Docket #0026 Date Filed: 8/30/2024

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

In re:	)	
	)	Chapter 11
ZACHRY INDUSTRIAL, INC., et al.,	)	
	)	Case No. 24-90385 (MI)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	
AVIS LAMOTTE, *on behalf of herself and those similarly situated*;	)	Adv. Proc. No. 4:24-AP-03122
	)	
	)	Honorable Judge Marvin Isgur
Plaintiff,	)	
v.	)	
ZACHRY INDUSTRIAL, INC.,	)	
Defendant.	)	

JOINT DISCOVERY/CASE MANAGEMENT PLAN UNDER FEDERAL RULE OF CIVIL PROCEDURE 26(f)

1. The required Rule 26(f) meeting was held by the parties on August 30, 2024. Counsel for Plaintiff that attended the meeting was Michael Iadevaia. Counsel for Defendant that attended the meeting was Christopher Moore.

2. There are no related cases pending in any other state or federal court.

3. This case concerns a class action claim under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101–09. Plaintiff alleges, on behalf of herself and a putative class, that on or within 90 days of May 21, 2024, Defendant made a mass layoff and/or effected a plant closing by, unilaterally and without proper notice to employees or staff,

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terminating approximately 4,072 employees at the facility located at 3901 Twin City Hwy, Port Arthur, TX 77642. Defendant maintains that it is not liable to Plaintiff and/or any class of similarly situated individuals under the WARN Act.

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and § 2104(a)(5). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), and (O).

5. There is no disagreement about jurisdiction or venue.

6. There are no additional parties anticipated to be added at this juncture.

7. There are no anticipated interventions at this juncture.

8. Plaintiff intends to seek class certification and does not anticipate any issues related to class certification because "claims under the WARN Act are 'particularly amenable to class litigation.'" *Bergman v. Thelen LLP*, 2016 WL 7178529, at *5 (N.D. Cal. Dec. 9, 2016) (quoting *Finnan v. Rothschild & Co.*, 726 F. Supp. 460, 645 (S.D.N.Y. 1989)). Defendant plans to challenge whether this civil action should proceed as a class action under FRCP 23.

9. The parties have not yet made initial disclosures required by Rule 26(a), but will do so by September 13, 2024.

10. The parties propose the following agreed discovery plan:

A. Parties to exchange initial disclosures under Rule 26(a) no later than September 13, 2024.

B. Plaintiff anticipates serving written discovery, including interrogatories, on Defendant no later than June 27, 2025.

C. Defendant anticipates serving written discovery, including interrogatories, on Plaintiff no later than June 27, 2025.

D. Plaintiff anticipates taking depositions of Defendant's personnel, including a corporate designee deposition under Rule 30(b)(6), no later than July 31, 2025.

E. Defendant anticipates taking Plaintiff's deposition no later than July 31, 2025.

F. Plaintiff anticipates designating an expert on any issues related to liability or damages and providing an expert's report no later than April 25, 2025. Defendant's expert reports shall be served by June 27, 2025. Plaintiff's reply report shall be served by July 18, 2025. Motions to exclude expert testimony on *Daubert* and related grounds shall be filed at least 30 days prior to trial.

G. The deadline for Plaintiff to produce an expert for deposition will be July 31, 2025.

H. The deadline for Defendant to produce an expert for deposition will be July 31, 2025.

11. The parties agree on this discovery plan.

12. There has been no formal discovery to date.

13. All discovery, including expert discovery, will be complete by July 31, 2025.

14. The parties are hopeful that they can resolve this matter. The parties have discussed early resolution and intend to mediate the dispute on September 3, 2024.

15. Defendant has exchanged informal information to facilitate settlement, and both parties have agreed to mediate on September 3, 2024.

16. The parties agree that mediation would be worthwhile to resolving this matter.

17. The parties agree that this matter is properly before the bankruptcy court.

18. A jury demand was made, but was stricken by the Court on August 13, 2024.

19. The parties anticipate a 3-4 day trial, assuming 8 hours per day.

20. There are no pending motions that could be ruled on at the initial pretrial and scheduling conference.

21. There are no other pending motions.

22. There are no other matters deserving the Court's special attention at this time.

23. Plaintiff's counsel includes:

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(Lead Counsel)
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APPROVED FOR ENTRY:

/s/ Michael C. Iadevaia — August 30, 2024
Counsel for Plaintiff — Date

/s/ Christopher E. Moore (w/ permission) — August 30, 2024
Counsel for Defendant — Date

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been served upon all counsel of record through the Court's CM/ECF system on this the 30th day of August 2024.

/s/Michael C. Iadevaia
Michael C. Iadevaia