Docket #0013 Date Filed: 3/30/2026

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

In re:	§	
ZACHRY HOLDINGS, INC., *et al.*,	§	Civil Action No. 4:25-cv-05980
Reorganized Debtors.	§	
	§	Bankruptcy Case No. 24-90377
ENCINA DEVELOPMENT	§	
GROUP, LLC	§	Hon. Charles Eskridge
Appellant,	§	
	§	
v.	§	
	§	
ZACHRY HOLDINGS, INC., *et al.*,	§	
Appellees.	§	

APPELLANT ENCINA DEVELOPMENT GROUP, LLC'S REPLY BRIEF

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INTRODUCTION

This appeal asks whether the Bankruptcy Court abused its discretion by finding Encina's late-filed proof of claim was not the product of excusable neglect and denying relief under Bankruptcy Rule 9006(b)(1)(B). Appellees' Answer Brief reframes the decision below as a routine exercise of discretion, but the record and controlling Fifth Circuit precedent show two dispositive errors. First, the Bankruptcy Court began from the incorrect legal premise that the reason-for-delay factor is the "most important" *Pioneer* factor. That is not the law in this Circuit. *In re CJ Holding Co.*, 27 F.4th 1105, 1114 (5th Cir. 2022). Second, after elevating that single factor above all others, the Bankruptcy Court discounted its own express findings, eliminating the core equitable concerns that bar dates protect: prejudice to the Debtors and disruption to case administration. Bankr. ECF 3279 at 5-7, AA 421-23. Because the denial rests on a legal error that skews the equitable balance required by *Pioneer*, the Order should be reversed.

ARGUMENT

I. The Bankruptcy Court Applied an Incorrect Legal Standard by Treating One *Pioneer* Factor as Paramount.

Pioneer makes clear that excusable neglect is "at bottom an equitable" determination that requires courts to "tak[e] account of all relevant circumstances." *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993). The Supreme Court did not create a hierarchy of factors, and the Fifth Circuit has

rejected the notion that any single factor is categorically "most important." *CJ Holding*, 27 F.4th at 1114. In this case, however, the Bankruptcy Court began from the premise that the third *Pioneer* factor "carr[ies] more weight than the others" and is "the most important." Bankr. ECF 3279 at 6-7, AA 422-23. That is not a case-specific determination of how much weight to give each factor in the case at bar. Instead, it is a legal error, which is reviewed *de novo* and is itself an abuse of discretion. *CJ Holding*, 27 F.4th at 1111-12 (standard of review); *Koon v. United States*, 518 U.S. 81, 100 (1996) ("A district court by definition abuses its discretion when it makes an error of law.").

Appellees argue that cases like *Prism Graphics* and *CJ Holding* approve assigning "greater weight" to the reason-for-delay factor. But those decisions do not endorse a categorical rule that factor three is the "most important." Rather, they affirm discretionary case-by-case weighing only where the court applies the correct framework and conducts a holistic equitable assessment. *In re Prism Graphics, Inc.*, 666 F. App'x 355, 357-58 (5th Cir. 2016); *CJ Holding*, 27 F.4th at 1113-14, 1119. Here, the Bankruptcy Court's own language shows it treated factor three as dispositive, despite finding no prejudice and no meaningful administrative harm. When a court elevates one factor into a controlling rule, it stops doing *Pioneer*'s "all relevant circumstances" analysis and instead applies an incorrect legal standard. *Pioneer*, 507 U.S. at 381.

II. Encina's Late Filing Is Neither "Unexplained" Nor "Extreme."

Encina's delay in filing its proof of claim was neither "unexplained" nor "extreme," as Appellees portray it. It is explained by ZEC's failure to provide notice of the Bar Date until months after that date passed, and was completed months before the Plan was confirmed.

A. Encina's Late Filing Is Explained by ZEC's Decision Not to Provide It Notice of the Bar Date.

ZEC filed a notice of bankruptcy in the Encina action, but that is not the functional equivalent of a timely bar-date notice. Courts have held that a debtor's failure to provide a creditor with notice of the bar date does not violate due process when the creditor has an independent obligation to investigate the bankruptcy. *E.g.*, *In re Sam*, 894 F.2d 778 (5th Cir. 1990); *In re Christopher*, 28 F.3d 512 (5th Cir. 1994). But that does not mean the debtor's failure to act becomes irrelevant under a *Pioneer* excusable neglect analysis.

In this case, Appellees knew of the Encina Lawsuit when they filed for bankruptcy. They listed it as an asset on their schedules but did not list Encina's counterclaim as a potential liability. Schedules of Assets and Liabilities, AA 62, 81-87. If they had done so, Encina would have been served with the Bar Date Order before the Bar Date passed. Encina reasonably anticipated that ZEC would provide the required notice. Hr'g Tr. 26:16-22, AA 473. Within *Pioneer*'s equitable framework, a debtor not providing actual notice of a bar date to a known creditor is

a compelling reason for delay that weighs in favor of relief. *In re William B. Wilson Mfg. Co.*, 59 B.R. 535, 538 (Bankr. W.D. Tex. 1986).

B. Encina's Delay in Filing Its Proof of Claim Was Not Extreme.

There is no bright-line rule dictating when a delay becomes so lengthy it must tip in favor of the debtor; in some cases a delay of a few days is too long to find excusable neglect, and in other cases courts have found excusable neglect when the delays were for weeks. In *Pioneer* itself, the creditors filed their proofs of claim twenty days after the bar date. *Pioneer*, 507 U.S. at 381. *See also In re Eagle Bus Mfg., Inc.*, 62 F.3d 730 (5th Cir. 1995) (delay of six to eight months). Instead, the second *Pioneer* factor requires courts to consider both the length of the delay and its impact on the proceedings. *Pioneer* at 395.

Encina filed its proof of claim within weeks of receiving notice of the Bar Date, and months before the Plan was confirmed or took effect. The Bankruptcy Court acknowledged that Encina's claim is "unlikely to adversely impact the post-confirmation proceedings." Bankr. ECF 3279 at 6, AA 422. Those findings resolve the main equitable concerns bar dates serve (finality, reliance, and orderly administration). Had the Bankruptcy Court not considered a single factor to be the most important, it would have given weight to its own findings that the delay presented no prejudice or effect on the administration of the bankruptcy case.

CONCLUSION

For the reasons set forth herein, Encina respectfully requests that this Court reverse and vacate the Bankruptcy Court's Order disallowing Encina's claim and render judgment that Encina's Emergency Motion to Permit Filing Proof of Claim After Bar Date should be granted or, alternatively, remand with instructions to grant Encina's Rule 9006(b)(1)(B) motion permitting its proof of claim. Appellant further prays for such other and further relief as is just.

Dated: March 30, 2026

Respectfully submitted,

By: */s/ Kathryn Skagerberg*

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CERTIFICATE OF SERVICE

I certify that on March 30, 2026, a true and correct copy of the above and foregoing document has been served via the Court's CM/ECF system upon counsel of record to all parties registered to receive such service.

s/ Kathryn Skagerberg
Kathryn Skagerberg