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

IN RE:	§	Chapter 11
	§	
ZACHRY HOLDINGS, INC., *et al.*[1]	§	Case No. 24-90377 (MI)
	§	
Debtors	§	(Jointly Administered)
	§	

CHEYANNE ADAMS, JAMES ADAMS, AND WENDY ADAMS'S OBJECTION TO DISCLOSURE STATEMENT FOR JOINT CHAPTER 11 PLAN
[Relates to ECF 1134]

Movants Cheyanne Adams, James Adams, and Wendy Adams (Claimants) file this limited objection (Objection) to the *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates* (Disclosure Statement) [Dkt. 1134] and, in support, state as follows:

I. BACKGROUND

1. Claimants hold personal injury claims for negligence, gross negligence, intentional torts, and premises liability claims (Claims) against Zachry Industrial, Inc. (Debtor) and other non-debtor defendants. These Claims arose from catastrophic injuries Zander Adams sustained on or about August 15, 2023, when Zander Adams was electrocuted while operating welding equipment, and later died as a result.

2. On April 8, 2024, Claimants filed their Second Amended Complaint in Cause No. 23-cv-01437-XR in the United District Court for the Western District of Texas, San Antonio Division, styled as *Cheyanne Adams, James Adams, and Wendy Adams v.*

[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' claims and noticing agent at https://www.kccllc.net/zhi. The location of the Debtors' service address in these chapter 11 cases is: P.O. Box 240130, San Antonio, Texas 78224.

Zachry Industrial, Inc. et al. A true copy of Adams's Second Amended Complaint is attached as **Exhibit A.**

3. On May 21, 2024, the Debtors commenced voluntary cases under chapter 11 of title 11 of the United States Code (the Bankruptcy Code) in the United States Bankruptcy Court for the Southern District of Texas (the Bankruptcy Court), which are jointly administered in the above-captioned case (Bankruptcy Case).

4. Claimants timely filed proofs of claims in the Bankruptcy Case in order to preserve their claims against Debtor. POC Nos. 1181, 1182, 1185.

5. On October 9, 2024, Debtors filed their initial disclosure statement [Dkt. 1108], which was amended on October 11, 2024 [Dkt. 1134] along with Debtors' Joint Chapter 11 Plan of Reorganization [Dkt. 1133] (Plan). A hearing on Debtors' Disclosure Statement is set for November 12, 2024, at 1:30 p.m. [Dkt. 1157].

6. Currently, the Debtors' Plan includes terms allowing for the recovery of personal injury claims against applicable liability insurance policies outside the administration of the Bankruptcy Case, while limiting recovery against Debtors to certain self-insured retention (SIR) amounts in the Bankruptcy Case. *See* Plan at § VI(J)(3)-(4). However, neither the Disclosure Statement nor the Plan provide adequate information regarding these insurance policies, including applicable terms, limits, self-insured retention (SIR), deductibles, coverage amounts remaining, or claims pending against the respective policies. Further, neither the Disclosure Statement nor the Plan provide adequate information regarding the means by which personal injury claimants would adjudicate their claims for purposes of collection against insurers or in the administration of the Bankruptcy Case. *See* Plan at § VIII(F) (Plan Injunction).

7. Claimants have reason to believe Debtors maintained or caused to be

maintained insurance coverage applicable to their Claims. Claimants have conferred with Debtors counsel regarding the above disclosure issues and will continue to work with Debtors to resolve these issues.

II. ARGUMENT AND AUTHORITIES

8. Section 1125(b) of the Bankruptcy Code states that a proponent of a plan may not solicit acceptances or rejections of a proposed plan from holders of claims or interests unless the proposed plan is transmitted to the holders with "a written disclosure statement approved, after notice and a hearing, by the court as containing *adequate information*." 11 U.S.C. § 1125(b) (emphasis added). Section 1125(a)(1) of the Bankruptcy Code defines "adequate information" as:

> . . . information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, *that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan*, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information . . .

See 11 U.S.C. § 1125(a)(1) (emphasis added). The Court has discretion to determine whether the Disclosure Statement contains adequate information under section 1125. *See In re Cajun Elec. Power Coop., Inc.*, 150 F.3d 503, 518 (5th Cir. 1998) (finding adequate information is a case-by-case determination left to judicial discretion); *In re Tex. Extrusion Corp.*, 844 F.2d 1142, 1157 (5th Cir. 1988); *In re Devine Ripe, L.L.C.*, 554 B.R. 395, 401-02 (Bankr. S.D. Tex. 2016). However, where a disclosure statement

omits material information, it fails to meet the standard of Section 1125(a) and should not be approved by the Court.

9. Here, the Disclosure Statement does not provide adequate information regarding the insurance policies to which Debtors seek to limit their claims, including the policy terms, limits, SIR, deductibles, coverage amounts remaining, and claims pending against the respective policies. This information is necessary to make an informed judgment regarding the Plan. Additionally, the Disclosure Statement does not provide adequate information regarding the means by which personal injury claimants would adjudicate their claims for purposes of collection against the respective insurance policies. As such, Claimants object to the Disclosure Statement as it currently omits material information. Claimants have and will continue to confer with Debtors to resolve these disclosure issues.

10. Claimants reserve their rights to object to confirmation of the Plan on any and all grounds, and the fact that Claimants did not raise certain objections to the Plan as part of this filing is not a waiver of any rights.

III. PRAYER

WHEREFORE, Cheyanne Adams, James Adams, and Wendy Adams respectfully request the Court enter an order denying approval of the *Disclosure Statement for Joint Chapter 11 Plan of Fieldwood Energy LLC and its Affiliated Debtors* and grant Cloyd such other and further relief as the Court deems just and proper.

Respectfully submitted this 1st day of November 2024.

/s/ Ryan E. Chapple

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Objection has been served on counsel for Debtor, Debtor, the U.S. Trustee, and all parties receiving or entitled to notice through CM/ECF on this 1st day of November 2024.

/s/ Ryan E. Chapple
Ryan E. Chapple

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

SAN ANTONIO DIVISION

CHEYANNE ADAMS, JAMES ADAMS, and WENDY ADAMS	§	
	§	
***Plaintiffs*,**	§	
	§	
v.	§	**Case No. SA-CA-01437-XR**
	§	
ZACHRY INDUSTRIAL, INC.	§	
	§	
Defendant.	§	

PLAINTIFFS' SECOND AMENDED COMPLAINT

COME NOW Cheyanne Adams, James Adams, and Wendy Adams ("Plaintiffs") who file this Second Amended Complaint complaining of Zachry Industrial, Inc., International Paper Company, United Rentals, Inc., United Rentals (North America), Inc., Miller Electric Manufacturing, LLC, and Illinois Tool Works Inc. ("Defendants") and would respectfully show the Court the following:[1]

I.

NATURE OF THE CASE

1. Plaintiffs bring this wrongful death and survival action against Defendants for negligence, gross negligence, intentional torts, premises liability, and products liability which resulted in the death of Zander Adams ("Decedent") on August 15, 2023.

[1] This second amended complaint is filed within 21 days after service of United Rentals (North America), Inc.'s, United Rentals, Inc.'s, and International Paper Company's answer in this case, and thus is made "as a matter of course" under Federal Rule of Civil Procedure 15(a)(1)(B).

II.

PARTIES

2. Plaintiff Cheyanne Adams is the wife of Zander Adams and a resident of Louisiana.

3. Plaintiff James Adams is the biological father of Zander Adams and a resident of Louisiana.

4. Plaintiff Wendy Adams is the biological mother of Zander Adams and a resident of Louisiana.

5. Defendant Zachry Industrial, Inc. ("Zachry") is a domestic corporation headquartered in Texas. This Defendant has appeared and answered and may be served with process through its counsel of record: Bradley A. Waters & Kyle C. Steingreaber, Adams and Reese LLP, LyondellBasell Tower, 1221 McKinney, Suite 4400, Houston, Texas 77010.

6. Defendant International Paper Company ("International Paper") is a corporation that conducts a substantial amount of business in Texas and is registered to do business in Texas. This defendant may be served with process through its registered agent for service of process: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136 USA.

7. Defendant United Rentals, Inc. is a corporation that conducts a substantial amount of business in Texas and is registered to do business in Texas. This defendant may be served with process through its registered agent for service of process: Corporation Service Company dba CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218 USA.

8. Defendant United Rentals (North America), Inc. is a corporation that conducts a substantial amount of business in Texas and is registered to do business in Texas. This defendant may be served with process through its registered agent for service of process: Corporation Service Company dba CSC - Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218 USA.

9. Defendant Miller Electric Manufacturing, LLC is a company that conducts a substantial amount of business in Texas and is registered to do business in Texas. This defendant may be service with process through its registered agent for services of process: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136 USA.

10. Defendant Illinois Tool Works Inc. is a corporation that conducts a substantial amount of business in Texas and is registered to do business in Texas. This defendant may be served with process through its registered agent for service of process: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136 USA.

III.

JURISDICTION AND VENUE

11. This Court does not have subject matter jurisdiction as the claims asserted arise under Texas law and removal was barred under the forum-defendant rule. Additionally, Plaintiffs have been damaged in a sum far in excess of the minimum jurisdictional limits of this Court.

12. Pursuant to the forum defendant rule, this case was not removable because Defendant Zachry Industrial, Inc. is a citizen of Texas with its principal place of business in Texas. 28 U.S.C. § 1441(b), § 1332(c).

13. Texas courts may exercise personal jurisdiction over the defendants because they have the requisite minimum contacts with the State to maintain jurisdiction.

V.

FACTS

14. On or about August 15, 2023, Zander Adams suffered catastrophic injuries and died as result of the Defendants' negligence, gross negligence, dangerous conditions, and unreasonably dangerous products. Due to the tragic death of Zander Adams, Plaintiffs have suffered life-altering damages, including both pecuniary and non-economic losses.

15. Zachry personnel were working at International Paper's containerboard mill in Mansfield, Louisiana on August 15, 2023. While working, the personnel were using welding products that were designed, manufactured, labeled, sold, or otherwise provided by United Rentals, Inc., United Rentals (North America), Inc., Miller Electric Manufacturing, LLC, and Illinois Tool Works Inc. ("Product Defendants"). These welding products include but are not limited to: a Miller Electric Bobcat 250 arc welder, welding cables, TIG rig, TIG torch, TIG wires, ground clamp, and other component parts of these products ("the welding products"). The welding products designed, manufactured, or marketed by the Product Defendants were intended for use in electrical work.



Photo of the Miller Bobcat 250 arc welder involved in this incident

16. Zachry was conducting work in the area near paper machine #1. Decedent was tasked with a welding job on a pipe rack. Decedent was using the Product Defendants' welding products at the time of the incident. While performing the work, Decedent was electrocuted, and later died as a result of the electrocution.

17. Zachry and International Paper failed to and / or intentionally chose not to take safety precautions, failed to and / or intentionally chose not to ensure all equipment was isolated and grounded, and proceeded with the work despite the extreme risks. Zachry and International Paper negligently, knowingly, and / or intentionally created dangerous conditions that directly harmed Plaintiffs.

18. The Product Defendants failed to design and sell welding products that were reasonably safe for use to complete the welding job. The design of the welding products failed to mitigate or eliminate the risk of electrocution. The design of the welding products exposed

workers to the risk of electrocution. Moreover, the Product Defendants failed to provide any adequate warnings or instructions about the risk of electrocution or how to avoid electrocution while working with the welding products.

19. All defendants failed to protect Mr. Adams against the risk of electrocution. The welding products were not designed with adequate insulation to prevent electrocution. In addition, no warning was provided about the electrocution hazard associated with the dangerous welding products. Alternative product designs were available that were feasible and prevented electrocution. The defendants authorized, ordered, and assigned Mr. Adams to perform welding work with damaged equipment or exposed bare conductors. In authorizing, permitting, and ordering the work to go forward with knowledge of the dangerous welding equipment, the incident and Mr. Adams' injuries and death were substantially certain to occur as a result of the defendants' conduct. Hence, the defendants' conduct was intentional in this case.

20. The Defendants' conscious or intentional indifference to Decedent's safety resulted in Decedent being horrifically electrocuted. Decedent was rushed to a nearby hospital, was transferred to another hospital, and ultimately passed away. Plaintiffs have suffered and will continue to suffer unimaginable losses due to Defendants' reckless conduct.

VI.

CAUSES OF ACTION

A. Negligence, Gross Negligence, and Intentional Tort (against all defendants)

21. Plaintiffs repeat and reallege each allegation contained above.

22. Defendants had a duty to Plaintiff to exercise ordinary diligence. Defendants failed to exercise ordinary diligence and failed to exercise even slight diligence in certain acts and omissions.

23. Defendants breached their duty of ordinary care and committed negligent, grossly negligent, and intentional acts and omissions,[2] including the following:

a. failure to and / or intentionally choosing not to properly train their employees;

b. failure to and / or intentionally choosing not to provide adequate equipment;

c. failure to and / or intentionally choosing not to inspect equipment;

d. failure to and / or intentionally choosing not to inspect hazards in the unit;

e. failure to and / or intentionally choosing not to maintain equipment;

f. failure to and / or intentionally choosing not to isolate equipment;

g. intentionally authorizing work with defective or damaged equipment;

h. intentionally or knowingly acting to endanger Mr. Adams' health through order for the work at issue with full knowledge of a substantial likelihood of electrical injury resulting to his body in the course of the work;

i. failure to and / or intentionally choosing not to ground equipment;

j. failure to and / or intentionally choosing not to provide proper instructions;

k. failure to and / or intentionally choosing not to properly supervise their employees;

l. failure to and / or intentionally choosing not to conduct adequate maintenance;

[2] The defendants are intentional tortfeasors under Texas law and Louisiana law under Louisiana Civil Code articles 2315, 2316, 2317, 2317.1 and 2322.

m. failure to and / or intentionally choosing not to maintain a safe work environment;

n. failure to and / or intentionally choosing not to properly supervise work being performed;

o. failure to and / or intentionally choosing not to provide adequate warning to Decedent of dangerous conditions;

p. failure to and / or intentionally choosing not to inform Decedent of the defective nature of the condition;

q. failure to and / or intentionally choosing not to properly inspect the premises;

r. failure to provide adequate medical treatment;

s. failure to respond to the emergency;

t. failure to and / or intentionally choosing not to implement adequate safety policies and procedures;

u. failure to and / or intentionally choosing not to ensure their safety systems were adequate and functional;

v. violations of applicable rules, regulations, standards, industry standards, and / or OSHA standards and regulations;

w. violations of 29 CFR 1926.416(a)(1) by intentionally permitting and/or intentionally ordering Mr. Adams to work in proximity to an electrical power circuit that he could (and did) come into contact with without protecting against electrical shock through de-energization, grounding, and/or otherwise guarding;

x. intentionally issuing permits and/or authorizations for work with defective or damaged welding equipment that was energized, not grounded, or otherwise not guarded;

y. intentionally issuing permits and/or authorizations for work with welding equipment with exposed bare conductors;

z. failure to and / or intentionally choosing not to properly ground the welding equipment before authorizing and ordering Mr. Adams to work with the equipment;

aa. vicariously liable for the acts and omissions of their employees and agents;

24. As a direct and proximate result of Defendants' conduct, Decedent sustained severe injuries to his body, which resulted in physical pain, suffering, discomfort, impairment, mental anguish, distress, and death. Plaintiffs have suffered and will continue to suffer pecuniary and non-economic losses as a result of Decedent's death.

25. In addition, Plaintiffs are entitled to exemplary or punitive damages because the aforementioned actions of Defendants were grossly negligent. Defendants acted with flagrant and malicious disregard for Decedent's and others' health and safety. Defendants were objectively aware of the extreme risk posed by the conditions which caused Decedent's or Plaintiffs' injuries, harm, and death but did nothing to rectify them. Defendants' acts and omissions involved an extreme degree of risk considering the probability and magnitude of potential harm to Decedent, Plaintiffs, and others. Defendants had actual, subjective awareness of the risk and consciously disregarded the risk. Accordingly, Plaintiffs are entitled to and seek exemplary damages.

26. Additionally, and in the alternative, the incident sued hereupon was substantially certain to occur. The dangerous nature and manner of the work being performed made it substantially certain that Mr. Adams would sustain an electrical shock or electrocution, and be seriously injured or killed. The defendants knew of the substantial dangers associated with using defective welding equipment or damaged welding equipment and sending Mr. Adams to work with the equipment, and knew that an incident of this sort was substantially certain to occur yet proceeded nevertheless.

27. The intentional, negligent, and grossly negligent failures of all defendants outlined above were a legal, proximate, and but-for cause of Mr. Adams' injuries and death.

B. ***Negligence and Gross Negligence*** (against United Rentals, Inc., United Rentals (North America), Inc., Miller Electric Manufacturing, LLC, and Illinois Tool Works Inc.)

28. Plaintiffs repeat and reallege each allegation contained above.

29. Defendants had a duty to Plaintiff to exercise ordinary diligence in the design, manufacture, and marketing of its welding products, which are intended for use in electrical work.

30. Defendants' welding products were not merchantable and not reasonably suited to the use intended. The risks were reasonably foreseeable to Defendants, but Defendants failed to exercise ordinary diligence and failed to exercise even slight diligence in certain acts and omissions.

31. Defendants breached their duty of ordinary care and were negligent and grossly negligent in their acts and omissions, including the following:

a. failure to design welding products that are reasonably safe for use;

b. failing to properly manufacture the welding products;

c. failure to use reasonable care in selecting alternative designs;

d. failure to design the welding products in a manner that prevents or mitigates against the risk of exposed bare conductors;

e. failure to design the welding products with adequate insulation to prevent or mitigate against the risk of exposed bare conductors;

f. failing to market merchantable welding products;

g. failure to provide adequate warnings with the welding products to make them reasonably safe for use;

h. failure to provide adequate instructions with the welding products to make them reasonably safe for use; and

i. other acts deemed negligent, grossly negligent, or intentional.

32. As a direct and proximate result of Defendants' negligence and gross negligence, Plaintiff was exposed to reasonably foreseeable risks associated with defectively designed, manufactured, and marketed welding products. As a result of the defects in Defendants' welding products, Decedent sustained severe injuries to his body, which resulted in physical pain, suffering, discomfort, impairment, mental anguish, distress, and death. Plaintiffs have suffered and will continue to suffer pecuniary and non-economic losses as a result of Decedent's death.

33. In addition, Plaintiffs are entitled to exemplary or punitive damages because the aforementioned actions of Defendants were grossly negligent. Defendants acted with flagrant and malicious disregard for Decedent's and others' health and safety. Defendants were objectively aware of the extreme risk posed by the conditions which caused Decedent's or Plaintiffs' injuries, harm, and death but did nothing to rectify them. Defendants' acts and omissions involved an extreme degree of risk considering the probability and magnitude of potential harm to Decedent, Plaintiffs, and others. Defendants had actual, subjective awareness of the risk and consciously disregarded the risk. Accordingly, Plaintiffs are entitled to and seek exemplary damages.

C. ***Premises Liability*** (against Zachry and International Paper)

34. Plaintiffs repeat and reallege each allegation contained above.

35. Defendants occupied and/or controlled the area where Decedent was injured and killed. The condition of the area where Decedent was injured and killed posed an unreasonable risk of harm, and Defendants had actual knowledge or reasonably should have known of the

unreasonably dangerous condition. Moreover, Decedent did not have actual knowledge of the unreasonably dangerous condition.

36. Decedent was an invitee who entered the premises with Defendants' knowledge and for Defendants' benefit. Defendants had a duty to either warn Decedent of this unreasonably dangerous condition or make the unreasonably dangerous condition reasonably safe. Defendants breached this duty by failing to warn Decedent of this known unreasonably dangerous condition and by failing to make the unreasonably dangerous condition reasonably safe.

37. Defendants' breaches proximately caused Decedent's injuries and death and the resulting damages incurred by Plaintiffs.

D. ***Products Liability: Strict Liability & Negligent Failure to Warn*** (against United Rentals, Inc., United Rentals (North America), Inc., Miller Electric Manufacturing, LLC, and Illinois Tool Works Inc.)

38. Plaintiffs repeat and reallege each allegation contained above.

39. Defendants knew, foresaw, or should have known of or foreseen the risk of using the welding products without adequate safety mechanisms or devices and/or without adequate insulation to prevent electrocution.

40. Defendants failed to adequately warn Mr. Adams of the risks, failed to instruct Mr. Adams of the aforementioned risk and failed to adequately instruct Mr. Adams how to avoid the dangers. Specifically, the Defendants provided no warnings about the dangers of the welding products, the lack of adequate safety mechanisms or devices, and/or the lack of adequate insulation to prevent electrocution.

41. At the time of this incident, Plaintiff was using the welding products for their intended use and was a person for whose use these welding products were supplied. Defendants

knew or had reason to know that the welding products were intended to be used for electrical work and were likely to be dangerous for the use for which they were supplied. Defendants had no reason to believe that persons using the welding products for electrical work would not realize their dangerous condition, but Defendants failed to exercise reasonable care to inform them of their dangerous condition or of the facts which make these products likely to be dangerous.

42. Defendants' failure to warn was the producing, proximate, and contributing cause of Mr. Adams' death and Plaintiffs' injuries.

E. ***Products Liability: Defective Design*** (against United Rentals, Inc., United Rentals (North America), Inc., Miller Electric Manufacturing, LLC, and Illinois Tool Works Inc.)

43. Plaintiffs repeat and reallege each allegation contained above.

44. The welding products were designed, manufactured, distributed, or sold with one or more design defects.

45. The welding products were unreasonably dangerous and safer alternative designs existed that Defendants either knew of or should have known of.

46. Safer alternative designs would have prevented or significantly reduced the risks without substantially impairing the welding products' utility. A safer alternative could have been designed, sold, and installed that prevented the welding products from electrocuting the user.

47. The safer alternative design was economically and technologically feasible at the time the welding products left the control of Defendants.

48. The risk of harm that could be caused by the defective design outweighed the manufacturer's burden of adopting the alternative design when it left the control of Defendants.

49. The design defects rendered the welding products unreasonably dangerous.

50. The welding products' defective design was the producing, proximate, and contributing cause of Mr. Adams' and Plaintiffs' injuries.

F. ***Products Liability: Manufacturing Defect*** (against United Rentals, Inc., United Rentals (North America), Inc., Miller Electric Manufacturing, LLC, and Illinois Tool Works Inc.)

51. Plaintiffs repeat and reallege each allegation contained above.

52. Defendants manufactured the welding products as set forth above. At the time of manufacture, the welding products deviated, in construction and quality, from the specifications or planned output in a manner that rendered the welding products unreasonably dangerous.

53. When the welding products left the control of Defendants, the welding products had been manufactured defectively and contained a manufacturing defect. Specifically, the welding products were intended for use in electrical work and did not contain adequate insulation to prevent electrocution.

54. The manufacturing defect in the welding products was the producing, proximate, and contributing cause of Mr. Adams' death and Plaintiffs' injuries.

VII.

DAMAGES

55. Plaintiffs state that they seek monetary relief over $1,000,000. As a result of Defendants' negligence, gross negligence, intentional conduct, premises liability, and defective products, Plaintiffs have suffered and seek recovery for their damages, including the following:

a. Compensatory damages;

b. Actual damages;

c. Consequential damages;

d. Exemplary damages;

e. Past and future pain and suffering;

f. Past and future mental anguish;

g. Pecuniary losses;

h. Loss of companionship and support;

i. Loss of household services;

j. Medical expenses;

k. Funeral expenses;

l. Pre-judgment interest;

m. Post-judgment interest;

n. Costs of court;

o. All other relief to which Plaintiffs are justly entitled.

56. As a proximate result of Defendants' negligent acts and omissions, grossly negligent acts and omissions, intentional conduct, premises defects, and product defects, Decedent was caused to suffer severe and debilitating personal injuries, bodily injury, physical impairment, pain, suffering, and mental anguish, and other medical damages that culminated in his wrongful death.

57. As a result of Decedent's injuries and death, Decedent's wife and parents have suffered and will continue to suffer a permanent loss of support and services for which they are entitled to recover. *See* TEX. CIV. PRAC. & REM. CODE § 71.004. As wrongful death beneficiaries, Plaintiffs seek to recover the following elements of damages resulting from the

death of Zander Adams:

a. Pecuniary loss in the past and future, including but not limited to the loss of care, maintenance, guidance, nurture, support, services, advice, counsel, inheritance, and reasonable contributions of pecuniary value;

b. Loss of companionship and society in the past and future, including but not limited to the loss of positive benefits from the love, comfort, companionship, and society that would have been received from Zander Adams had he lived;

c. Past and future loss of household services;

d. Mental anguish in the past and future, including but not limited to the emotional pain, torment, and suffering experienced in the past, and to be experienced in the future, because of the death of Zander Adams;

e. Any other forms of damages available to wrongful death beneficiaries.

58. Plaintiffs also bring a survival action as the heirs and representatives of Zander Adams. *See* TEX. CIV. PRAC. & REM. CODE § 71.021. Plaintiffs seek to recover the following elements of survival damages:

a. Past and future pain and mental anguish, including the conscious physical and emotional pain, torment, and suffering experienced by Decedent before his death;

b. Medical expenses;

c. Funeral expenses;

d. And all other damages they are entitled to by law.

59. Plaintiffs and Decedent have sustained substantial and irreparable harm as a direct and proximate result of Defendants' conduct. Plaintiffs seek relief in the form of all damages available under law.

VIII.

JURY TRIAL DEMAND

60. Plaintiffs hereby demand a trial by jury on all claims.

IX.

PRAYER

61. Plaintiffs pray that this citation issue and be served upon Defendants in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon final hearing, Plaintiffs have judgment against Defendants in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interests, all costs of Court, exemplary damages, and all such other and further relief, to which they may show themselves justly entitled.

Respectfully submitted,

ARNOLD & ITKIN LLP

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

Plaintiffs conferred with counsel for Defendant Zachry Industrial, Inc. prior to the filing of this amended complaint. Counsel for Defendant Zachry Industrial, Inc. consented in writing on February 5, 2024 and February 20, 2024 to Plaintiffs amending their complaint to join the additional defendants named herein. Plaintiff, therefore, files this amended complaint under Rule 15(a)(2) of the Federal Rules of Civil Procedure.

/s/ John Grinnan
John Grinnan