?

MS. SKAGERBERG: No, September.

THE COURT: September when?

MS. SKAGERBERG: 16th, 2024 was the bar date.

THE COURT: That's when we issued the order?

MS. SKAGERBERG: No, you issued the order on July 26th.

THE COURT: Okay, I thought you said January 26th. Okay, it was July 26th of '24 when we issued the bar order. Okay, thank you. I knew I had something written down wrong.

MS. SKAGERBERG: I'm sure I misspoke, Your Honor.

THE COURT: No, I just -- I knew I had something written down wrong. It doesn't matter whose fault it was. I had to get that fixed. Thank you.

MS. SKAGERBERG: So, that was June, July, September, and there's no dispute that Encina did not receive notice of the bar date until November of 2024. There is a little bit of confusion about when Encina received that notice of the bar date. The claims and noticing agent filed a supplemental certificate of service stating that it served Encina's counsel, including myself, on November 7th of 2024. As I stated in the motion and am representing to the Court and can certainly testify to this afternoon, I received that notice on November 19th of 2024. So, there's a question about this twelve-day span -- where was the notice; did I have the notice?

I did receive the notice on November 19th of 2024 and Encina filed its proof of claim on December 10th of 2024. I filed the motion to allow the late filed proof of claim on February 11th of 2025, and that was following

receipt of Debtor's modified plan, which stated that all proofs of claim filed after the bar date -- not after the plan confirmation, but after the bar date, would be automatically extinguished after the plan was confirmed.

What's unusual about this case, or at least in my experience, and I don't practice in bankruptcy court; maybe this is more usual than I would expect -- is that some of Debtor's bankruptcy filings mention the state court litigation. They even mention the counterclaim, but they don't list Encina as a creditor on Schedule E and F. So, on July 16th of 2024, when Debtor filed its statements of financial affairs, ZEC's statement of financial affair -- affairs lists the Encina lawsuit.

The schedule of assets and liabilities that was filed that day, which is Encina's Exhibit Two -- and I will move those in, Your Honor, shortly -- lists the Encina lawsuit as an asset on Schedule A/B and it describes the procedural posture of the appeal of Encina's counterclaim but it does not list the Encina lawsuit on Schedule E/F. The amended schedule of assets and liabilities filed on August 30th, 2024, and then the second amended schedule filed on December 20th of 2024 also do not list the Encina lawsuit on Schedule E/F.

There is a December 20th certificate of service for the notice of deadlines that I think is really

illustrative of what may have happened here to answer that November 7th versus November 19th question. That certificate of service does not list Encina as a party who received service under that notice, but does list counsel for Encina on the master service list. However, it lists me not as counsel for Encina but as counsel for another unrelated party who I was not counsel for. It lists one of my law partners as counsel for Encina, even though he was not -- has not worked on the case. It lists another attorney in Florida who has never appeared in the state court lawsuit as counsel for Encina, but it has old firm information for her and didn't make it to her.

So, in short, the certificate of service was just kind of a mess, and I don't say that to cast dispersions on the noticing firm. I know this is a very complex case. There were a lot of attorneys representing a lot of parties, but I think that may account for some of this, you know, "Why didn't I get the notice until the certificate of service was filed?" So, when we talk about delay in this case, which really is the focus of Debtor's response to my motion, I think we're talking about two different periods of delay. The first is the period from the entry of the bar date order in September of 2024 to November of 2024, which is when Encina first received the bar date order. And then the second period of potential delay is that time from

November 2024 --

THE COURT: Let me go back -- I thought you -- and again, this may be my writing it wrong. I just -- I thought you said the bar order was issued July 26th of 2024 for a September of '24 bar date, but that the bar order was issued in July.

MS. SKAGERBERG: You are correct, Your Honor. I wrote it down wrong.

THE COURT: Okay, just -- you're talking about this, right?

MS. SKAGERBERG: Yes, yes, the July order setting the September bar date.

THE COURT: And when did you get the July order?

MS. SKAGERBERG: I got it in November of 2024. I received it November 19th.

THE COURT: Did anybody at the -- at your client get it prior to that November date?

MS. SKAGERBERG: No.

THE COURT: So what you did get was the suggestion of bankruptcy that you got in June.

MS. SKAGERBERG: Yes.

THE COURT: Okay, but not the bar date notice itself.

MS. SKAGERBERG: That's right, Your Honor.

THE COURT: Okay, just want to make sure I got

this down right.

MS. SKAGERBERG: And that distinction is the basis for the due process argument that I made in the motion that as a known creditor we should have received notice of the bar date, not only notice of the bankruptcy. But I think that that also segues into our argument under -- I want to get the rule number correct -- under Rule 9006(b)(1), that the Court should permit Encina's late filed proof of claim on the grounds of excusable neglect.

The case of in re William B. Wilson Manufacturing Company, which I cited in the motion, specifically points out that a known predator who does not receive actual notice of the bar date may establish excusable neglect on that ground, and that's what I'm requesting the Court find here, Your Honor. Considering the pioneer factors, the first numerically not necessarily in terms of weight, is prejudice to the debtor, and in this case the debtor concedes in its response that permitting Encina to file a late proof of claim will not disrupt these Chapter 11 cases in a material manner.

Zachry knew of Encina's claim when it filed for bankruptcy. That's evidenced by the fact that it's in Debtor's Statement of Financial Affairs and also listed as an asset on Schedule A and B of its schedule of assets and liabilities. Zachry listed the Encina lawsuit and Encina

filed its proof of claim six weeks before Debtor filed its modified plan, so Zachry had full knowledge of this claim at the time that it negotiated and submitted its plan, and it filed that plan several weeks before the February 26th, 2025 hearing. The Court confirmed the plan on February 27th of 2024, so well after the December 10th date when Encina submitted its proof of claim.

THE COURT: You said 2024. You mean 2025? We confirmed it February 2025.

MS. SKAGERBERG: Yes.

THE COURT: Okay.

MS. SKAGERBERG: Yes. We submitted it in December of 2024, confirmed in February of 2025.

THE COURT: Right.

MS. SKAGERBERG: So, this is similar to the Eagle Bust Manufacturing case that I also cited in the motion where excusable neglect was found, the reorganization plan was negotiated and approved after the debtor had notice of the late claims. They were known and expected at the time of balloting. And also similar to this case in the Eagle case, it was expected that the late filed claims at issue in that case would take a significant amount of time, even after confirmation of the plan, to be resolved. It was ongoing litigation which is similar to the situation we are here, so there was no expectation that -- that this claim

would be resolved before the plan would be confirmed, because of the posture of that trial court case.

THE COURT: Is the counterclaim one that you're seeking to use as a setoff to any claim that might be made against Encina, or is it an affirmative recovery that you are seeking that would exceed the amount that might be found against your client?

MS. SKAGERBERG: It is the flip side of Zachry's claim. So, I think the amount at issue either would go to Zachry or to Encina.

THE COURT: So, you would be -- if Zachry should lose its claim against Encina, you're then seeking an affirmative recovery from the estate in the form of an unsecured claim, or something else?

MS. SKAGERBERG: That's right, Your Honor. In the form of an unsecured claim.

THE COURT: Okay.

MS. SKAGERBERG: Both parties are asserting breach of the exact same contract; we just -- we see the conduct cutting in different ways.

THE COURT: And what about an offset? Are you seeking an offset as well? Assuming that they win something and I have no idea on the merits of the case, so I'm just trying to understand where we're going.

MS. SKAGERBERG: Yes.

THE COURT: Assuming they win something, are you seeking, then, to have an offset --

MS. SKAGERBERG: Yes.

THE COURT: Or just an unsecured claim?

MS. SKAGERBERG: Yes, so we are seeking that any -- any award to Encina on its breach of contract claim would offset any award to Zachry. So, if the trial court were in an usual set of circumstances to find that both parties breached, for example, then we would be seeking an offset, but that seems extremely unlikely based on the posture of the claims.

THE COURT: Okay.

MS. SKAGERBERG: The next factor is length of delay. Encina promptly filed its proof of claim after receiving notice of the bar date in November of 2024, and I appreciate that for people who -- who practice in this court regularly, it doesn't look like December 10th would be very prompt after receiving it, even if it was November 19th. I will point out this was a very complex case, at least from my perspective, to understand the filings on the docket and essentially the lay of the land in determining we did need to file a proof of claim and getting that on file.

Deeming Encina's proof of claim to be timely filed will not delay the disposition of this case; the plan was already confirmed and the Court has entered an order

extending Debtor's deadline to object to Encina's proof of claim, so should the Court grant my motion today, that will not affect Debtor's ability to object to the substance of the claim.

The reason for the delay I think I've already addressed in large part. Initially it's because Encina didn't receive notice from Debtor of the bar date. We received the suggestion of bankruptcy but that was the last communication that we received from them about the bankruptcy until November of 2024. So, that's that first window of time, and that's the case that was marked by frequent and very professional and cordial communications between myself and counsel for ZEC. So, it's -- you know, no one was freezing each other out or anything like that, and so I anticipated that ZEC would notify us of any deadlines or bar dates in the bankruptcy because of that channel of communication that we had. And then, the second window of time, that November to December 10th window of time, again, is because it took some time to get my arms around "What is this; where does this stand? What's just come in?" but I did file the proof of claim by December 10th, within a few weeks of receiving that notice.

Encina acted in good faith. We didn't, you know, lie behind the law. We didn't do anything to try to move the trial court cases or those appeals forward while the

bankruptcy was pending. We just assumed the debtor would meet its obligations to notify creditors of relevant dates and deadlines, and so there was no bad faith action there. So, whether for due process or as excusable neglect pursuant to Bankruptcy Rule 9006(b)(1), the Court should permit Encina's late filed proof of claim. Additionally, Zachry did not timely list Encina's name and address as required by Bankruptcy Code 1007(a)(1) and so under Local Rule 3003 we request the Court grant our motion on those grounds alternatively and allow this late filed proof of claim. So, with that, Your Honor, Encina offers Exhibits One through Eight into evidence, and I have a hard copy for the Court if you would like that.

THE COURT: I've got them all electronically as well. Any objection to 322 One through Eight?

MR. KOSTER: No objection, Your Honor.

THE COURT: 322 One through Eight are admitted.

(Petitioner's Exhibits 322 1-8 admitted in evidence)

MS. SKAGERBERG: And I've never done this before, but I'd call Encina's first witness, which is myself, Your Honor.

THE COURT: All right, raise your right hand, please. Do you swear to tell the truth, the whole truth and nothing but the truth?

MS. SKAGERBERG: I do.

THE COURT: Are you going to limit yourself to just one sentence on when you received that?

MS. SKAGERBERG: I am, Your Honor.

THE COURT: Then let's just do it that way and you don't need to ask questions and answers, and then they can cross-examine you if they wish.

MS. SKAGERBERG: Thank you, Your Honor. I received the notice of the bar date order on November 19th, 2024.

THE COURT: Thank you. Are there any questions you have for Ms. Skagerberg?

MR. KOSTER: No questions, Your Honor.

THE COURT: Thank you.

MS. SKAGERBERG: And with that, Your Honor, unless the Court has questions, I'll yield the floor.

THE COURT: Thank you. All right.

MR. KONSTANTYNOVSKI: Good afternoon, Your Honor. Alex Konstantynovski of White & Case on behalf of the organized debtors. It's a pleasure to be here in front of you today. It's my first time arguing in front of you. It's not my first time to try to argue in front of you, but first time to actually do so.

THE COURT: (indiscernible)

MR. KONSTANTYNOVSKI: Your Honor, I will not

repeat the facts and will not repeat the dates, but one thing that counsel -- Encina's counsel mentioned is that there's two periods of delays. There's one period between the bar date and -- when, you know, the bar date order was served and then, you know, between when the bar date order was served and when they actually filed the proof of claim. I think there is a third period of delay here that I think we need to spend a little more time discussing, which is the period from the time when Zachry filed a suggestion of bankruptcy in the state court and everything that happened afterwards.

So, as counsel mentioned, Zachry -- a couple of weeks after Zachry filed for bankruptcy, Zachry filed a suggestion of bankruptcy. It was -- counsel said it was June 12th. I -- my date had -- I have a June 3rd. I think it's still June of 2024. It was way before -- you know, it was just when the case had started, and that is Exhibit A -- I'm sorry, this is Exhibit Number 6 on the debtor's witness and exhibit list at Docket 323. So, we filed that suggestion of bankruptcy. That suggestion of bankruptcy was served on counsel to Encina the same day, and there's a certificate of service attached to that suggestion of bankruptcy.

So, between that time and the time that Encina actually filed its proof of claim, 27 weeks has passed,

roughly. What we don't see in the motion or we haven't heard today is what happened in that time period, why Encina didn't do anything after it received notice of bankruptcy, which, you know, according to the, you know, case law in this circuit puts it on inquiry notice, as Encina had actual knowledge of bankruptcy by virtue of that suggestion of bankruptcy.

THE COURT: Puts it on inquiry notice as to the automatic stay for sure. Is there a case law that says it puts them on inquiry notice at the bar date?

MR. KONSTANTYNOVSKI: So, it puts them on inquiry notice as far as diligently investigating the case and understanding what their rights are vis-à-vis coming forward with a claim. There is certainly case law, and I -- you know, one of the cases that we cite is Bison Building by Your Honor where --

THE COURT: I think that was by Judge Jones. Was that by me?

MR. KONSTANTYNOVSKI: I believe it was by you, yes.

THE COURT: By me. Okay, sorry.

MR. KONSTANTYNOVSKI: It was a case where similarly, you know, notice of bankruptcy was filed up -- yes, suggestion of bankruptcy was filed, but bar date wasn't served at the correct address until later and so the holding

in the Bison Building case was that, you know, the motion to allow a late claim was denied. Similarly, we cited to another case, Unit Corp. versus Gilmore. It's a District Court case. Similarly, a creditor received notice of bankruptcy before the bar date. It didn't receive notice of the bar date itself until after it has passed, and in that case, the Court held that there was no excusable neglect and the Court there has cited to a 5th Circuit case, in re Sam, or the Matter of Sam from 1990 where the 5th Circuit held that a claim was time barred despite the creditor not receiving timely notice of the bar date, because it had actual notice of the actual bankruptcy case.

THE COURT: So, Ms. Skagerberg makes the point that there is a difference between a known creditor and an unknown creditor. Do your cases deal with known creditors that weren't set the bar date or with unknown creditors who weren't set the bar date?

MR. KONSTANTYNOVSKI: So, as far as I understand, that would be known creditors, because there was suggestion of bankruptcy filed in the -- in the state action.

THE COURT: Okay.

MR. KONSTANTYNOVSKI: And so, under these circumstances, kind of with this 27-week delay -- and let me also mention that, you know, there was also subsequent delay after we -- after we actually served the bar date order

after the bar date and the time when the proof of claim was filed. I don't think we should discount that, and also, the time that passed between the time that the bar date -- I'm sorry, the proof of claim, was filed, and the motion to allow late claim was filed. Two months passed since, you know, the claim was filed and the motion to allow the late claim was filed. So, there's this pattern of, unfortunately, delay, and so under these circumstances under the pioneer facts we believe that there is no excusable neglect and we believe the Court should hold that there is no excusable neglect, and I kind of -- I can walk through the factors, but I think they're factors and some courts in this district have held that, you know, the most -- the factor that carries the most weight is the factor that's reason of the delay -- reason for the delay because, you know, it's basically the nature of the inquiry. It's whether or not there's -- you know, the neglect is excusable.

And so, based on, you know, the case law that I just mentioned, courts have held that delays where a creditor actually has notice of bankruptcy before the bar date but doesn't file, doesn't do anything in terms of figuring out what they need to do, how they would protect their rights. Those cases hold that this is inconsistent with the notion of excusable neglect. Similarly, the timing

of the delay -- there's 27 weeks, as I just mentioned, between the notice of bankruptcy -- the suggestion of bankruptcy and then filing the proof of claim. There was five weeks or three weeks, depending on, you know, the time when we served or counsel received the notice of the bar date that they haven't filed a proof of claim for. So, we cite to some case law there where courts have held that an even shorter period of time has been held to be, you know, too long from that perspective.

As far as, you know, prejudice to Zachry, of course the plan has been confirmed now. I think the point here is that, you know, we're almost at the tail end of these cases and, you know, hopefully we'll not have to be in front of Your Honor too many times in this case anymore, but you know, bringing another kind of claim objection, claim reconciliation into the fold here under these circumstances would prejudice Zachry. And the last factor is --

THE COURT: How would that --

MR. KONSTANTYNOVSKI: Yes?

THE COURT: From her evidence -- and I don't think you're contradicting it -- Zachry screws up and doesn't give them notice and they're a known creditor. So --

MR. KONSTANTYNOVSKI: So, we do not dispute that.

THE COURT: Yeah, so it's hard to then say that a hardship on you is that you now need to deal with something

that you would have been able to deal with had you not messed up. That's a different inquiry to me than whether they exercised -- whether they were required to exercise diligence if they're a known creditor, which is her argument, and I just need to study that. But I don't have a whole lot of sympathy for your argument that you (indiscernible) late and now you're going to have to go back and clean up some work. It doesn't bother me at all that you have to do that. The inquiry issue is a big issue for me, and I agree that 27 weeks -- I think everybody would agree that 27 weeks is too long; I think Ms. Skagerberg would agree with that, if she was on duty to investigate, but not if it violated her client's due process rights, and she wasn't in any duty to investigate. You're telling me that I've issued opinions and others have that deal with that and say no, that her investigatory duties arose right in the beginning, right?

MR. KONSTANTYNOVSKI: I think that's right, Your Honor.

THE COURT: I need to figure that out.

MR. KONSTANTYNOVSKI: Fair enough. And the last point, similarly -- it's, you know, not acting in good faith. I -- again, it ties back to the point of we don't know what Encina was doing in those 27 weeks or not. We have no visibility in that, even though they did have that

duty. And I think, you know, tying back to -- going back to your prejudice point, Your Honor, I would mention that, you know, it's -- pioneer factors are a set of factors, and so it's -- you know, they're kind of like a little bit of a balancing thing, so we don't -- you know, we're not arguing that, you know, we necessarily will be prejudiced, as -- you know, as hard as I may have alluded to, but the -- you know, rest of the factors we submit weigh in favor of Zachry's position and that the claim should be -- the motion should be denied.

THE COURT: Thank you. Ms. Skagerberg, do you want to have any rebuttal at all?

MS. SKAGERBERG: Briefly, Your Honor. I'd just like to address the three cases that came up in Debtor's argument, beginning with Matter of Sam, which is a 1990 5th Circuit case, and in full candor to the Court, that is a case where there was a known creditor who was not listed as a creditor in the bankruptcy and did not receive notice of the bar date. What the 5th Circuit affirmed was that the creditor's due process rights were not violated because the creditor had actual notice of the bankruptcy proceedings, even if not of the bar date. I want to be fully candid with the Court that that's what that opinion says.

THE COURT: Right.

MS. SKAGERBERG: That's very different from in re

Hunt, which is the case out of the bankruptcy court in Northern District of Texas in 1992, two years after that 5th Circuit opinion, and that is the case that I'm relying on that talks about actual notice of the bar date for a known creditor, not just notice of the bankruptcy proceedings. The other two cases that came up in the arguments were the Bison Building case and the Unit case and those are a little bit different because in both of those cases, notice of the bar date was sent; it just wasn't received or received correctly. In the Bison Building case, notice was served on Creditor, but at Creditor's old address, and that was still the official address in the pending litigation that was going on.

The Unit case -- Claimant's attorney's firm received notice of the bar date prior to the date passing, but the attorney himself did not receive that notice for whatever reason until after the bar date had passed. And then, the proof of claim in that case was filed after the plan was confirmed. The other thing about the in the Matter of Sam case is that that only addressed the due process argument. It didn't look at the pioneer factors or excusable neglect at all, so in re Sam was really focused in -- just on due process.

THE COURT: So -- but in re Sam was a 5th Circuit case, I think you're telling me.

MS. SKAGERBERG: Yes, Your Honor.

THE COURT: So, 27 weeks is a long time.

MS. SKAGERBERG: It is.

THE COURT: And if your client was under the duty of inquiry, I have no evidence as to how they fulfilled that duty. And of course our records are public, so I think if somebody had looked, it's easy to find it. I need to go read that case. I'm not -- this is not a ruling, but assume that it says that you had a duty of inquiry and that that duty of inquiry in the notice of bankruptcy case beats the due process obligation, or somehow that the later Northern District case doesn't in any way be hard for me to (indiscernible) and compare with the 5th Circuit opinion anyway. But why wouldn't I then say that 27 weeks is just too long to do nothing and have no evidence you did anything?

MS. SKAGERBERG: That's why I -- that's why I moved under both due process grounds and the excusable neglect grounds that are --

THE COURT: Right.

MS. SKAGERBERG: -- specifically enumerated under the bankruptcy rules. And I see those as two different inquiries and that's how the cases treat them is, you know, there's due process grounds and then there's also "Was there excusable neglect?"

THE COURT: But if in re Sam says due process is met by giving somebody notice of the bankruptcy case, what am I supposed to then do? I'm missing the answer to that argument.

MS. SKAGERBERG: So, I think what the Court could then do is even if you denied my motion on due process grounds, still consider it as to the excusable neglect grounds, considering that during those 27 weeks I anticipated, Encina anticipated, that ZEC, the subsidiary debtor in this case, would give us the required notice, which they did not until November of 2024.

THE COURT: Okay, I found the argument.

MS. SKAGERBERG: Thank you, Your Honor.

THE COURT: Thank you. All right, I need to go read those cases. I don't think this will take long. Let me get that done and we'll get you an opinion pretty quickly on this. Is there anything else we need to do today?

MR. KOSTER: Thank you, Your Honor. For good order, if we could move our exhibits into evidence. That is at Docket Number 323 in the --

THE COURT: Any objection to the admission of 323 One through Seven?

MS. SKAGERBERG: No objection.

THE COURT: 323 One through Seven.

(Respondent's Exhibits 323 1-7 admitted in

evidence)

MR. KOSTER: Thank you, Your Honor.

THE COURT: Anything else we need to do for either of you all?

MR. KOSTER: Nothing else today, Your Honor.

THE COURT: This is a really good argument, by the way, to both of you, so thank y'all -- not to you, Koster, but to the other two, it was a good argument. I really appreciate it. I learned some stuff I hadn't learned before, and I don't want to rule from the bench and get it wrong; I'll go read the stuff, but thank y'all both for the professional and organized argument. Very helpful. Thank you.

MS. SKAGERBERG: This case has been full of interesting and novel legal issues from the trial court to (indiscernible)

THE COURT: All righty. We're in recess until 4 o'clock.

(Proceedings adjourned at 2:37 p.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



Sonya Ledanski Hyde

Veritext Legal Solutions
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Date: November 26, 2025

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

In Re:	Computer Simulation & Analysis, Inc. and Zachry Holdings, Inc. Debtor	Case No.: 24−90391 Chapter: 11

NOTICE OF FILING OF OFFICIAL TRANSCRIPT

An official transcript has been filed in this case and it may contain information protected under the E-Government Act of 2002, and Fed. R. Bank. P. 9037.

Transcripts will be electronically available on PACER to the public 90 days after their filing with the court. To comply with privacy requirements of Fed. R. Bank. P. 9037, the parties must ensure that certain protected information is redacted from transcripts prior to their availability on PACER.

If redaction is necessary, the parties must file a statement of redaction listing the items to be redacted, citing the transcript's docket number, the item's location by page and line, and including only the following portions of the protected information. This statement must be filed within 21 days of the transcript being filed. A suggested form for the statement of redaction is available at https://www.txs.uscourts.gov/.

- the last four digits of the social security number or taxpayer identification number;
- the year of the individual's birth;
- the minor's initials;
- the last four digits of the financial account number; and
- the city and state of the home address.

Any additional redaction requires a separate motion and Court approval.

A party may review the transcript at the Clerk's Office public terminals or purchase it by following the instruction on our website at https://www.txs.uscourts.gov/ or by calling (713) 250−5500 . A party is only responsible for reviewing the:

- opening and closing statements made on the party's behalf;
- statements of the party;
- testimony of any witness called by the party; and
- any other portion of the transcript as ordered by the court.

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Nathan Ochsner
Clerk of Court