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and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC.,
*et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF
AN ORDER (I) SETTING BAR DATES FOR
FILING PROOFS OF CLAIM; (II) APPROVING FORM
AND MANNER FOR FILING PROOFS OF CLAIM; AND
(III) APPROVING THE FORM AND MANNER FOR FILING PROOFS
OF CLAIM, INCLUDING SECTION 503(b)(9) REQUESTS NOTICE OF BAR DATES**

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors' service address is 2100 Ross Avenue, Dallas, Texas 75201.



If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txnb.uscourts.gov> no more than twenty-four (24) days after the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk and filed on the docket no more than twenty-four (24) days after the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on the matters set forth in this motion on June 26, 2024 at 1:30 p.m. (prevailing Central Time) in Courtroom #1, 14th Floor, Earle Cabell Federal Building, 1100 Commerce Street, Suite 1254, Dallas, Texas 75242.

You may participate in the hearing either in person or by an audio and video connection. Audio communication will be by use of the Court's dial-in facility. You may access the facility at 650.479.3207. Video communication will be by the use of the Cisco WebEx platform. Connect via the Cisco WebEx application or click the link on Judge Jernigan's home page. The meeting code is 2304-154-2638. Click the settings icon in the upper right corner and enter your name under the personal information setting. WebEx hearing instructions may be obtained from Judge Jernigan's hearing/calendar site: <https://www.txnb.uscourts.gov/judges-info/hearing-dates/chief-judge-jernigans-hearing-dates>.

Hearing appearances must be made electronically in advance of electronic hearings. To make your appearance, click the "Electronic Appearance" link on Judge Jernigan's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

The debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), hereby submit this motion (this "Motion") for entry of an order establishing the Bar Dates (as defined below). In support of this Motion, the Debtors respectfully state as follows:

RELIEF REQUESTED

1. The Debtors seek to establish a claims process by setting deadlines by which certain holders of claims will be required to file a written proof of their claim(s) (collectively, the "Bar Dates" and each individually, a "Bar Date"). The Debtors respectfully request entry of an order, substantially in the form attached hereto, at Exhibit A, (the "Bar Date Order") establishing the following Bar Dates:

- A. **General Bar Date:** July 22, 2024 at 4:00 p.m. (prevailing Central Time) (the "General Bar Date");
- B. **Governmental Bar Date:** September 30, 2024 at 4:00 p.m. (prevailing Central Time) (the "Governmental Bar Date"); and

- C. Amended Schedules Bar Date:** To the extent applicable, the later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) twenty-one (21) days from the date on which the Debtors mail notice of an amendment to the Schedules (such date, the “Amended Schedules Bar Date”).

2. The Debtors also seek: (a) approval of the form and manner for filing proofs of claim; (b) approval of the notice of the Bar Dates; and (c) authorization for the Debtors, in their sole discretion, to extend the Bar Date for certain holder of claims by stipulation or otherwise where the Debtors determine that such extension is in the best interest of their estates.

JURISDICTION AND VENUE

3. The United States Bankruptcy Court for the Northern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the Court’s entry of a final order in connection with this motion

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The bases for the relief requested herein are sections 105(a), 501, 502, and 1111(a) of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002(a)(7), (f), (l), 3003(c) and 5005(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), rule 3003-1 of the Local Bankruptcy Rules for the Northern District of Texas (the “Local Rules”), and Section M of the *Procedures for Complex Chapter 11 Cases in the Northern District of Texas* (the “Complex Case Procedures”).

BACKGROUND

6. The Debtors are a commercial-stage biopharmaceutical company focused on the development of innovative therapies for hepatitis delta virus (HDV) and other serious diseases. All five of the Debtors' rare disease programs have FDA Breakthrough Therapy designation.

7. On April 1, 2024 (the "Petition Date"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These chapter 11 cases have been consolidated for procedural purposes only and are being administered jointly. No party has requested the appointment of a trustee or examiner in these cases, and no statutory committee has been appointed.

8. A comprehensive description of the Debtors' businesses and operations, capital structure, and the events leading to the commencement of these chapter 11 cases can be found in the *Declaration of David Apelian in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 19] (the "First Day Declaration").²

THE BAR DATES

I. The Bar Dates.

9. Bankruptcy Rule 3003(c)(3) provides that the Court shall fix the time within which proofs of claim must be filed in a chapter 11 case pursuant to section 501 of the Bankruptcy Code. 11 U.S.C. § 3003(c)(3). Pursuant to Bankruptcy Rule 3003(c)(2), any creditor who has a claim against the Debtors that arose prior to the Petition Date, and whose claim is not scheduled in the Debtors' schedules of assets and liabilities, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the "Schedules"), or whose claim is 1) listed on

² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration.

the Schedules as disputed, contingent, or unliquidated or 2) in the creditor's view improperly classified in the Schedules or listed in an incorrect amount, must file a proof of claim. *Id.* Section 502(b)(9) of the Bankruptcy Code further provides that governmental units shall have a minimum of 180 days after the entry of the order for relief to file proofs of claim. 11. U.S.C. § 502(b)(9).

10. Although the Complex Case Procedures establish a default bar date in complex cases, Bankruptcy Rule 3003(c)(3), Local Rule 3003-1, and Paragraphs 7 and 44 of the Complex Case Procedures make clear that Debtors have the right to request the Court establish a different Bar Date for all non-governmental entities. The Debtors seek to establish a General Bar Date of July 22, 2024 which is seventy-seven (77) days following the date on which the Debtors Schedules were filed, fifty (50) days following the date on which this Motion was filed and twenty-six (26) days following the hearing on this Motion. The Debtors believe the proposed timeline will give all parties in interest adequate notice of the Bar Dates and an opportunity to respond.

A. General Bar Date.

11. Except as otherwise set forth below, the Debtors request that the Court establish July 22, 2024 at 4:00 p.m. (prevailing Central Time) as the General Bar Date for all entities, other than governmental units, holding prepetition claims against the Debtors to file proofs of claim. The General Bar Date shall apply to all types of claims against the Debtors that arose prior to the Petition Date, including secured claims, unsecured priority claims (including, without limitation, claims entitled to priority under sections 507(a)(4) and (5), or 503(b)(9) of the Bankruptcy Code), and unsecured nonpriority claims. The General Bar Date would be the last date and time by which all entities, other than governmental units holding prepetition claims, must file proofs of claim so that such proofs of claim are *actually received* by the Debtors' claims, noticing, and solicitation agent, Kurtzman Carson Consultants LLC ("KCC"), on or before the General Bar Date, unless such entity's claim falls within one of the exceptions set forth in the Bar Date Order.

B. Governmental Bar Date.

12. Section 502(b)(9) of the Bankruptcy Code provides, in relevant part, that “[a] claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the [Bankruptcy Rules] may provide” 11 U.S.C. § 502(b)(9). The Debtors therefore request that the Court establish September 30, 2024 at 4:00 p.m. (prevailing Central Time) as the Governmental Bar Date in these chapter 11 cases. The Governmental Bar Date will apply to all governmental units holding claims against the Debtors (whether secured, unsecured priority, or unsecured non-priority) that arose prior to the Petition Date, including governmental units with claims against the Debtors for unpaid taxes, if any, whether such claims arose from prepetition tax years or periods, or prepetition transactions to which the Debtors were a party. All governmental units holding such claims against the Debtors will be required to file proofs of claim so that such proofs of claim are *actually received* by KCC, on or before the Governmental Bar Date.

C. Amended Schedules Bar Date.

13. In accordance with Bankruptcy Local Rule 1009-1, in the event that the Debtors amend or supplement their Schedules after having given notice of the Bar Dates, the Debtors propose that with respect to holders of claims affected thereby, the Court establish the later of: **(a) the General Bar Date or the Governmental Bar Date, as applicable to such claims; and (b) 4:00 p.m. (prevailing Central Time) on the date that is twenty-one (21) days from the date on which the Debtors mail notice of the amendment or supplement to the Schedules**, as the Amended Schedules Bar Date. Notice of the Amended Schedules Bar Date shall be sent to each claimant holding a claim affected by any such amendment or supplement and shall describe the listing and treatment of such claim on the Schedules, including how such treatment has changed, if applicable, and indicate the Amended Schedules Bar Date for such claim.

II. Procedures For Filing Proof of Claim Forms.

A. Parties Required to File Proofs of Claim.

14. Except as otherwise set forth herein, the Debtors request that the Court require each of the following entities holding claims against the Debtors arising prior to the Petition Date to file a proof of claim on or before the applicable Bar Date:

- a. any entity whose claim against a Debtor is not listed in the applicable Debtor's Schedules or is listed as contingent, unliquidated, or disputed if such entity desires to participate in any of these chapter 11 cases or share in any distribution in any of these chapter 11 cases;
- b. any entity who believes that its claim is improperly classified in the Schedules or is listed in an incorrect amount and who desires to have its claim allowed in a different classification or amount other than that identified in the Schedules;
- c. any former or present full-time, part-time, salaried, or hourly employees must submit Proofs of Claim relating to any grievance, including claims for wrongful termination, discrimination, harassment, hostile work environment, retaliation, and/or unpaid severance prior to the General Bar Date to the extent grounds for such grievances arose on or prior to the Petition Date; *provided* that current employees of the Debtors are not required to file a proof of claim for wages, commissions, or benefits if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business;
- d. any entity that believes that its prepetition claim as listed in the Schedules is not an obligation of the specific Debtor against which the claim is listed and that desires to have its claim allowed against a Debtor other than that identified in the Schedules; and
- e. any entity who believes that its claim against a Debtor is or may be an administrative expense pursuant to section 503(b)(9) of the Bankruptcy Code.

B. Parties Not Required to File Proofs of Claim by the Applicable Bar Date.

15. The Debtors request that the Court exempt the following entities, to the extent required by the Bankruptcy Code, and in the capacities described below, from any requirement to file a proof of claim prior to the applicable Bar Date:

- a. the U.S. Trustee, on account of claims for fees payable pursuant to 28 U.S.C. § 1930;
- b. any entity that already has filed a signed proof of claim against the applicable Debtor with KCC in a form substantially similar to Official Form 410 with respect to the claim asserted therein;
- c. any person or entity whose claim is listed on the Schedules if: (i) the claim is *not* scheduled as any of “disputed,” “contingent,” or “unliquidated;” and (ii) such person or entity agrees with the amount, nature, and priority of the claim as set forth in the Schedules;
- d. any person or entity whose claim has previously been allowed by order of the Court;
- e. any person or entity whose claim has been paid in full by the Debtors pursuant to the Bankruptcy Code or in accordance with an order of the Court;
- f. a current employee of the Debtors, if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business as a wage, commission, or benefit; *provided* that such current employee must submit a proof of claim by the General Bar Date for all other claims arising before the Petition Date;
- g. any person or entity holding an equity interest in any Debtor;
- h. any Debtor having a claim against another Debtor;
- i. any entity holding a claim allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code as an expense of administration incurred in the ordinary course, *provided* that any entity asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must assert such claims by filing a request for payment or a proof of claim on or prior to the Claims Bar Date;
- j. any person or entity holding a claim for which a separate deadline is fixed by the Court; and
- k. holders of claims for fees and expenses of professionals retained in these chapter 11 cases.

C. Requirements for Preparing and Filing Proofs of Claim.

16. With respect to preparing and filing proofs of claim, the Debtors propose that the proofs of claim be required to be consistent with the following:

- a. ***Contents of Claim Form.*** Each proof of claim form must (i) be written in English; (ii) include a claim amount denominated in United States dollars (and to the extent such claim is converted to United States dollars, the conversion rate used in such conversion); (iii) conform substantially to Official Form 410; and (iv) be signed by the holder of the claim or by an authorized agent of the holder of the claim (along with documentation of such authorization).
- b. ***Section 503(b)(9) Claim.*** Any proof of claim asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must also: (i) include the value of the goods delivered to and received by the Debtors in the twenty (20) days prior to the Petition Date; (ii) attach any documentation identifying the particular invoices for which the section 503(b)(9) claim is being asserted; and (iii) attach documentation of any reclamation demand made to the Debtors under section 546(c) of the Bankruptcy Code (if applicable).
- c. ***Original Signatures Required.*** Only (i) original proof of claim forms signed electronically or in ink or (ii) proof of claim forms submitted and signed electronically using the electronic filing interface available at <https://www.kccllc.net/eiger> will be deemed acceptable for purposes of claims administration. Proof of claim forms sent by facsimile or electronic mail will **not** be accepted.
- d. ***Identification of the Debtor Entity.*** Each proof of claim form must clearly identify the Debtor against which a claim is asserted, including the individual Debtor's case number. A proof of claim form filed without identifying a specific Debtor will be deemed as filed only against Eiger BioPharmaceuticals, Inc.
- e. ***Claim Against Multiple Debtor Entities.*** Except as otherwise provided in the Bar Date Order or any other order of the Court, each proof of claim must state a claim against only one Debtor and clearly indicate the Debtor against which the claim is asserted. To the extent more than one Debtor is listed on the proof of claim form, such claim may be treated as if filed only against Eiger BioPharmaceuticals, Inc.
- f. ***Supporting Documentation.*** Each proof of claim form must include supporting documentation in accordance with Bankruptcy Rules 3001(c) and 3001(d). Any supporting documentation that includes personally identifiable information should be redacted or hidden prior to submission.
- g. ***Timely Service.*** Each proof of claim form, including supporting documentation, must be filed or submitted, including supporting documentation, through any of the following methods: (i) electronic submission through PACER (Public Access to Court Electronic Records at <https://ecf.txnb.uscourts.gov/>); (ii) via the electronic filing interface

available at <https://www.kccllc.net/Eiger> or (iii) by U.S. mail, overnight U.S. mail, or other hand delivery system, so as to be **actually received** by KCC on or before the applicable Bar Date at the following address:

For First-Class Mail or Overnight Mail to:

Eiger Claims Processing Center
c/o Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway, Suite 300,
El Segundo, CA 90245

**PROOFS OF CLAIM SUBMITTED BY FACSIMILE OR
ELECTRONIC MAIL WILL NOT BE ACCEPTED.**

- h. ***Receipt of Service.*** Claimants wishing to receive acknowledgment that their proof of claim forms were received by KCC must submit (i) a copy of the proof of claim form; and (ii) a self-addressed, stamped envelope.

D. Failure to File a Proof of Claim Form.

17. Pursuant to Bankruptcy Rule 3003(c)(2), the Debtors propose that any person or entity who is required, but fails, to file a proof of claim form in accordance with the terms of the Bar Date Order on or before the applicable Bar Date (absent the consent of the Debtors in their sole discretion) shall be forever barred, estopped, and enjoined from asserting such claim against the Debtors (or filing a proof of claim) and the Debtors and their property shall be forever discharged from any and all indebtedness or liability with respect to or arising from such claim; *provided* that late-filed proofs of claim shall be treated in accordance with section 726(a)(3) of the Bankruptcy Code. Moreover, such creditor shall be prohibited from voting to accept or reject any plan filed in these chapter 11 cases, participating in any distribution in these chapter 11 cases on account of such claim, or receiving further notices regarding such claim.

III. Form of Proof of Claim.

18. The Debtors have prepared, and request that the Court approve, the Proof of Claim Form attached to the Bar Date Order as **Exhibit 2**. The Proof of Claim Form has been modified to allow creditors to request payment for claims arising under section 503(b)(9) of the Bankruptcy

Code. In addition, the Debtors propose to provide each of the creditors listed on the Schedules with a personalized Proof of Claim Form, which will indicate: (a) the identity of the Debtor against which the creditor's claim is scheduled; (b) the amount of the scheduled claim, if any; (c) whether the claim is listed as contingent, unliquidated, or disputed; and (d) whether the claim is listed as secured, unsecured priority, or unsecured non-priority.

19. If the creditor disagrees with information set forth on the personalized Proof of Claim Form, the creditor will be required to timely file a Proof of Claim identifying the Debtor against which the creditor is asserting a claim and the amount and type of such claim on or before the applicable Bar Date. Creditors may choose not to use the Personalized Proof of Claim Form and instead submit Proofs of Claim on Official Form 410 and as to the extent provided in the Bar Date Order.

IV. Procedures For Providing Notice of the Bar Dates.

A. Mailing of Bar Date Notice.

20. Pursuant to Bankruptcy Rule 2002(a)(7), the Debtors propose to cause written notice of the Bar Dates, substantially in the form annexed as **Exhibit 1** to the Bar Date Order (the "**Bar Date Notice**") to be mailed via first class mail, no later than three (3) business days after entry of the Bar Date Order, to the following parties:

- a. the Debtors and their counsel;
- b. the U.S. Trustee for the Northern District of Texas;
- c. any statutory committee appointed in these chapter 11 cases and its counsel;
- d. the entities listed as holding the 30 largest unsecured claims against the Debtors (on a consolidated basis);
- e. all known creditors and other known holders of claims against the Debtors;
- f. the Prepetition Term Loan Lenders and their counsel;

- g. all persons or entities that have requested notice of the proceedings in these chapter 11 cases pursuant to Bankruptcy Rule 2002 as of the date of the Bar Date Order;
- h. all persons or entities that have filed proofs of claim in these chapter 11 cases as of the date of the Bar Date Order;
- i. all known brokers, registered holders, and nominee holders of equity interests in the Debtors as of the date the Bar Date Order is entered;
- j. all known entities who are party to executory contracts and unexpired leases with the Debtors;
- k. all known entities who are party to active litigation with the Debtors;
- l. all current and former employees of the Debtors employed within one year of the Petition Date (to the extent that contact information for former employees is available in the Debtors' records);
- m. all regulatory authorities that regulate the Debtors;
- n. the Office of the Attorney General for the State of Texas and each of the states in which the Debtors conduct business;
- o. the Office of the United States Attorney for the Northern District of Texas;
- p. the United States Securities and Exchange Commission;
- q. the United States Internal Revenue Service; and
- r. all other taxing authorities for the jurisdictions in which the Debtors have paid taxes within one year of the Petition Date.

21. The Debtors shall also post the Bar Date Notice on the Debtors' case website established by KCC at <https://www.kcellc.net/Eiger>.

22. Among other things, the Bar Date Notice will: (a) identify the General Bar Date; (b) provide holders of claims with the information necessary to allow them to make an informed decision as to whether to file a proof of claim; and (c) describe the procedures for filing a timely proof of claim and the consequences of failing to do so.

B. Supplemental Mailings

23. After the initial mailing of the Bar Date Notice, the Debtors may, in their discretion, make supplemental mailings of notices, including in the event that: (a) notices are returned by the post office with forwarding addresses;³ (b) certain parties acting on behalf of parties in interest (e.g., banks and brokers with respect to equity or interest holders) decline to distribute notices to these parties and instead return their names and addresses to the Debtors for direct mailing; and (c) additional potential claimants or parties in interest become known as the result of the Bar Date noticing process. In this regard, the Debtors request that the Court permit the Debtors to make supplemental mailings of the Bar Date Notice in these and similar circumstances at any time up to twenty-one (21) days in advance of the applicable Bar Date, with any such mailings deemed timely and such Bar Date being applicable to the recipient creditors.

C. Publication Notice.

24. In the interest of ensuring that all potential claimants receive adequate notice of the General Bar Date, in addition to providing the Bar Date Notice to all known holders of claims, the Debtors propose to provide notice of the General Bar Date by publication. The Debtors propose to publish the Bar Date Notice in accordance with Bankruptcy Rule 2002(1), modified for publication in substantially the form annexed as **Exhibit 3** to the Bar Date Order (the "Publication Notice"), on one occasion in the national edition of *The New York Times*, or a similarly situated publication, within three (3) business days of entry of the Bar Date Order or as soon as reasonably practicable thereafter, ensuring compliance with the requirements of Bankruptcy Rule 2002(a)(7) that such notice be published at least 21 days before the General Bar Date.

³ To the extent that any notices are returned as "return to sender" without a forwarding address, the Debtors request that they not be required to mail additional notices to such creditors.

25. The proposed Publication Notice includes a telephone number that creditors may call to obtain copies of the proof of claim form, the URL for the Debtors' case website maintained by KCC at which creditors may obtain a copy of the proof of claim form, and information concerning the procedures and appropriate deadlines for filing a proof of claim form.

BASIS FOR RELIEF

I. The Court Is Authorized to Approve the Bar Dates and the Proposed Procedures for Filing Proofs of Claim.

26. Bankruptcy Rule 3003(c)(3) generally governs the filing of proofs of claim in a chapter 11 case and provides, in relevant part, that “[t]he court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed.” Fed. R. Bankr. P. 3003(c)(3). Neither the Bankruptcy Code nor the Bankruptcy Rules specify a time by which proofs of claim must be filed in chapter 11 cases (other than section 502(b)(9) of the Bankruptcy Code relating to governmental units). Local Rule 3003-1 provides a time for filing proof of claims, however it also allows for a different time to be set by the Court. *See* Local Rule 3003-1.

27. It is well-recognized that a claims bar date plays an essential role in the twin goals of bankruptcy—preserving a debtor's assets and maximizing property available to satisfy creditors. *See, e.g., Bank of Am. Nat. Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 453 (1999). A claims bar date allows the debtor and parties in interest to expeditiously determine and evaluate the liabilities of the estate. The absence of such a deadline, in contrast, would prolong creditor uncertainty, increase the costs and expenses incurred by a debtor in connection with the claims reconciliation process, and delay or even derail the claims process, thus undercutting one of the principal purposes of bankruptcy law—“secur[ing] a prompt and effectual administration

and settlement of the estate of all bankrupts within a limited period.” *See Katchen v. Landy*, 382 U.S. 323 (1966).

28. The Debtors’ procedures, described herein, provide creditors with notice and opportunity and a clear process for filing their claims, all while achieving administrative and judicial efficiency. Indeed, the proposed procedures will provide comprehensive notice and clear instructions to creditors, on the one hand, and allow these chapter 11 cases to move forward quickly with a minimum of administrative expense and delay, on the other hand. Accordingly, they should be approved.

II. The Proposed Notice Procedures Are Reasonable and Appropriate.

29. Bankruptcy Rule 2002(a)(7) requires that the Debtors provide claimants at least 21 days’ notice by mail of the Bar Dates pursuant to Bankruptcy Rule 3003(c). Fed. R. Bankr. P. 2002(a)(7). Additionally, Bankruptcy Rule 2002(l) provides that the Court may order notice by publication if it finds that notice by mail is impractical or it is desirable to supplement other notice. Fed. R. Bankr. P. 2002(1). Bankruptcy Rule 9008 also provides that the Court shall determine the form and manner of publication notice, the newspapers used, and the frequency of publication. Fed. R. Bankr. P. 9008.

30. In conjunction with setting deadlines to file proofs of claim, the Debtors must provide appropriate notice to interested parties. The Debtors submit that they will provide appropriate notice by mailing the Bar Date Notice to their known creditors and relying on publication to give notice to their unknown creditors. *See, e.g., Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 317 (1950).

31. Where a creditor is known to the debtor, due process requires that a debtor must take reasonable steps, such as direct mailing, to provide actual notice of the deadline for filing proofs of claim. A creditor’s identity is “reasonably ascertainable” if that creditor can be identified

through “reasonably diligent efforts.” *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 798 n.4 (1983). But this does not require a debtor to engage in “impracticable and extended searches . . . in the name of due process.” *See Mullane*, 339 U.S. at 317–18.

32. The relief requested herein provides for clear notice of the General Bar Date in satisfaction of the requirements of the Bankruptcy Rules and consistent with the underlying policies of the Bankruptcy Code and applicable case law. Specifically, to the extent the General Bar Date is established as July 22, 2024 at 4:00 p.m. (prevailing Central Time), the Debtors intend to (a) mail the Bar Date Notice to known holders of claims on or before three (3) business days after the date the Court enters the Bar Date Order; and (b) provide Publication Notice by a date that is at least twenty-one (21) days before the General Bar Date. The Debtors will also publish the Publication Notice within three (3) business days of entry of the Bar Date Order or as soon as reasonably practicable thereafter, providing unknown or unreachable holders of Claims with constructive notice of the Bar Date for filing their proofs of claim, thereby satisfying Bankruptcy Rule 2002(a)(7). Finally, because the Debtors filed their Schedules on the deadline of May 6, 2024, known holders of claims have had ample opportunity to review the Schedules, reconcile the information contained therein with their own books and records, and prepare and file proofs of claim, if necessary.

33. In the event that the Debtors amend their Schedules in accordance with Bankruptcy Rule 1009 and Bankruptcy Local Rule 1009-1, the Debtors shall give notice of any amendment to the holders of affected claims and such holders will have no less than twenty-one (21) days from the date of mailing such notice of amendment to file proofs of claim with respect to their claims.

34. Accordingly, for all the foregoing reasons, the proposed Bar Dates and the form and manner of providing notice thereof are appropriate in light of the circumstances, inure to the benefit of all parties in interest and should be approved.

III. Redaction of Certain Confidential Information.

35. Bankruptcy Rule 5003 requires the clerk of the Court to maintain a list of claims in a publicly available claims register. Fed. R. Bankr. P. 5003. Proofs of claim forms, as well as supporting documentation, often contain personal information such as the creditor's name and address. Section 107(c)(1) of the Bankruptcy Code provides that the Court, for cause, may protect any means of identification contained in any paper filed or to be filed in a case under the Bankruptcy Code. 11 U.S.C. § 107(c)(1).

36. Cause exists for the Court to authorize creditors of the Debtors to file a redacted proof of claim that does not disclose personally identifiable information with KCC, provided that an unredacted proof of claim shall be provided upon request by the Debtors. Such information could be used to perpetrate identity theft or unlawful injury to an individual and may result in a violation of the applicable data privacy laws governing the use of information outside of the United States.⁴

RESERVATION OF RIGHTS

37. Nothing contained herein or any action taken pursuant to relief requested is intended to be or shall be construed as (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy

⁴ See Debtors' Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) File a Consolidated Creditor Matrix and (B) File a Consolidated List of 30 Largest Unsecured Creditors; (II) Waiving the Requirement to File a List of Equity Security Holders; (III) Authorizing the Debtors to Redact Certain Personal Identifying Information; and (IV) Approving the Form and Manner of Notifying Creditors of the Commencement of the Chapter 11 Cases and Other Information [Docket No. 85].

law; (b) a waiver of the Debtors' or any party in interest's rights to dispute any claim or interest on any grounds; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested in this motion or a finding that any particular claim is an administrative expense claim or other priority claim; (f) a request for or approval to assume, adopt, or reject any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code; or (g) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' or any party in interest's rights to subsequently dispute such claim.

NOTICE

38. The Debtors will provide notice of this motion to the following: (a) the U.S. Trustee for the Northern District of Texas; (b) the holders of the thirty (30) largest unsecured claims against the Debtors (on a consolidated basis); (c) Innovatus Life Sciences Lending Fund I, LP, as agent to the Debtors' secured lenders, and counsel thereto; (d) the United States Attorney's Office for the Northern District of Texas; (e) the Food and Drug Administration; (f) the Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the state attorneys general for the states in which the Debtors conduct business; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. No other or further notice is needed in light of the nature of the relief requested.

WHEREFORE, the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: June 2, 2024
Dallas, Texas

SIDLEY AUSTIN LLP

/s/ Thomas R. Califano

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*Attorneys to the Debtors and
Debtors in Possession*

Certificate of Service

I certify that on June 2, 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 Northern District of Texas.

/s/ Thomas R. Califano
Thomas R. Califano

Exhibit A

Bar Date Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**[PROPOSED] ORDER (I) SETTING BAR DATES FOR FILING PROOFS OF CLAIM;
(II) APPROVING FORM AND MANNER FOR FILING PROOFS OF CLAIM; AND
(III) APPROVING THE FORM AND MANNER FOR FILING PROOFS OF CLAIM,
INCLUDING SECTION 503(b)(9) REQUESTS NOTICE OF BAR DATES**

Upon consideration of the motion (“Motion”)² of the debtors and debtors in possession on the above-captioned chapter 11 cases (collectively, the “Debtors”), for entry of an order (this “Order”) (i) setting bar dates for the filing of proofs of claim; (ii) approving the form and

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors’ service address is 2100 Ross Avenue, Dallas, Texas 75201.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Motion.

manner for filing proofs of claim; (c) approving the notice of bar dates; and (d) granting related relief, each as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtors' estates, their creditors and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and that no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. Except as otherwise provided below, each person or entity that asserts a claim against the Debtors that arose (or is deemed to have arisen) before the Petition Date, including all priority claims, shall be required to file an original, written proof of claim, substantially in the form of Official Form 410, so that such proof of claim form is **actually received** on or before July 22, 2024 at 4:00 p.m. (prevailing Central Time) (the "General Bar Date") by KCC in accordance with the instructions set forth in this Order.

2. Any entity that asserts a claim against the Debtors that arose before the Petition Date is authorized to file a proof of claim that redacts personally identifiable information with KCC; *provided* that an unredacted proof of claim shall be provided upon request by the Debtors.

3. The Debtors are authorized to take reasonable action to prevent an entity's personally identifiable information from being publicly available on the claims register.

4. All governmental units holding claims (whether secured, unsecured priority, or unsecured non-priority) that arose (or is deemed to have arisen) before the Petition Date must file proofs of claim, including claims for unpaid taxes, if any, whether such claims arise from prepetition tax years or periods, or prepetition transactions to which the Debtors were a party, so that they are **actually received** on or before September 30, 2024 at 4:00 p.m. (prevailing Central Time) (the "Governmental Bar Date") by KCC in accordance with the instructions set forth in this Order.

5. In the event that the Debtors amend or supplement their Schedules after having given notice of the Bar Dates, holders of claims affected thereby must file proofs of claim with respect to such claims so that they are actually received on or before the later of: (a) the General Bar Date or the Governmental Bar Date, as applicable to such claims; and (b) 4:00 p.m. (prevailing Central Time) on the date that is twenty-one (21) days from the date on which the Debtors mail notice of the amendment or supplement to the Schedules (the "Amended Schedules Bar Date"). Notice of the Amended Schedules Bar Date shall be sent to each claimant holding a claim affected by any such amendment or supplement and shall describe the listing and treatment of such claim on the Schedules, including how such treatment has changed, if applicable, and indicate the Amended Schedules Bar Date for such claim.

6. All proofs of claim must be **actually received** by KCC on or before the applicable Bar Date. If proofs of claim are not received by KCC on or before the applicable Bar Date, the holders of the underlying claims shall be barred from asserting such claims against the Debtors

and precluded from voting on any chapter 11 plans filed in these chapter 11 cases and/or receiving distributions from the Debtors on account of such claims in these chapter 11 cases.

7. The following entities holding claims against the Debtors arising prior to the Petition Date shall be required to file a proof of claim on or before the applicable Bar Date:

- a. any entity whose claim against a Debtor is not listed in the applicable Debtor's Schedules or is listed as contingent, unliquidated, or disputed if such entity desires to participate in any of these chapter 11 cases or share in any distribution in any of these chapter 11 cases;
- b. any entity who believes that its claim is improperly classified in the Schedules or is listed in an incorrect amount and who desires to have its claim allowed in a different classification or amount other than that identified in the Schedules;
- c. any former or present full-time, part-time, salaried, or hourly employees must submit Proofs of Claim relating to any grievance, including claims for wrongful termination, discrimination, harassment, hostile work environment, retaliation, and/or unpaid severance prior to the General Bar Date to the extent grounds for such grievances arose on or prior to the Petition Date; *provided* that current employees of the Debtors are not required to file a proof of claim for wages, commissions, or benefits if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business;
- d. any entity that believes that its prepetition claim as listed in the Schedules is not an obligation of the specific Debtor against which the claim is listed and that desires to have its claim allowed against a Debtor other than that identified in the Schedules; and
- e. any entity who believes that its claim against a Debtor is or may be an administrative expense pursuant to section 503(b)(9) of the Bankruptcy Code.

8. The following entities, in the capacities described below, shall **not** be required to file a proof of claim prior to the applicable Bar Date:

- a. the U.S. Trustee, on account of claims for fees payable pursuant to 28 U.S.C. § 1930;
- b. any entity that already has filed a signed proof of claim against the applicable Debtor with KCC in a form substantially similar to Official Form 410 with respect to the claim asserted therein;

- c. any person or entity whose claim is listed on the Schedules if: (i) the claim is *not* scheduled as any of “disputed,” “contingent,” or “unliquidated;” and (ii) such person or entity agrees with the amount, nature, and priority of the claim as set forth in the Schedules;
- d. any person or entity whose claim has previously been allowed by order of the Court;
- e. any person or entity whose claim has been paid in full by the Debtors pursuant to the Bankruptcy Code or in accordance with an order of the Court;
- f. a current employee of the Debtors, if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business as a wage, commission, or benefit; *provided* that such current employee must submit a proof of claim by the General Bar Date for all other claims arising before the Petition Date;
- g. any person or entity holding an equity interest in any Debtor;
- h. any Debtor having a claim against another Debtor;
- i. any entity holding a claim allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code as an expense of administration incurred in the ordinary course, *provided* that any entity asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must assert such claims by filing a request for payment or a proof of claim on or prior to the Claims Bar Date;
- j. any person or entity holding a claim for which a separate deadline is fixed by the Court; and
- k. holders of claims for fees and expenses of professionals retained in these chapter 11 cases.

9. The following requirements shall apply with respect to filing and preparing each proof of claim:

- a. ***Contents of Claim Form.*** Each proof of claim form must (i) be written in English; (ii) include a claim amount denominated in United States dollars (and to the extent such claim is converted to United States dollars, the conversion rate used in such conversion); (iii) conform substantially to Official Form 410; and (iv) be signed by the holder of the claim or by an authorized agent of the holder of the claim (along with documentation of such authorization).

- b. **Section 503(b)(9) Claim.** Any proof of claim asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must also: (i) include the value of the goods delivered to and received by the Debtors in the twenty (20) days prior to the Petition Date; (ii) attach any documentation identifying the particular invoices for which the section 503(b)(9) claim is being asserted; and (iii) attach documentation of any reclamation demand made to the Debtors under section 546(c) of the Bankruptcy Code (if applicable).
- c. **Original Signatures Required.** Only (i) original proof of claim forms signed electronically or in ink or (ii) proof of claim forms submitted and signed electronically using the electronic filing interface available at <https://www.kccllc.net/eiger> will be deemed acceptable for purposes of claims administration. Proof of claim forms sent by facsimile or electronic mail will **not** be accepted.
- d. **Identification of the Debtor Entity.** Each proof of claim form must clearly identify the Debtor against which a claim is asserted, including the individual Debtor's case number. A proof of claim form filed without identifying a specific Debtor will be deemed as filed only against Eiger BioPharmaceuticals, Inc.
- e. **Claim Against Multiple Debtor Entities.** Except as otherwise provided in this Order or any other order of the Court, each proof of claim must state a claim against only one Debtor and clearly indicate the Debtor against which the claim is asserted. To the extent more than one Debtor is listed on the proof of claim form, such claim may be treated as if filed only against Eiger BioPharmaceuticals, Inc.
- f. **Supporting Documentation.** Each proof of claim form must include supporting documentation in accordance with Bankruptcy Rules 3001(c) and 3001(d). Any supporting documentation that includes personally identifiable information should be redacted or hidden prior to submission.
- g. **Timely Service.** Each proof of claim form, including supporting documentation, must be filed or submitted, including supporting documentation, through any of the following methods: (i) electronic submission through PACER (Public Access to Court Electronic Records at <https://ecf.txnb.uscourts.gov/>); (ii) via the electronic filing interface available at <https://www.kccllc.net/eiger> or (iii) by U.S. mail, overnight U.S. mail, or other hand delivery system, so as to be **actually received** by KCC on or before the applicable Bar Date at the following address:

For First-Class Mail or Overnight Mail to:

Eiger Claims Processing Center
c/o Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway, Suite 300,
El Segundo, CA 90245

**PROOFS OF CLAIM SUBMITTED BY FACSIMILE OR
ELECTRONIC MAIL WILL NOT BE ACCEPTED.**

- h. *Receipt of Service.* Claimants wishing to receive acknowledgment that their proof of claim forms were received by KCC must submit (i) a copy of the proof of claim form; and (ii) a self-addressed, stamped envelope.
10. No later than three (3) business days after entry of this Order, the Debtors shall cause written notice of the Bar Dates, substantially in the form annexed as **Exhibit 1** (the “Bar Date Notice”) to be mailed via first class mail, to the following entities:
- a. the Debtors and their counsel;
 - b. the U.S. Trustee for the Northern District of Texas;
 - c. any statutory committee appointed in these chapter 11 cases and its counsel;
 - d. the entities listed as holding the 30 largest unsecured claims against the Debtors (on a consolidated basis);
 - e. all known creditors and other known holders of claims against the Debtors;
 - f. the Prepetition Term Loan Lenders and their counsel;
 - g. all persons or entities that have requested notice of the proceedings in these chapter 11 cases pursuant to Bankruptcy Rule 2002 as of the date of the Bar Date Order;
 - h. all persons or entities that have filed proofs of claim in these chapter 11 cases as of the date of the Bar Date Order;
 - i. all known brokers, registered holders, and nominee holders of equity interests in the Debtors as of the date the Bar Date Order is entered;
 - j. all known entities who are party to executory contracts and unexpired leases with the Debtors;
 - k. all known entities who are party to active litigation with the Debtors;

- l. all current and former employees of the Debtors employed within one year of the Petition Date (to the extent that contact information for former employees is available in the Debtors' records);
- m. all regulatory authorities that regulate the Debtors;
- n. the Office of the Attorney General for the State of Texas and each of the states in which the Debtors conduct business;
- o. the Office of the United States Attorney for the Northern District of Texas;
- p. the United States Securities and Exchange Commission;
- q. the United States Internal Revenue Service; and
- r. all other taxing authorities for the jurisdictions in which the Debtors have paid taxes within one year of the Petition Date.

11. The Debtors shall also post the Bar Date Notice on the Debtors' case website established by KCC at <https://www.kcellc.net/Eiger>.

12. The Debtors shall also publish the Bar Date Notice on one occasion in the national edition of *The New York Times*, or a similarly situated publication, within three (3) business days of entry of the Bar Date Order or as soon as reasonably practicable thereafter.

13. The Debtors are authorized, in their discretion, to extend the applicable Bar Date for certain holders of claims by stipulation where the Debtors determine that such extension is in the best interest of their estates.

14. The Debtors shall serve notice of the Bar Dates to their known creditors, and such mailing shall be made to the last known mailing address for each such creditor, as reflected in the Debtors' books and records at such time.

15. After the initial service of the Bar Date Notice, the Debtors may, in their sole discretion, make supplemental mailings of notices, including in the event that: (a) notices are returned by the post office with forwarding addresses; (b) certain parties acting on behalf of parties in interest decline to pass along notices to these parties and instead return their names and addresses

to the Debtors for direct mailing, and (c) additional potential claimants become known as the result of the Bar Date mailing process. In this regard, the Debtors may make supplemental mailings of the Bar Date Notice in these and similar circumstances at any time up to twenty-one (21) days in advance of the applicable Bar Date, with any such mailings being deemed timely and the Bar Date being applicable to the recipient creditors. The Debtors shall not be required to mail additional notices to any entity or party, for which any notice is returned to the Debtors as “return to sender” without a forwarding address.

16. The Bar Date Notice, the Publication Notice, and any supplemental notices that the Debtors may send from time to time as set forth in this Order constitute adequate and sufficient notice of each of the respective Bar Dates and satisfies the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules.

17. Any person or entity that is required, but fails, to file a proof of claim in accordance with this Order on or before the applicable Bar Date shall be forever barred, estopped, and enjoined from asserting such claim against the Debtors and their chapter 11 estates (or filing a proof of claim with respect thereto) and the Debtors and their property and estates shall be forever discharged from any and all indebtedness or liability with respect to or arising from such claim. Without limiting the foregoing sentence, any creditor asserting a claim entitled to priority pursuant to section 503(b)(9) of the Bankruptcy Code that fails to file a proof of claim in accordance with this Order shall not be entitled to any priority treatment on account of such claim pursuant to section 503(b)(9) of the Bankruptcy Code, regardless of whether such claim is identified on the Schedules as not contingent, not disputed, and liquidated. Such person or entity shall not be treated as a creditor with respect to such claim for any purpose in these chapter 11 cases.

18. Any such entity that is required, but fails, to file a proof of claim in accordance with this Order on or before the applicable Bar Date shall be prohibited from voting to accept or reject any chapter 11 plan filed in these chapter 11 cases, participating in any distribution in these chapter 11 cases on account of such claim, or receiving further notices regarding such claim.

19. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

20. The Debtors are authorized to take all actions necessary to implement the relief granted in this Order.

21. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

22. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

23. The Court retains jurisdiction with respect to all matters arising from or relating to the implementation, interpretation, and enforcement of this Order.

END OF ORDER

Submitted By:

SIDLEY AUSTIN LLP

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*Counsel to the Debtors and Debtors in
Possession*

Exhibit 1

Bar Date Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**NOTICE OF (I) DATE BY WHICH PARTIES MUST FILE PROOFS OF CLAIM; AND
(II) PROCEDURES FOR FILING PROOFS OF CLAIM AGAINST THE DEBTORS**

The debtors and debtors in possession on the above-captioned chapter 11 cases (collectively, the “Debtors”) (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Texas (the “Court”) on April 1, 2024 (the “Petition Date”).

On June 2, 2024, the Debtors filed the *Debtors’ Motion for Entry of an Order (I) Setting Bar Dates for Filing Proofs of Claim; (II) Approving Form and Manner for Filing Proofs of Claim; (III) Approving the Form and Manner for Filing Proofs of Claim, Including Section 503(b)(9) Requests Notice of Bar Dates* [Docket No. [●]] (the “Bar Date Motion”) with the Court. On [●], the Court entered an order approving the Bar Date Motion [Docket No. [●]] (the “Bar Date Order”) and establishing certain dates (each, a “Bar Date,” and collectively, the “Bar Dates”) by which parties holding claims against the Debtors arising prior to the Petition Date must file proofs of claim. Each date is expressly set forth below.

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE HOLDING A CLAIM AGAINST THE DEBTORS IN THE ABOVE-CAPTIONED CHAPTER 11 CASES. THEREFORE, YOU SHOULD READ THIS NOTICE CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

Background to the Debtors’ Chapter 11 Cases

A. General Information About the Debtors’ Cases. The Debtors’ chapter 11 cases are being jointly administered under case number 24-80040 (SGJ) (Bankr. N.D. Tex.). No

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors’ service address is 2100 Ross Avenue, Dallas, Texas 75201.

request for the appointment of a trustee or examiner has been made in these chapter 11 cases.

- B. Access to Proof of Claim Forms and Additional Information.** If you have any questions regarding the claims processing and/or if you wish to obtain a copy of the Bar Date Motion, Bar Date Order, proof of claim form, or related documents (and/or any other pleadings filed in these chapter 11 cases) you may do so by: (i) visiting the website of the Debtors' claims, noticing, and solicitation agent, Kurtzman Carson Consultants LLC ("KCC") at: <https://www.kccllc.net/Eiger>, (ii) (888) 733-1544 (Toll-Free) or (310) 751-2638 (International), and/or (iii) emailing <http://www.kccllc.net/Eiger/inquiry>. Please note that KCC **cannot** advise you on how to file, or whether you should file, a proof of claim.
- C. Schedules of Assets and Liabilities.** The Debtors filed their statement of financial affairs and schedules of assets and liabilities with the Court (collectively, the "Schedules") on May 6, 2024 [Docket No. 228]. The Schedules are available online and free of charge at <https://www.kccllc.net/Eiger> or for a fee via PACER at <https://ecf.txnb.uscourts.gov/>.

Bar Dates Approved by the Court

The Court has established the following Bar Dates as those dates by which parties holding claims against the Debtors arising prior to the Petition Date must file proofs of claims so that they are **actually received** by KCC:

General Bar Date: **July 22, 2024 at 4:00 p.m. (prevailing Central Time)** is the date by which all entities (which includes individual persons, estates, trusts, partnerships, and corporations, among others) must file proofs of claims.

Governmental Bar Date: **September 30, 2024 at 4:00 p.m. (prevailing Central Time)** is the date by which all governmental units holding claims (whether secured, unsecured priority, or unsecured non-priority) must file proofs of claim, including claims for unpaid taxes, if any, whether such claims arise from prepetition tax years or periods, or prepetition transactions to which the Debtors were a party.

Amended Schedules Bar Date: To the extent applicable, the later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) twenty one (21) days from the date on which the Debtors mail notice of an amendment to the Schedules is the date by which holders of claims affected thereby must file proofs of claims.

Parties Required to File Claim Forms

- A. Definition of Claim.** Under section 101(5) of the Bankruptcy Code and as used herein, the word “claim” means: (i) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (ii) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.
- B. Parties Who Must File Claim Forms.** The following entities holding claims against the Debtors arising prior to the Petition Date are required to file a proof of claim on or before the applicable Bar Date:
- a. any entity whose claim against a Debtor is not listed in the applicable Debtor’s Schedules or is listed as contingent, unliquidated, or disputed if such entity desires to participate in any of these chapter 11 cases or share in any distribution in any of these chapter 11 cases;
 - b. any entity who believes that its claim is improperly classified in the Schedules or is listed in an incorrect amount and who desires to have its claim allowed in a different classification or amount other than that identified in the Schedules;
 - c. any former or present full-time, part-time, salaried, or hourly employees must submit Proofs of Claim relating to any grievance, including claims for wrongful termination, discrimination, harassment, hostile work environment, retaliation, and/or unpaid severance prior to the General Bar Date to the extent grounds for such grievances arose on or prior to the Petition Date; *provided* that current employees of the Debtors are not required to file a proof of claim for wages, commissions, or benefits if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business;
 - d. any entity that believes that its prepetition claim as listed in the Schedules is not an obligation of the specific Debtor against which the claim is listed and that desires to have its claim allowed against a Debtor other than that identified in the Schedules; and
 - e. any entity who believes that its claim against a Debtor is or may be an administrative expense pursuant to section 503(b)(9) of the Bankruptcy Code.
- C. Parties Who Do Not Need to File Claim Forms.** Certain parties are not required to file a proof of claim. The Court may, however, enter one or more separate orders at a later

time requiring holders of claims to file proofs of claim and setting related deadlines. If the Court does enter such an order, you will receive notice of it.

The following persons or entities holding claims that would otherwise be subject to the applicable Bar Date need **not** file proofs of claim:

- a. the U.S. Trustee, on account of claims for fees payable pursuant to 28 U.S.C. § 1930;
- b. any entity that already has filed a signed proof of claim against the applicable Debtor with KCC in a form substantially similar to Official Form 410 with respect to the claim asserted therein;
- c. any person or entity whose claim is listed on the Schedules if: (i) the claim is ***not*** scheduled as any of “disputed,” “contingent,” or “unliquidated;” and (ii) such person or entity agrees with the amount, nature, and priority of the claim as set forth in the Schedules;
- d. any person or entity whose claim has previously been allowed by order of the Court;
- e. any person or entity whose claim has been paid in full by the Debtors pursuant to the Bankruptcy Code or in accordance with an order of the Court;
- f. a current employee of the Debtors, if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business as a wage, commission, or benefit; *provided* that such current employee must submit a proof of claim by the General Bar Date for all other claims arising before the Petition Date;
- g. any person or entity holding an equity interest in any Debtor;
- h. any Debtor having a claim against another Debtor;
- i. any entity holding a claim allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code as an expense of administration incurred in the ordinary course, *provided* that any entity asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must assert such claims by filing a request for payment or a proof of claim on or prior to the Claims Bar Date;
- j. any person or entity holding a claim for which a separate deadline is fixed by the Court; and
- k. holders of claims for fees and expenses of professionals retained in these chapter 11 cases.

Instructions for Filing Claim Forms

- A. ***Contents of Claim Form.*** Each proof of claim form must (i) be written in English; (ii) include a claim amount denominated in United States dollars (and to the extent such claim is converted to United States dollars, the conversion rate used in such conversion); (iii) conform substantially to Official Form 410; and (iv) be signed by the holder of the claim or by an authorized agent of the holder of the claim (along with documentation of such authorization).
- B. ***Section 503(b)(9) Claim.*** Any proof of claim asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must also: (i) include the value of the goods delivered to and received by the Debtors in the twenty (20) days prior to the Petition Date; (ii) attach any documentation identifying the particular invoices for which the section 503(b)(9) claim is being asserted; and (iii) attach documentation of any reclamation demand made to the Debtors under section 546(c) of the Bankruptcy Code (if applicable).
- C. ***Original Signatures Required.*** Only (i) original proof of claim forms signed electronically or in ink or (ii) proof of claim forms submitted and signed electronically using the electronic filing interface available at <https://www.kccllc.net/eiger> will be deemed acceptable for purposes of claims administration. Proof of claim forms sent by facsimile or electronic mail will **not** be accepted.
- D. ***Identification of the Debtor Entity.*** Each proof of claim form must clearly identify the Debtor against which a claim is asserted, including the individual Debtor's case number. A proof of claim form filed without identifying a specific Debtor will be deemed as filed only against Eiger BioPharmaceuticals, Inc.
- E. ***Claim Against Multiple Debtor Entities.*** Except as otherwise provided in the Bar Date Order or any other order of the Court, each proof of claim must state a claim against only one Debtor and clearly indicate the Debtor against which the claim is asserted. To the extent more than one Debtor is listed on the proof of claim form, such claim may be treated as if filed only against Eiger BioPharmaceuticals, Inc.
- F. ***Supporting Documentation.*** Each proof of claim form must include supporting documentation in accordance with Bankruptcy Rules 3001(c) and 3001(d). Any supporting documentation that includes personally identifiable information should be redacted or hidden prior to submission.
- G. ***Timely Service.*** Each proof of claim form, including supporting documentation, must be filed or submitted, including supporting documentation, through any of the following methods: (i) electronic submission through PACER (Public Access to Court Electronic Records at <https://ecf.txnb.uscourts.gov/>); (ii) via the electronic filing interface available at <https://www.kccllc.net/eiger> or (iii) by U.S. mail, overnight U.S. mail, or other hand delivery system, so as to be **actually received** by KCC on or before the applicable Bar

Date at the following address: Eiger Claims Processing Center c/o KCC 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245.

- H. ***Receipt of Service.*** Claimants wishing to receive acknowledgment that their proof of claim forms were received by KCC must submit (i) a copy of the proof of claim form; and (ii) a self-addressed, stamped envelope.

Consequences of Failing to Timely File Your Claim Form

Pursuant to the Bar Date Order and in accordance with Bankruptcy Rule 3003(c)(2), if you or any party or entity who is required, but fails, to file a proof of claim in accordance with the Bar Date Order on or before the applicable Bar Date, please be advised that (absent the consent of the Debtors, in their sole discretion):

- **YOU WILL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH CLAIM AGAINST THE DEBTORS (OR FILING A PROOF OF CLAIM WITH RESPECT THERETO);**
- **YOU WILL NOT RECEIVE ANY DISTRIBUTION IN THESE CHAPTER 11 CASES ON ACCOUNT OF THAT CLAIM; AND**
- **YOU WILL NOT BE PERMITTED TO VOTE ON ANY CHAPTER 11 PLAN OR PLANS FOR THE DEBTORS ON ACCOUNT OF THAT CLAIM OR RECEIVE FURTHER NOTICES REGARDING SUCH CLAIM.**

Amendments to the Debtors' Schedules

- A. **Amendments to Schedules.** In the event that the Debtors amend their Schedules after the date of this notice, the Debtors will provide holders of claims that are affected by any such amendment notice of the amendment, and such parties will be given an opportunity to file proofs of claim before a new deadline that will be specified in that future notice.
- B. **Amended Schedules Bar Date.** The Court has approved the later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) twenty one (21) days from the date on which the Debtors mail notice of the amendment to the Schedules as the date by which holders of claims affected by the amendment must file proofs of claim with respect to such claims.

Reservation of Rights

Nothing contained in this notice is intended to or should be construed as a waiver of the Debtors' right to: (a) dispute, or assert offsets or defenses against, any filed claim or any claim listed or reflected in the Schedules as to the nature, amount, liability, or classification thereof; (b) subsequently designate any scheduled claim as disputed, contingent, or unliquidated; or (c) otherwise amend or supplement the Schedules.

Dated: [•], 2024
Dallas, Texas

/s/

Thomas R. Califano (TX Bar No. 24122825)
William E. Curtin (admitted *pro hac vice*)
Anne G. Wallice (admitted *pro hac vice*)
787 Seventh Avenue
New York, NY 10019
Telephone: (212) 839-5300
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and

Charles M. Persons (TX Bar No. 24060413)
2021 McKinney Avenue, Suite 2000
Dallas, Texas 75201
Telephone: (214) 981-3300
Facsimile: (214) 981-3400
Email: cpersons@sidley.com

Counsel to the Debtors and Debtors in Possession

Exhibit 2

Proof of Claim Form

United States Bankruptcy Court for the Northern District of Texas

Indicate Debtor against which you assert a claim by checking the appropriate box below. **(Check only one Debtor per claim form.)**

- Eiger BioPharmaceuticals, Inc. (Case No. 24-80040)
 EB Pharma LLC (Case No. 24-80042)
 EigerBio Europe Limited (Case No. 24-80044)
 EBPI Merger Inc. (Case No. 24-80041)
 Eiger BioPharmaceuticals Europe Limited (Case No. 24-80043)

Modified Official Form 410 Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim

1. Who is the current creditor?

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?

No

Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?

Where should notices to the creditor be sent?

Where should payments to the creditor be sent? (if different)

Name

Name

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Number Street

Number Street

City State ZIP Code

City State ZIP Code

Country

Country

Contact phone _____

Contact phone _____

Contact email _____

Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?

No

Yes. Claim number on court claims registry (if known) _____

Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?

No

Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ _____ Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____%
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?** No Yes. *Check all that apply:* **Amount entitled to priority**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$	
<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$	
<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$	
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$	
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$	
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(<u> </u>) that applies.	\$	

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?** No Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date _____
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name _____
First name Middle name Last name

Title _____

Company _____
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____
Number Street

City State ZIP Code Country

Contact phone _____ Email _____

Modified Official Form 410

Instructions for Proof of Claim

United States Bankruptcy Court

12/15

These instructions and definitions generally explain the law. In certain circumstances, such as bankruptcy cases that debtors do not file voluntarily, exceptions to these general rules may apply. You should consider obtaining the advice of an attorney, especially if you are unfamiliar with the bankruptcy process and privacy regulations.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.
18 U.S.C. §§ 152, 157 and 3571

PLEASE SEND COMPLETED PROOF(S) OF CLAIM TO:

Eiger Claims Processing Center
c/o KCC
222 N. Pacific Coast Hwy., Ste. 300
El Segundo, CA 90245

Alternatively, your claim can be filed electronically on KCC's website at <https://epoc.kccllc.net/Eiger>

How to fill out this form

- **Fill in all of the information about the claim as of the date the case was filed.**
- **Fill in the caption at the top of the form**
- **If the claim has been acquired from someone else, then state the identity of the last party who owned the claim or was the holder of the claim and who transferred it to you before the initial claim was filed.**
- **Attach any supporting documents to this form.**
Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both. (See the definition of *redaction* on the next page.)
Also attach redacted copies of any documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called "Bankruptcy Rule") 3001(c) and (d).
- **Do not attach original documents because attachments may be destroyed after scanning.**
- **If the claim is based on delivery health care goods or services, do not disclose confidential health care information. Leave out or redact confidential information both in the claim and in the attached documents.**

- **A Proof of Claim form and any attached documents must show only the last 4 digits of any social security number, individual's tax identification number, or financial account number, and only the year of any person's date of birth.** See Bankruptcy Rule 9037.

- **For a minor child, fill in only the child's initials and the full name and address of the child's parent or guardian.** For example, write *A.B., a minor child (John Doe, parent, 123 Main St., City, State)*. See Bankruptcy Rule 9037.

Confirmation that the claim has been filed

To receive confirmation that the claim has been filed, either enclose a stamped self-addressed envelope and a copy of this form or you may view a list of filed claims in this case by visiting the Claims and Noticing and Agent's website at <http://www.kccllc.net/Eiger>

Understand the terms used in this form

Administrative expense: Generally, an expense that arises after a bankruptcy case is filed in connection with operating, liquidating, or distributing that bankruptcy estate.
11 U.S.C. § 503

Claim: A creditor's right to receive payment for a debt that the debtor owed on the date the debtor filed for bankruptcy. 11 U.S.C. § 101 (5). A claim may be secured or unsecured.

Claim Pursuant to 11 U.S.C. §503(b)(9): A claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of the Debtor's business. Attach documentation supporting such claim.

Creditor: A person, corporation, or other entity to whom a debtor owes a debt that was incurred on or before the date the debtor filed for bankruptcy. 11 U.S.C. §101 (10).

Debtor: A person, corporation, or other entity to who is in bankruptcy. Use the debtor's name and case number as shown in the bankruptcy notice you received. 11 U.S.C. §101 (13).

Evidence of perfection: Evidence of perfection of a security interest may include documents showing that a security interest has been filed or recorded, such as a mortgage, lien, certificate of title, or financing statement.

Information that is entitled to privacy: A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, an individual's tax identification number, or a financial account number, only the initials of a minor's name, and only the year of any person's date of birth. If a claim is based on delivering health care goods or services, limit the disclosure of the goods or services to avoid embarrassment or disclosure of confidential health care information. You may later be required to give more information if the trustee or someone else in interest objects to the claim.

Priority claim: A claim within a category of unsecured claims that is entitled to priority under 11 U.S.C. §507(a). These claims are paid from the available money or property in a bankruptcy case before other unsecured claims are paid. Common priority unsecured claims include alimony, child support, taxes, and certain unpaid wages.

Proof of claim: A form that shows the amount of debt the debtor owed to a creditor on the date of the bankruptcy filing. The form must be filed in the district where the case is pending.

Redaction of information: Masking, editing out, or deleting certain information to protect privacy. Filers must redact or leave out information entitled to **privacy** on the *Proof of Claim* form and any attached documents.

Do not file these instructions with your form.

Secured claim under 11 U.S.C. §506(a): A claim backed by a lien on particular property of the debtor. A claim is secured to the extent that a creditor has the right to be paid from the property before other creditors are paid. The amount of a secured claim usually cannot be more than the value of the particular property on which the creditor has a lien. Any amount owed to a creditor that is more than the value of the property normally may be an unsecured claim. But exceptions exist; for example, see 11 U.S.C. § 1322(b) and the final sentence of 1325(a).

Examples of liens on property include a mortgage on real estate a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In states, a court judgment may be a lien.

Setoff: Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

Uniform claim identifier: An optional 24-character identifier that some creditors use to facilitate electronic payment.

Unsecured claim: A claim that does not meet the requirements of a secured claim. A claim may be unsecured in part to the extent that the amount of the claim is more than the value of the property on which a creditor has a lien.

Offers to purchase a claim

Certain entities purchase claims for an amount that is less than the face value of the claims. These entities may contact creditors offering to purchase their claims. Some written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court, the bankruptcy trustee, or the debtor. A creditor has no obligation to sell its claim. However, if a creditor decides to sell its claim, any transfer of that claim is subject to Bankruptcy Rule 3001(e), any provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.) that apply, and any orders of the bankruptcy court that apply.

Exhibit 3

Publication Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

<p>In re:</p> <p>EIGER BIOPHARMACEUTICALS, INC., <i>et al.</i>¹</p> <p style="text-align: center;">Debtors.</p>	<p>Chapter 11</p> <p>Case No. 24-80040 (SGJ)</p> <p>(Jointly Administered)</p>
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**NOTICE OF (I) DATE BY WHICH PARTIES MUST FILE PROOFS OF CLAIM; AND
(II) PROCEDURES FOR FILING PROOFS OF CLAIM AGAINST THE DEBTORS**

The debtors and debtors in possession on the above-captioned chapter 11 cases (collectively, the “Debtors”) (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Texas (the “Court”) on April 1, 2024 (the “Petition Date”).

The Court has established the following Bar Dates as those dates by which parties holding claims against the Debtors arising prior to the Petition Date must file proofs of claim: (a) **July 22 at 4:00 p.m. (prevailing Central Time)** is the date by which all entities (which includes individual persons, estates, trusts, partnerships, and corporations, among others) must file proofs of claims (the “General Bar Date”); (b) **September 30, 2024 at 4:00 p.m. (prevailing Central Time)** is the date by which all governmental units holding claims (whether secured, unsecured priority, or unsecured non-priority) must file proofs of claim, including claims for unpaid taxes, if any, whether such claims arise from prepetition tax years or periods, or prepetition transactions to which the Debtors were a party (the “Governmental Bar Date”); and (c) to the extent applicable, the later of (i) the General Bar Date or the Governmental Bar Date, as applicable, and (ii) twenty one (21) days from the date on which the Debtors mail notice of an amendment to the Schedules is the date by which holders of claims affected thereby must file proofs of claims (the “Amended Schedules Bar Date”).

THE BAR DATES ESTABLISHED BY THE BAR DATE ORDER AND REFERENCED IN THIS NOTICE SUPERSEDE ANY BAR DATES ESTABLISHED, FILED, NOTICED, OR PREVIOUSLY SERVED IN THESE CHAPTER 11 CASES.

ANY PERSON OR ENTITY WHO FAILS TO FILE A PROOF OF CLAIM, INCLUDING ANY REQUEST FOR PAYMENT UNDER SECTION 503(B)(9) OF THE BANKRUPTCY CODE, ON OR BEFORE THE CLAIMS BAR DATE OR THE GOVERNMENTAL BAR

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors’ service address is 2100 Ross Avenue, Dallas, Texas 75201.

DATE, AS APPLICABLE, SHALL NOT BE TREATED AS A CREDITOR WITH RESPECT TO SUCH CLAIM FOR THE PURPOSES OF VOTING AND DISTRIBUTION ON ANY CHAPTER 11 PLAN.

Timely Service. Each proof of claim form, including supporting documentation, must be filed or submitted, including supporting documentation, through any of the following methods: (i) electronic submission through PACER (Public Access to Court Electronic Records at <https://ecf.txnb.uscourts.gov/>); (ii) via the electronic filing interface available at <https://www.kccllc.net/eiger> or (iii) by U.S. mail, overnight U.S. mail, or other hand delivery system, so as to be **actually received** by KCC on or before the applicable Bar Date at the following address:

For First-Class Mail or Overnight Mail to:

Eiger Claims Processing Center
c/o Kurtzman Carson Consultants LLC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

**PROOFS OF CLAIM SUBMITTED BY FACSIMILE
OR ELECTRONIC MAIL WILL NOT BE ACCEPTED.**

Contents of Claim Form. Each proof of claim form must (i) be written in English; (ii) include a claim amount denominated in United States dollars (and to the extent such claim is converted to United States dollars, the conversion rate used in such conversion); (iii) conform substantially to Official Form 410; and (iv) be signed by the holder of the claim or by an authorized agent of the holder of the claim (along with documentation of such authorization).

Section 503(b)(9) Claim. Any proof of claim asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must also: (i) include the value of the goods delivered to and received by the Debtors in the twenty (20) days prior to the Petition Date; (ii) attach any documentation identifying the particular invoices for which the section 503(b)(9) claim is being asserted; and (iii) attach documentation of any reclamation demand made to the Debtors under section 546(c) of the Bankruptcy Code (if applicable).

Original Signatures Required. Only (i) original proof of claim forms signed electronically or in ink or (ii) proof of claim forms submitted and signed electronically using the electronic filing interface available at <https://www.kccllc.net/eiger> will be deemed acceptable for purposes of claims administration. Proof of claim forms sent by facsimile or electronic mail will **not** be accepted.

Identification of the Debtor Entity. Each proof of claim form must clearly identify the Debtor against which a claim is asserted, including the individual Debtor's case number. A proof of claim form filed without identifying a specific Debtor will be deemed as filed only against Eiger BioPharmaceuticals, Inc.

Claim Against Multiple Debtor Entities. Except as otherwise provided in the Bar Date Order or any other order of the Court, each proof of claim must state a claim against only one Debtor and clearly indicate the Debtor against which the claim is asserted. To the extent more than one Debtor is listed on the proof of claim form, such claim may be treated as if filed only against Eiger BioPharmaceuticals, Inc.

Supporting Documentation. Each proof of claim form must include supporting documentation in accordance with Bankruptcy Rules 3001(c) and 3001(d). Any supporting documentation that includes personally identifiable information should be redacted or hidden prior to submission.

Additional Information. If you have any questions regarding the claims processing and/or if you wish to obtain a copy of the Bar Date Motion, Bar Date Order, proof of claim form, or related documents (and/or any other pleadings filed in these chapter 11 cases) you may do so by: (i) visiting the website of the Debtors' claims, noticing, and solicitation agent, Kurtzman Carson Consultants LLC ("KCC") at: <https://www.kccllc.net/eiger>, (ii) calling (888) 733-1544 (Toll-Free) or (310) 751-2638 (International), and/or (iii) emailing <http://www.kccllc.net/Eiger/inquiry>. Please note that KCC **cannot** advise you on how to file, or whether you should file, a proof of claim.