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*Counsel for Dundon Advisers, LLC, as Liquidating
Trustee of the Eiger BioPharmaceuticals Liquidating
Trust*

**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)**
§
§
Debtors. § **(Jointly Administered)**

**MOTION FOR ENTRY OF AN ORDER
EXTENDING THE DEADLINE TO OBJECT TO CLAIMS**

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.

Dundon Advisers LLC in its capacity as the Liquidating Trustee (the “Liquidating Trustee” or “Movant”) of the Eiger BioPharmaceuticals Liquidating Trust (the “Liquidating Trust”),

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 Ave., Dallas, Texas 75201.



established by the *Fifth Amended Joint Plan of Liquidation of Eiger BioPharmaceuticals, Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*), which was confirmed by an order on September 5, 2024 [Docket No. 639], in the above-captioned Chapter 11 cases hereby submits this motion (the “Motion”) for an order extending the deadline to object to Claims by one-hundred eighty-two (182) days to May 30, 2025. In support of this Motion, the Movant respectfully states as follows:

Relief Requested

1. Movant seeks entry of an order, substantially in the form attached hereto as Exhibit A (the “Order”), extending the current deadline to object to Claims, which is 5:00 p.m. (Prevailing Central Time) on November 29, 2024 (the “Claims Objection Deadline”), by one-hundred eighty-two (182) days, through and including Friday, May 30, 2025, without prejudice to Movant’s right to seek additional extensions thereof.

Jurisdiction and Venue

2. 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 within the meaning of 28 U.S.C. § 157(b).

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409(a).

4. The bases for the relief requested herein are section 105 of title 11 of the United States Code (“Bankruptcy Code”) and Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Background

5. On April 1, 2024 (the “Petition Date”), each of the Debtors filed a voluntary petition with this Court under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their properties 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 jointly administered.

6. On September 5, 2024, the Court entered the *Order Approving the Debtors' Amended Disclosure Statement and Confirming the Fifth Amended Joint Plan of Liquidation of Eiger Biopharmaceuticals, Inc. and its Debtor Affiliates* [Docket No. 639] (the "Confirmation Order") confirming the *Fifth Amended Joint Plan of Liquidation of Eiger Biopharmaceuticals, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 639-1] (as may be altered, amended, supplemented, or modified from time to time, including all exhibits and schedules thereto, the "Plan").²

7. On September 30, 2024 (the "Effective Date"), the Debtors filed the *Notice of Occurrence of Effective Date of Fifth Amended Joint Plan of Liquidation of Eiger BioPharmaceuticals, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 685] (the "Notice of Effective Date"), setting forth that, *inter alia*, the Effective Date of the Plan occurred on September 30, 2024.

8. On September 30, 2024, the Liquidating Trust was formed pursuant to the Plan and the Liquidating Trust Agreement. The Plan provides that "the Liquidating Trustee shall have the sole authority to: (1) File, withdraw, or litigate to judgment, objections to Claims and Interests..." See Plan, Art. VII.B.

9. Pursuant to the Plan, the Claims Objection Deadline is 60 days after the Effective Date, thus November 29, 2024.

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

Claims Reconciliation

10. Since the Effective Date, Movant and its respective professionals have been reviewing, analyzing and reconciling the filed Claims. However, 60 days has proven too short a time to conclude that work.

11. Further, the deadline for filing all Proofs of Claims with respect to Claims arising from the rejection of Executory Contracts and/or Unexpired Leases, pursuant to the Plan or Confirmation Order, is not until October 30, 2024.

12. The Liquidating Trust will shortly be filing an omnibus objection which should deal with a majority of late, duplicate, superseded, misclassified and partially satisfied Claims. The Liquidating Trust continues to analyze and evaluate the remaining Claims and may need to prepare and file further objections during the requested extension to the Claims Objection Deadline.

13. Although Movant has been expeditiously working to reconcile Claims, and progress has been made since the Effective Date, additional time is needed to effectively reconcile and resolve the remaining Claims, and any that may still be filed. To that end, and in light of the very short timeframe provided, Movant has determined to file this Motion to seek an initial 182-day extension of the Claims Objection Deadline, through 5:00 p.m. (Prevailing Central Time) on May 30, 2025. Such extension will provide Movant with additional time to (i) review and analyze Claims; (ii) perform the required due diligence to identify objectionable Claims; (iii) negotiate consensual resolutions with as many holders of Claims as possible; and (iv) litigate any Claims which cannot be consensually resolved.

Basis for Relief

14. Section 105(a) of the Bankruptcy Code provides that “the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Furthermore, the Court is not precluded from “taking any action or making

any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.” *Id.*

15. Bankruptcy Rule 9006(b) allows a court in its discretion to lengthen the time within which “an act is required or allowed to be done.” Fed. R. Bankr. 9006(b)(1). Rule 9005(b) provides, in relevant part, that:

when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion . . . with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed

Fed. R. Bankr. P. 9006(b)(1). As Collier notes, the Court should be liberal in granting extensions of time sought before the period to act has elapsed, as long as the moving party has not been negligent, dilatory, or acting in bad faith. 10 Collier on Bankruptcy, ¶ 9006.06[3], at 9006-14 (15th rev. ed. 2001). Here, the Plan expressly provides that the Claims Objection Deadline may be extended by order of this Court. The “Claims Objection Bar Date” is defined to mean “5:00 p.m. Central Time on the date that is sixty (60) days after the Effective Date and is the deadline by which a Claims Objection must be made; *provided* that the Claims Objection Bar [sic] may be extended upon presentment of an order to the Bankruptcy Court by the Plan Administrator or Liquidating Trustee, as applicable.” *See* Plan, at Art. I (Defined Terms and Rules of Interpretation).

16. Here, extension of the Claims Objection Deadline is appropriate and reasonable under the circumstances. Although Movant has made meaningful progress in the initial thirty (30) days post-emergence reviewing the Claims filed in these cases, Movant requires additional time to reconcile the remaining Claims and file objections thereto, if necessary. Furthermore, extending the current Claims Objection Deadline may also facilitate settlement efforts and reduce the scope and number of objections that may have to be filed and litigated. Indeed, Movant submits it would

be a waste of resources to prematurely file objections to Claims while these efforts to resolve such Claims on a consensual basis are ongoing. Finally, extending the Claims Objection Deadline as set forth herein is not sought for purposes of delay and will not significantly prejudice any claimant, as each claimant will retain any substantive defenses it may have to any claim objections that are filed. Further, in the case of general unsecured creditors, they will be receiving post-Petition Date interest on their Allowed Claims, thus there is every incentive to resolve these as soon as possible.

Notice

17. Notice of this Motion has been given to all parties on the Master Service List and all parties that have filed claims that have not yet been disallowed. Movant respectfully submits that such notice is sufficient and proper under the circumstances and that no other or further notice is required.

WHEREFORE, Movant respectfully request that the Court enter the Order granting the relief requested herein, and such other relief as the Court deems appropriate under the circumstances.

[Remainder of page intentionally left blank.]

Dated: October 30, 2024

Respectfully submitted,

MCKOOL SMITH, PC

/s/ S. Margie Venus

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*Counsel for Dundon Advisers, LLC, as
Liquidating Trustee of the Eiger
BioPharmaceuticals Liquidating Trust*

CERTIFICATE OF SERVICE

I certify that on October 30, 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/ S. Margie Venus
S. Margie Venus

Exhibit A

**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)
	§	
Debtors.	§	(Jointly Administered)

ORDER EXTENDING THE DEADLINE TO OBJECT TO CLAIMS

Upon the motion (the “Motion”)² of Dundon Advisers, LLC in its capacity as the Liquidating Trustee (the “Liquidating Trustee”, “Movant”) for an order extending the deadline by which a Claims Objection must be made by 182 days, through and including May 30, 2025,

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 Ave., Dallas, Texas 75201.

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

without prejudice to Movant's right to seek additional extension thereof, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; 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 upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Claims Objection Bar Date is hereby extended to 5:00 p.m. (Prevailing Central Time) on May 30, 2025.
2. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

End of Order

Submitted by:

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