

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

In re:

EIGER BIOPHARMACEUTICALS INC., *et al.*<sup>1</sup>  
Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**DECLARATION OF JON MUENZ  
IN SUPPORT OF CONFIRMATION OF THE FOURTH  
AMENDED JOINT PLAN OF LIQUIDATION OF EIGER  
BIOPHARMACEUTICALS, INC. AND ITS DEBTOR AFFILIATES  
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

I, Jon Muenz, hereby declare under penalty of perjury as follows:

1. I am an attorney at Sidley Austin LLP (“Sidley”) and am counsel to the Debtors.

2. I am over the age of 18 years and am authorized to submit this declaration on behalf of the Debtors. If called to testify, I could and would testify competently to the facts set forth herein.

3. I submit this declaration in support of the request for entry of an order approving the Debtors’ *Amended Disclosure Statement for Joint Plan of Liquidation of Eiger BioPharmaceuticals, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 476-1] (as modified, amended, or supplemented from time to time hereafter, the “Disclosure Statement”) and confirming the *Fourth Amended Joint Plan of Liquidation of Eiger BioPharmaceuticals, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*

<sup>1</sup> 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.



[Docket No. 606-1] (as modified, amended, or supplemented from time to time hereafter, the “Plan”).<sup>2</sup>

4. In connection with the Debtors’ proposal to provide limited releases to their directors, officers, and employees (the “D&Os”), the Debtors agreed to provide discovery to the Official Committee of Equity Security Holders (the “Equity Committee”) on an informal basis and without requiring a Court order or subpoena.

5. On July 25, 2024, the Equity Committee requested 22 broad categories of documents from the Debtors. The Equity Committee requested, among other things, “[a]ny and all documents and/or communications” relating to the Debtors’ pre-petition marketing efforts, valuations of the Debtors’ assets, the Debtors’ pre-petition term loan, “failed medical trials,” efforts to obtain any type of equity or other financing, partnerships or joint ventures, SEC filings, and cash expenditures. *See* Exhibit A.

6. Within one day, on July 26, 2024, I scheduled a phone call with counsel for the Equity Committee. *See* Exhibit A. Since that time, I have personally managed, on behalf of the Debtors and with the assistance of numerous attorneys employed by my firm, the response to the Equity Committee’s requests.

7. On July 29, 2024, I sent an email to Equity Committee counsel proposing that the Debtors would produce information from five senior-level custodians, including the Company’s Chief Executive Officer, General Counsel, Chief Financial Officer, Head of Business Development, and President. In response, counsel for the Equity Committee insisted on collecting documents from six additional custodians, for a total of 11 custodians. *See* Exhibit B.

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

8. We agreed to the Equity Committee's request and promptly worked to collect documents from the Company's outside IT vendor.

9. On July 31, 2024, counsel for the Equity Committee asked that we "expedite production" of certain documents that "will aid the Equity Committee in expediting its investigation against Innovatus." I promptly agreed to do so, noting that "we are in the process of collecting documents and will revert as soon as possible on expected timing in light of the volume relating to your requested custodians." *See* Exhibit B.

10. On August 4, 2024, I informed counsel for the Equity Committee that we had "collected and identified for review approximately 24,000 documents from the eleven custodians that you have identified," and that this was a "substantial volume, but we will endeavor to begin rolling out productions as soon as possible." In that same email, I attached a draft protective order to govern document production to the Equity Committee. *See* Exhibit C.

11. The next day, on August 5, 2024, counsel for the Equity Committee provided edits to the draft protective order, including a requirement that the Debtors produce a privilege log notwithstanding the informal nature of the discovery. Nonetheless, on behalf of the Debtors, I agreed to the requested revision the following morning. *See* Exhibit C.

12. At the Equity Committee's request, the Debtors made the Company's Chief Executive Officer, Dr. David Apelian, available for multiple interviews on August 7 and August 14, 2024. Attached as Exhibit D is an email from the Equity Committee with a "summary of the areas of inquiry" for the interviews.

13. My team commenced production of documents on August 12, 2024 and by August 22, 2024 had substantially completed our production of more than 8,300 documents.

14. My team provided supplemental productions of documents to the Equity Committee on August 29, 2024, comprised solely of documents we had determined were not privileged during preparation of the Debtors' privilege log.

15. On September 2, 2024, we produced to the Equity Committee the privilege log they had requested, which contains over 3,000 entries and was a huge undertaking.

16. In addition to the informal discovery provided under the protective order, my team also provided the Equity Committee with specific documents that were additionally requested by the Equity Committee to assist in their review process.

17. The Debtors have provided the Equity Committee with everything they have requested in a highly truncated timeframe. The Equity Committee has not requested any additional information or suggested that any aspect of the information provided is deficient.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that, after reasonable inquiry, the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 3rd day of September, 2024

/s/ Jon Muenz  
By: Jon Muenz