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)
FLNG LIQUEFACTION, LLC; FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC	Adv. Pro. No. 24-03195 (MI)
Plaintiffs,	
v.	
CB&I INC; ZACHRY INDUSTRIAL, INC.; and CHIYODA INTERNATIONAL CORPORATION,	
Defendants.	

NOTICE OF FILING
OF MOTION TO DISMISS HEARING PRESENTATION

PLEASE TAKE NOTICE THAT attached hereto as **Exhibit A** is a copy of the presentation that was presented by the above-captioned debtors and debtors in possession at the hearing on December 9, 2024 at 1:30 p.m. (prevailing Central Time) in the above-captioned chapter 11 cases and related adversary proceedings.

[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 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.

Dated: December 10, 2024
Houston, Texas

/s/ *Charles R. Koster*

WHITE & CASE LLP
Charles R. Koster (Texas Bar No. 24128278)
609 Main Street, Suite 2900
Houston, Texas 77002
Telephone: (713) 496-9700
Facsimile: (713) 496-9701
Email: charles.koster@whitecase.com

Bojan Guzina (admitted *pro hac vice*)
Andrew F. O'Neill (admitted *pro hac vice*)
Michael Andolina (admitted *pro hac vice*)
William Guerrieri (admitted *pro hac vice*)
Fan B. He (admitted *pro hac vice*)
Adam T. Swingle (admitted *pro hac vice*)
Barrett Lingle (admitted *pro hac vice*)
111 South Wacker Drive, Suite 5100
Chicago, Illinois 60606
Telephone: (312) 881-5400
Email: bojan.guzina@whitecase.com
aoneill@whitecase.com
mandolina@whitecase.com
william.guerrieri@whitecase.com
fhe@whitecase.com
adam.swingle@whitecase.com
barrett.lingle@whitecase.com

Counsel to the Debtors and
Debtors in Possession

Certificate of Service

I certify that on December 10, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ *Charles R. Koster*
Charles R. Koster

Exhibit A

Motion to Dismiss Hearing Presentation


ZACHRY GROUP
MOTION TO DISMISS
December 9, 2024
Adversary No. 24-03195
Motor Defect
100 YEARS OF ZACHRY

November 18 Hearing Transcript

Judge Isgur:	Do y'all allege this was an installation defect or a defect within the motor itself?
Chris Taylor:	Its both.

Time Stamp: 48:50-48:58

100 YEARS OF ZACHRY

November 18 Hearing Transcript

Chris Taylor: The second element is conscious indifference, in our complaint/petition we don't allege or isolate one or two defects in workmanship and quality assurance. All three motors suffered from the same repeated, multiple defects in workmanship, installation and quality assurance by the contractors. We alleged that they failed to use locking washers and lug nuts as a result these two-foot-long bolts fell out of the motor and ended up in the lining further damaging the motors, we allege they disregard manufacturer instructions. What parts to use and not to use, dissimilar metals. Also, we allege that they inadequately torqued the bolts, as part of the installation of motors. We believe that taking in concert all of these allegations at a very minimum rise to the level of gross negligence.

Time Stamp: 50:07-50:53

100 YEARS OF ZACHRY

November 18 Hearing Transcript

Chris Taylor: The second element is conscious indifference, in our complaint/petition we don't allege or isolate one or two defects in workmanship and quality assurance. All three motors suffered from the same repeated, multiple defects in workmanship, installation and quality assurance by the contractors. We alleged that they failed to use locking washers and lug nuts as a result these two-foot-long bolts fell out of the motor and ended up in the lining further damaging the motors, we allege they disregard manufacturer instructions. What parts to use and not to use, dissimilar metals. Also, we allege that they inadequately torqued the bolts, as part of the installation of motors. We believe that taking in concert all of these allegations at a very minimum rise to the level of gross negligence.

Time Stamp: 50:07-50:53

100 YEARS OF ZACHRY

November 18 Hearing Transcript

Chris Taylor: The second element is conscious indifference, in our complaint/petition we don't allege or isolate one or two defects in workmanship and quality assurance. All three motors suffered from the same repeated, multiple defects in workmanship, installation and quality assurance by the contractors. We alleged that they failed to use locking washers and lug nuts as a result these two-foot-long bolts fell out of the motor and ended up in the lining further damaging the motors, we allege they disregard manufacturer instructions. What parts to use and not to use, dissimilar metals. Also, we allege that they inadequately torqued the bolts, as part of the installation of motors. We believe that taking in concert all of these allegations at a very minimum rise to the level of gross negligence.

Time Stamp: 50:07-50:53

100 YEARS OF ZACHRY

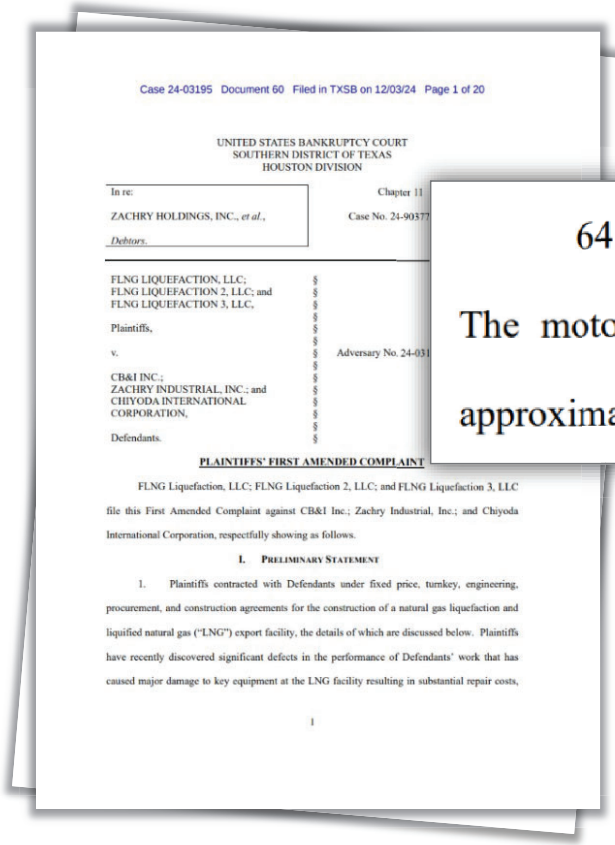
November 18 Hearing Transcript

Chris Taylor:	The second element is conscious indifference, in our complaint/petition we don't allege or isolate one or two defects in workmanship and quality assurance. All three motors suffered from the same repeated, multiple defects in workmanship, installation and quality assurance by the contractors. We alleged that they failed to use locking washers and lug nuts as a result these two-foot-long bolts fell out of the motor and ended up in the lining further damaging the motors, we allege they disregard manufacturer instructions. What parts to use and not to use, dissimilar metals. Also, we allege that they inadequately torqued the bolts, as part of the installation of motors. We believe that taking in concert all of these allegations at a very minimum rise to the level of gross negligence.

Time Stamp: 50:07-50:53

100 YEARS OF ZACHRY

GE's Negligence



Case 24-03195 Document 60 Filed in TXSB on 12/03/24 Page 1 of 20

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:
ZACHRY HOLDINGS, INC., *et al.*,
Debtors.

Chapter 11
Case No. 24-90377

FLNG LIQUEFACTION, LLC;
FLNG LIQUEFACTION 2, LLC; and
FLNG LIQUEFACTION 3, LLC,

Plaintiffs,

v.

Adversary No. 24-031

CB&I INC.;
ZACHRY INDUSTRIAL, INC.; and
CHIYODA INTERNATIONAL
CORPORATION,

Defendants.

PLAINTIFFS' FIRST AMENDED COMPLAINT

FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC file this First Amended Complaint against CB&I Inc.; Zachry Industrial, Inc.; and Chiyoda International Corporation, respectfully showing as follows.

I. PRELIMINARY STATEMENT

1. Plaintiffs contracted with Defendants under fixed price, turnkey, engineering, procurement, and construction agreements for the construction of a natural gas liquefaction and liquified natural gas ("LNG") export facility, the details of which are discussed below. Plaintiffs have recently discovered significant defects in the performance of Defendants' work that has caused major damage to key equipment at the LNG facility resulting in substantial repair costs,

1

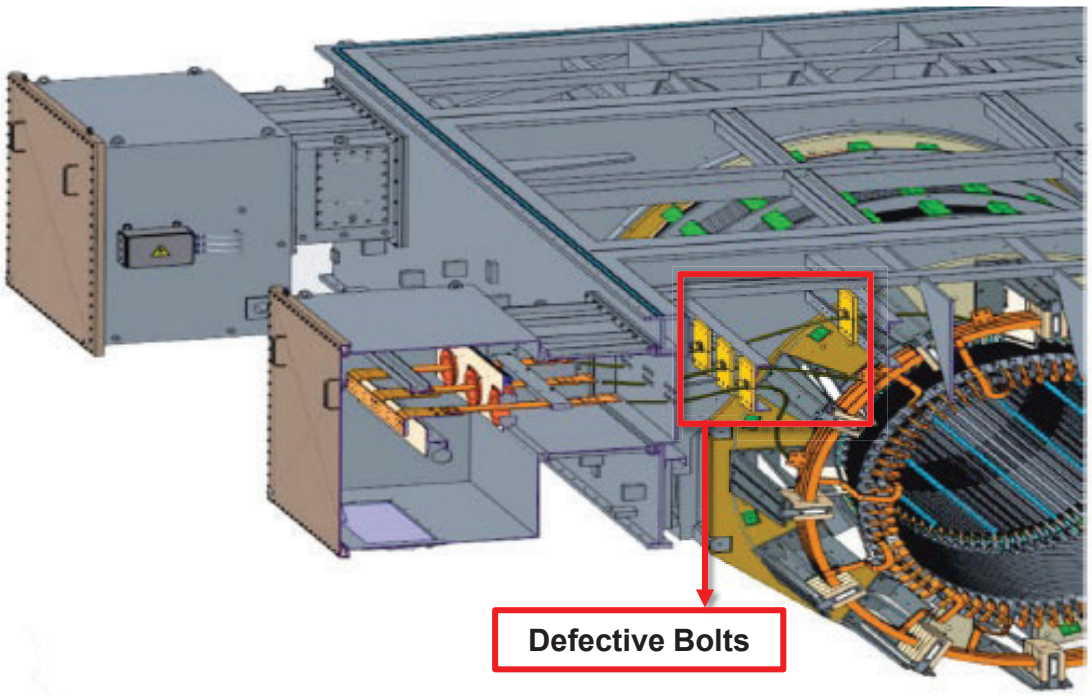
Inside the Motor Assembly

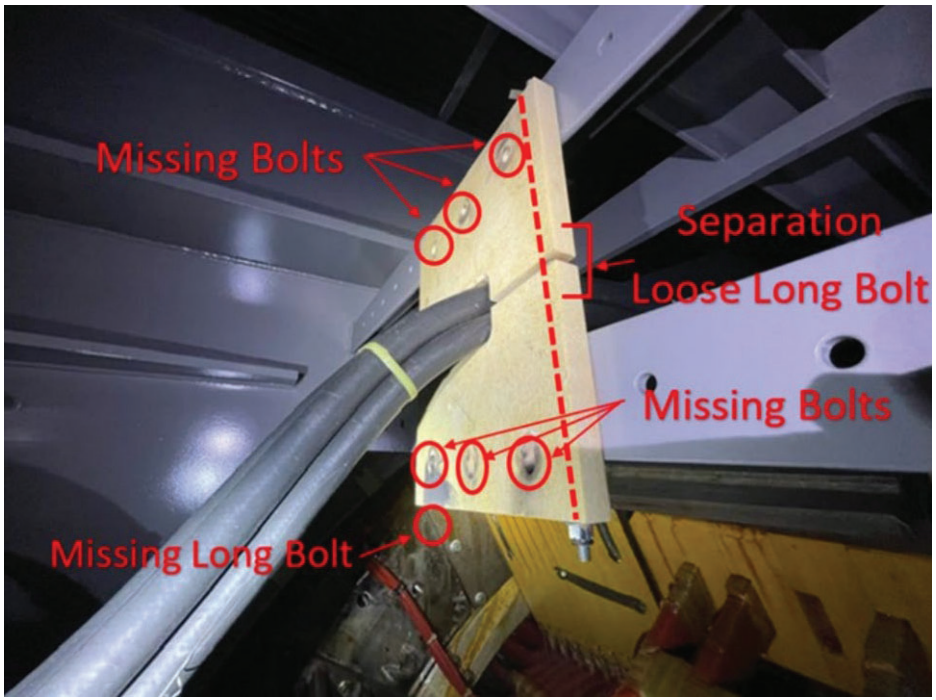
64. The motors were fabricated off-site and delivered to the Project site as intact units. The motor casings were not scheduled to be opened for the motors to be serviced until approximately nine years after installation. As a result, adequate shop inspections by Defendants

Plaintiffs' First Amended Complaint at ¶64.

100 YEARS OF ZACHRY

GE's Negligence





100 YEARS OF ZACHRY

GE's Negligence

- GE acted with gross indifference
  - Bad Design
  - Improper Manufacturing
    - Use of defective nut-bolt assemblies
    - Lack of proper torquing
    - Improper use of unspecified materials

Plaintiffs' First Amended Complaint at ¶66.

100 YEARS OF ZACHRY

Subjective Awareness



Diamond Shamrock Refining Co., L.P. v. Hall, 168 S.W.3d 164 (2005)
48 Tex. Sup. Ct. J. 964

KeyCite Yellow Flag - Negative Treatment
Distinguished by Mora v. Valdivia, Tex.App.-San Antonio, July 17, 2019

168 S.W.3d 164
Supreme Court of Texas.

DIAMOND SHAMROCK REFINING CO., L.P., Diamond Shamrock Refining and Marketing Co., Diamond Shamrock, Inc., Sigmor Corp., and Ultramar Diamond Shamrock Corp., Petitioners,
v.
Donna HALL, Respondent

No. 02-0566.
Argued Oct. 1, 2003.
Decided July 8, 2005.

Synopsis
Background: Surviving spouse of employee who was killed in oil refinery explosion sued employer for exemplary damages based on gross negligence. Following jury verdict of $42.5 million in spouse's favor, the 225th Judicial District Court, Bexar County, John J. Specia, Jr., J., entered final judgment that capped jury verdict at $200,000. Cross-appeals were taken. The San Antonio Court of Appeals, 82 S.W.3d 5,reversed and remanded for new trial. Review was granted.

[Holding:] On denial of rehearing, the Supreme Court, Hecht, J., held that clear and convincing evidence did not establish the requisite gross negligence for award of exemplary damages.

Judgment of Court of Appeals reversed; judgment rendered.

Procedural Posture(s): On Appeal.

West Headnotes (7)

[1] Appeal and Error ⇐ Inconsistent position or action in general
Employer did not waive appellate review of sufficiency of evidence to establish gross negligence, as basis for awarding exemplary damages to surviving spouse of employee in wrongful death action brought after oil refinery explosion, though employer moved in open court for judgment on jury's verdict, employer did not move for judgment in specific amount and instead urged that judgment not exceed putative statutory cap, and such contention was not inconsistent with argument that no evidence supported a judgment in any amount. Vernon's Ann.Texas Const. Art. 16, § 26; V.T.C.A., Labor Code § 408.001.
7 Cases that cite this headnote

[2] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
In a legal sufficiency review under the clear and convincing evidence standard, an appellate court should look at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true.
32 Cases that cite this headnote

[3] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
To give appropriate deference to the factfinder's conclusions and the role of a reviewing court conducting a legal sufficiency review under the clear and convincing evidence standard, looking at the evidence in the light most favorable to the judgment means that a reviewing court must assume that the factfinder resolved disputed facts in favor of its finding if a reasonable factfinder could do so.
26 Cases that cite this headnote

[4] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
When conducting legal sufficiency review under the clear and convincing evidence standard, an appellate court should disregard all evidence that a reasonable factfinder could have disbelieved or found to have been incredible, but that does not mean that the appellate court must disregard

WESTLAW © 2024 Thomson Reuters. No claim to original U.S. Government Works. 1

***Diamond Shamrock Refining Co. v Hall*, 168 S.W.3d 164, 173 (Tex. 2005) (Hecht, CJ):**

[7] "[W]hat separates ordinary negligence from gross negligence is the defendant's state of mind; in other words, the plaintiff must show that the defendant knew about the peril, but his acts or omissions demonstrate that he did not care."[28] Viewing the record in the light most favorable to the plaintiff, there is no clear and convincing evidence that Diamond Shamrock knew of the risk of the compressor explosion that resulted in Hall's death and yet did not care.

100 YEARS OF ZACHRY

Subjective Awareness



Diamond Shamrock Refining Co., L.P. v. Hall, 168 S.W.3d 164 (2005)
48 Tex. Sup. Ct. J. 964

KeyCite Yellow Flag - Negative Treatment
Distinguished by Mora v. Valdivia, Tex.App.-San Antonio, July 17, 2019

168 S.W.3d 164
Supreme Court of Texas.

DIAMOND SHAMROCK REFINING CO., L.P., Diamond Shamrock Refining and Marketing Co., Diamond Shamrock, Inc., Sigmor Corp., and Ultramar Diamond Shamrock Corp., Petitioners,
v.
Donna HALL, Respondent

No. 02-0566.
Argued Oct. 1, 2003.
Decided July 8, 2005.

Synopsis
Background: Surviving spouse of employee who was killed in oil refinery explosion sued employer for exemplary damages based on gross negligence. Following jury verdict of $42.5 million in spouse's favor, the 225th Judicial District Court, Bexar County, John J. Specia, Jr., J., entered final judgment that capped jury verdict at $200,000. Cross-appeals were taken. The San Antonio Court of Appeals, 82 S.W.3d 5,reversed and remanded for new trial. Review was granted.

[Holding:] On denial of rehearing, the Supreme Court, Hecht, J., held that clear and convincing evidence did not establish the requisite gross negligence for award of exemplary damages.

Judgment of Court of Appeals reversed; judgment rendered.

Procedural Posture(s): On Appeal.

West Headnotes (7)

[1] Appeal and Error ⇐ Inconsistent position or action in general
Employer did not waive appellate review of sufficiency of evidence to establish gross negligence, as basis for awarding exemplary damages to surviving spouse of employee in wrongful death action brought after oil refinery explosion, though employer moved in open court for judgment on jury's verdict, employer did not move for judgment in specific amount and instead urged that judgment not exceed putative statutory cap, and such contention was not inconsistent with argument that no evidence supported a judgment in any amount. Vernon's Ann.Texas Const. Art. 16, § 26; V.T.C.A., Labor Code § 408.001.
7 Cases that cite this headnote

[2] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
In a legal sufficiency review under the clear and convincing evidence standard, an appellate court should look at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true.
32 Cases that cite this headnote

[3] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
To give appropriate deference to the factfinder's conclusions and the role of a reviewing court conducting a legal sufficiency review under the clear and convincing evidence standard, looking at the evidence in the light most favorable to the judgment means that a reviewing court must assume that the factfinder resolved disputed facts in favor of its finding if a reasonable factfinder could do so.
26 Cases that cite this headnote

[4] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
When conducting legal sufficiency review under the clear and convincing evidence standard, an appellate court should disregard all evidence that a reasonable factfinder could have disbelieved or found to have been incredible, but that does not mean that the appellate court must disregard

WESTLAW © 2024 Thomson Reuters. No claim to original U.S. Government Works. 1

***Diamond Shamrock Refining Co. v Hall*, 168 S.W.3d 164, 173 (Tex. 2005) (Hecht, CJ):**

> [7] "[W]hat separates ordinary negligence from gross negligence is the defendant's state of mind; in other words, the plaintiff must show that the defendant knew about the peril, but his acts or omissions demonstrate that he did not care."[28] Viewing the record in the light most favorable to the plaintiff, there is no clear and convincing evidence that Diamond Shamrock knew of the risk of the compressor explosion that resulted in Hall's death and yet did not care.

100 YEARS OF ZACHRY

Subjective Awareness



Diamond Shamrock Refining Co., L.P. v. Hall, 168 S.W.3d 164 (2005)
48 Tex. Sup. Ct. J. 964

KeyCite Yellow Flag - Negative Treatment
Distinguished by Mora v. Valdivia, Tex.App.-San Antonio, July 17, 2019

168 S.W.3d 164
Supreme Court of Texas.

DIAMOND SHAMROCK REFINING CO., L.P., Diamond Shamrock Refining and Marketing Co., Diamond Shamrock, Inc., Sigmor Corp., and Ultramar Diamond Shamrock Corp., Petitioners,
v.
Donna HALL, Respondent

No. 02-0566.
Argued Oct. 1, 2003.
Decided July 8, 2005.

Synopsis
Background: Surviving spouse of employee who was killed in oil refinery explosion sued employer for exemplary damages based on gross negligence. Following jury verdict of $42.5 million in spouse's favor, the 225th Judicial District Court, Bexar County, John J. Specia, Jr., J., entered final judgment that capped jury verdict at $200,000. Cross-appeals were taken. The San Antonio Court of Appeals, 82 S.W.3d 5,reversed and remanded for new trial. Review was granted.

[Holding:] On denial of rehearing, the Supreme Court, Hecht, J., held that clear and convincing evidence did not establish the requisite gross negligence for award of exemplary damages.

Judgment of Court of Appeals reversed; judgment rendered.

Procedural Posture(s): On Appeal.

West Headnotes (7)

[1] Appeal and Error ⇐ Inconsistent position or action in general
Employer did not waive appellate review of sufficiency of evidence to establish gross negligence, as basis for awarding exemplary damages to surviving spouse of employee in wrongful death action brought after oil refinery explosion, though employer moved in open court for judgment on jury's verdict, employer did not move for judgment in specific amount and instead urged that judgment not exceed putative statutory cap, and such contention was not inconsistent with argument that no evidence supported a judgment in any amount. Vernon's Ann.Texas Const. Art. 16, § 26; V.T.C.A., Labor Code § 408.001.
7 Cases that cite this headnote

[2] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
In a legal sufficiency review under the clear and convincing evidence standard, an appellate court should look at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true.
32 Cases that cite this headnote

[3] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
To give appropriate deference to the factfinder's conclusions and the role of a reviewing court conducting a legal sufficiency review under the clear and convincing evidence standard, looking at the evidence in the light most favorable to the judgment means that a reviewing court must assume that the factfinder resolved disputed facts in favor of its finding if a reasonable factfinder could do so.
26 Cases that cite this headnote

[4] Appeal and Error ⇐ Review for factual or legal sufficiency; "no evidence" review
When conducting legal sufficiency review under the clear and convincing evidence standard, an appellate court should disregard all evidence that a reasonable factfinder could have disbelieved or found to have been incredible, but that does not mean that the appellate court must disregard

WESTLAW © 2024 Thomson Reuters. No claim to original U.S. Government Works. 1

***Diamond Shamrock Refining Co. v Hall*, 168 S.W.3d 164 (Tex. 2005) (Hecht, CJ):**

Attorneys and Law Firms

***165** Reagan W. Simpson, King & Spalding, William J. Boyce, Fulbright & Jaworski L.L.P., Daryl G. Dursum, Erin Patterson, Adams & Reese, L.L.P., Houston, for Petitioners.

100 YEARS OF ZACHRY