

KRAMER LEVIN NAFTALIS & FRANKEL, LLP
Adam C. Rogoff (admitted *Pro Hac Vice*)
P. Bradley O’Neill (admitted *Pro Hac Vice*)
Andrew J. Citron (admitted *Pro Hac Vice*)
1177 Avenue of the Americas
New York, NY 10036
Tel: 212-715-9100
Fax: 212-715-8000
Email: ARogoff@kramerlevin.com
BOneill@kramerlevin.com
ACitron@kramerlevin.com

FORSHEY & PROSTOK, LLP
Jeff P. Prostok
TX State Bar No. 16352500
Emily S. Chou
TX State Bar No. 24006997
777 Main Street, Suite 1550
Fort Worth, TX 76012
Tel: 817-877-8855
Fax: 817-877-4151
Email: jprostok@forsheyprostok.com
echou@forsheyprostok.com

Counsel Innovatus Life Sciences Lending Fund I, LP

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

In re: §
§ Chapter 11
EIGER BIOPHARMACEUTICALS, INC. *et* §
*al.*¹, § Case No. 24-80040 (SGJ)
§ (Jointly Administered)
Debtors. §
§

**NOTICE OF APPEAL OF ORDER ESTIMATING CLAIM OF
INNOVATUS LIFE SCIENCES LENDING FUND I, LP FOR THE
PURPOSES OF ESTABLISHING SUFFICIENT RESERVES TO UMIMPAIR CLAIM**

Innovatus Life Sciences Lending Fund I, LP (“Innovatus”), by and through its undersigned counsel, hereby files this Notice of Appeal to the United States District Court for the Northern District of Texas, pursuant to 28 U.S.C. § 158(a) and Federal Rules of Bankruptcy Procedure 8002 and 8003. Innovatus is a secured creditor and party-in-interest in the above-captioned Chapter 11 cases.

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 2155 Park Boulevard, Palo Alto, California 94036.



Innovatus appeals the following:

Order Estimating Claim of Innovatus Life Sciences Lending Fund I, LP for the Purposes of Establishing Sufficient Reserves to Unimpair Claim [Docket No. 561] (the “Order”), which is attached hereto as **Exhibit A** and was entered on August 23, 2024.

The parties affected by this appeal of the Order are:

Appellant: Innovatus Life Sciences Lending Fund I, LP

Represented by:

KRAMER LEVIN NAFTALIS & FRANKEL, LLP
Adam C. Rogoff (admitted *Pro Hac Vice*)
P. Bradley O’Neill (admitted *Pro Hac Vice*)
Andrew J. Citron (admitted *Pro Hac Vice*)
1177 Avenue of the Americas
New York, NY 10036
Tel: 212-715-9100
Fax: 212-715-8000
Email: ARogoff@kramerlevin.com
BOneill@kramerlevin.com
ACitron@kramerlevin.com

-and-

FORSHEY & PROSTOK, LLP
Jeff P. Prostok
TX State Bar No. 16352500
Emily S. Chou
TX State Bar No. 24006997
777 Main Street, Suite 1550
Fort Worth, TX 76012
Tel: 817-877-8855
Fax: 817-877-4151
Email: jprostok@forsheyprostok.com
echou@forsheyprostok.com

**Debtors / Appellees: Eiger Biopharmaceuticals, Inc.,
EBPI Merger Inc.,
EB Pharma LLC,
Eiger BioPharmaceuticals Europe Limited, and
EigerBio Europe Limited**

Represented by:

SIDLEY AUSTIN LLP

Thomas R. Califano (TX State Bar No. 24122825)
William E. Curtin (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
anne.wallace@sidley.com

-and-

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

Interested Party:

**Office of the United States Trustee for the
Northern District of Texas**

Represented by:

Elizabeth Young
Assistant United States Trustee
Office of The United States Trustee
Earle Cabell Federal Building
1100 Commerce Street, Room 976
Dallas, TX 75242
Phone: (214) 767-8967
Facsimile: (214) 767-8971
Email: elizabeth.a.young@usdoj.gov

The Notice of Appeal is accompanied by the prescribed fee.

[remainder of page intentionally left blank]

Dated: August 30, 2024

Respectfully submitted,

/s/Jeff P. Prostok

Jeff P. Prostok
TX State Bar No. 16352500
Emily S. Chou
TX State Bar No. 24006997
FORSHEY & PROSTOK LLP
777 Main St., Suite 1550
Fort Worth, TX 76102
Tel: 817-877-8855
Fax: 817-877-4151
Email: jprostok@forsheyprostok.com
echou@forsheyprostok.com

-and-

Adam C. Rogoff (admitted *Pro Hac Vice*)
P. Bradley O'Neill (admitted *Pro Hac Vice*)
Andrew J. Citron (admitted *Pro Hac Vice*)
KRAMER LEVIN NAFTALIS & FRANKEL, LLP
1177 Avenue of the Americas
New York, NY 10036
Tel: 212-715-9100
Fax: 212-715-8000
Email: ARogoff@kramerlevin.com
BOneill@kramerlevin.com
ACitron@kramerlevin.com

*Attorneys for Innovatus Life Sciences Lending
Fund I, LP*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing instrument has been served on all parties and counsel of record in compliance with the Federal Rules of Civil Procedure on this 30th day of August.

/s/ Jeff P. Prostok _____
Jeff P. Prostok

Exhibit A



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 August 23, 2024


United States Bankruptcy Judge

**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)

**ORDER ESTIMATING CLAIM OF
INNOVATUS LIFE SCIENCES LENDING FUND I, LP FOR THE
PURPOSES OF ESTABLISHING SUFFICIENT RESERVES TO UNIMPAIR CLAIM**

Upon the motion ("Motion")² of the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), for entry of an order (this "Order") (a) estimating the Innovatus claim for purposes of calculating the Prepetition Term Loan Claims Escrow Amount; and (b) granting related relief, each as more fully set forth in the Motion; 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.

upon consideration of the First Day Declaration; 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 and the Motion in this district 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 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. The Innovatus claim amount shall be set at \$15,738,961.47 for the sole purpose of funding the Prepetition Term Loan Claims Escrow Account and rendering Innovatus unimpaired.
2. The Debtors reserve all rights to object to Innovatus's Proof of Claims and any amounts asserted therein.
3. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion, and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.
4. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

5. The Debtors are authorized to take all such reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

6. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement 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*)
Anne G. Wallice (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
anne.wallice@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 for the Debtors and Debtors in
Possession*

BTXN 116 (rev. 07/08)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

APPEAL SERVICE LIST

Transmission of the Record

BK Case No.: 24-80040-sgj11

Received in District Court by: _____

Date: _____

Volume Number(s): _____

cc: Stacey G Jernigan
Courtney Lauer
Emily Chang
Attorney(s) for Appellant
US Trustee

Appellant Innovatus Life Sciences Lending Fund I, LP

KRAMER LEVIN NAFTALIS & FRANKEL, LLP
Adam C. Rogoff (admitted Pro Hac Vice)
P. Bradley O'Neill (admitted Pro Hac Vice)
Andrew J. Citron (admitted Pro Hac Vice)
1177 Avenue of the Americas
New York, NY 10036
Tel: 212-715-9100

-and-

FORSHEY & PROSTOK, LLP
Jeff P. Prostok
Emily S. Chou
TX State Bar No. 24006997
777 Main Street, Suite 1550
Fort Worth, TX 76012
Tel: 817-877-8855

Appellee Eiger Biopharmaceuticals, Inc., EBPI Merger Inc., EB Pharma LLC, Eiger BioPharmaceuticals Europe Limited, and EigerBio Europe Limited

Thomas R. Califano (TX State Bar No. 24122825)
William E. Curtin (admitted Pro Hac Vice)
Anne G. Wallace (admitted Pro Hac Vice)
787 Seventh Avenue
New York, NY 10019
Telephone: (212) 839-5300

-and-

Charles M. Persons (TX State Bar No. 24060413)
2021 McKinney Avenue, Suite 2000

Dallas, Texas 75201
Telephone: (214) 981-3300

