



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 5, 2024


United States Bankruptcy Judge

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

In re:

EIGER BIOPHARMACEUTICALS, *et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**ORDER GRANTING THE DEBTORS' EMERGENCY MOTION FOR AUTHORITY TO
CONDUCT EXAMINATIONS UNDER FEDERAL RULE OF BANKRUPTCY
PROCEDURE 2004**

Upon consideration of the motion (the "Motion")² of Eiger BioPharmaceuticals, Inc., and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), for entry of an order (this "Order") authorizing and directing Innovatus Life Sciences Lending Fund I, L.P. ("Innovatus") to appear for depositions and/or produce all documents within their possession,

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.



248004024060500000000001

custody, or control that are responsive to the proposed document requests (the “Requests”), each as more fully set forth in the Motion and consistent with the Court’s oral comments during the May 29, 2024 hearing; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc* dated August 3, 1984, entered by the United States District Court for the Northern District of Texas; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court being able to issue a final order consistent with Article III of the United States Constitution; and due and sufficient notice of the Motion having been given under the particular circumstances; 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, ADJUDGED, AND DECREED that:

1. The Motion is granted as set forth herein.
2. This Order is subject to Rule 30 and Rule 45 of the Federal Rules of Civil Procedure (the “Federal Rules”), made applicable by Rule 9016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

3. The Debtors are authorized to issue document requests, notices and subpoenas compelling the production of documents and the providing of testimony (“Rule 2004 Subpoenas”) in accordance with the form of requests attached to the Motion (collectively, the “Investigation Subjects”) from Innovatus and consistent with the comments of the Court at the May 29, 2024, hearing on the Motion.

4. Service of the document requests, notices or subpoenas by email is authorized upon counsel for the parties that have appeared in these cases.

5. The production and examination required hereby are subject to any applicable privilege; *provided*, that if production of a document required to be produced hereby is withheld on the basis of an asserted privilege, the subject of a Rule 2004 Subpoena shall provide a proper privilege log to the Debtors’ counsel at the time of document production. All parties’ objections to the use of any information produced in response to the Subpoenas are preserved.

6. The subject of a Rule 2004 Subpoena shall, prior to conducting an electronic search utilizing search terms, meet and confer with Debtors’ counsel to attempt to agree on appropriate search terms.

7. All disputes concerning Rule 2004 Subpoenas, including objections thereto, that are not resolved by agreement of the parties may be raised by letter brief to the Court not exceeding three pages, single spaced. The other party shall file a responsive letter brief within three business days, which shall not exceed three pages, single spaced. Copies of such letter briefs shall also be emailed to the Court’s chambers.

8. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed as a waiver of Innovatus’s rights under applicable law to seek a protective order or to quash the Rule 2004 Subpoenas.

9. Nothing in this Order shall be deemed to limit or restrict the Debtors' right to seek further discovery.

10. This Court shall retain jurisdiction to resolve any disputes arising from or related to this Order, and to interpret, implement, and enforce the provisions of this Order.

END OF ORDER

Submitted By:

SIDLEY AUSTIN LLP

Thomas R. Califano (TX Bar No. 24122825)

William E. Curtin (admitted *pro hac vice*)

John J. Kuster (admitted *pro hac vice*)

Jon W. Muenz (admitted *pro hac vice*)

Anne G. Wallace (admitted *pro hac vice*)

787 Seventh Avenue

New York, NY 10019

Telephone: (212) 839-5300

Facsimile: (212) 839-5599

Email: tom.califano@sidley.com

wcurtin@sidley.com

jkuster@sidley.com

jmuenz@sidley.com

anne.wallace@sidley.com

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

*Attorneys to the Debtors and
Debtors in Possession*