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**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)

**PROGERIA RESEARCH FOUNDATION'S  
EMERGENCY MOTION FOR ENTRY OF AN ORDER AUTHORIZING  
PROGERIA RESEARCH FOUNDATION TO FILE ITS RESPONSE UNDER SEAL**

<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.



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**Emergency relief has been requested. Relief is requested not later than 9:30 a.m. prevailing Central Time on April 15, 2025.**

**If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

Progeria Research Foundation (“**PRF**”) respectfully represents as follows in support of this motion (the “**Motion**”):

### **Relief Requested**

1. By this Motion, pursuant to sections 105(a) and 107(b) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9077-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Northern District of Texas (the “**Bankruptcy Local Rules**”), PRF requests an order (i) authorizing PRF to file an unredacted version of its Response,<sup>2</sup> which may contain confidential, commercially sensitive, and proprietary material, under seal (the “**Sealed Response**”), (ii) directing that the Sealed Response remain under seal and not be made available to anyone other than the Court, the United States Trustee, Sentynl, EIT, the Liquidating Trustee, Lonza, Corden, and their respective counsel without the prior written consent of PRF or as ordered by the Court, and (iii) granting related relief.

### **Background**

2. On April 1, 2024 (the “**Petition Date**”), the Debtors petitioned this Court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “**Bankruptcy**”

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<sup>2</sup> Contemporaneously herewith, PRF filed a response (the “**Response**”) in objection the Emergency Motion and in support of the Motion to Enforce (each as defined herein).

**Code**”) commencing these cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the Northern District of Texas (the “**Court**”).

3. The Debtors filed this case on April 1, 2024, “for two primary reasons: (1) to ensure stability and continuity in the provision of life-saving drugs for patients, including children, worldwide and (2) to institute a sale process designed to maximize the value of all the Debtors’ assets for the benefit of all the Debtors’ stakeholders.”<sup>3</sup>

4. On April 24, 2024, the Court entered the *Order (I) Approving the Sale of the Debtors’ Zokinvy Assets, (II) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto, and (III) Granting Related Relief* (Docket No. 162) (the “**Zokinvy Sale Order**”), which approved the Zokinvy APA.

5. On August 21, 2024, the Court entered the *Revised Order (I) Authorizing the Sale of the Lonafarnib and Lambda Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (II) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, (III) Granting the Purchaser the Protections Afforded to a Good Faith Purchaser, (IV) Approving Purchaser Protections in Connection with the Sale of the Lonafarnib and Lambda Assets, and (V) Granting Related Relief* (Docket No. 558) (the “**Lonafarnib Sale Order**”), which approved the Lonafarnib APA.

6. On March 7, 2025, Sentynl filed *Sentynl Therapeutics, Inc.’s Motion (I) to Enforce the Zokinvy Sale Order and (II) for Contempt Against Eiger Innotherapeutics, Inc.* (Docket No. 779) (the “**Motion to Enforce**”).

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<sup>3</sup> Declaration of David Apelian in Support of the Chapter 11 Petitions and First Day Pleadings (Docket No. 19, ¶ 7).

7. On March 24, 2025, EIT filed *EIT Pharma, Inc., Formerly Known as Eiger InnoTherapeutics, Inc.’s Emergency Motion to Confirm Terms of Lonafarnib/Lambda Sale Order* (Docket No. 787) (the “**Emergency Motion**”).

8. The Motion to Enforce is set for a status conference on April 15, 2025 and the Emergency Motion is currently set for an evidentiary hearing that same day.<sup>4</sup>

### **Jurisdiction**

9. This Court has jurisdiction over this matter under 28 U.S.C. § 1334 and this is a core proceeding pursuant to 28 U.S.C. § 157(b). PRF consents to the Court’s entry of a final order on this Motion. Venue is proper under 28 U.S.C. §§ 1408 and 1409 and the relief requested in this motion is predicated on 11 U.S.C. § 105(a), §107(b), and Bankruptcy Rule 9018.

### **Basis for Relief Requested**

10. Section 105(a) of the Bankruptcy Code codifies the Court’s inherent equitable powers and empowers it to “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). Moreover, pursuant to section 107(b)(1) of the Bankruptcy Code, the Court may authorize the Debtors to file the Sealed Documents under seal by permitting the issuance of an order that protects entities from potential harm that may result from the disclosure of confidential financial information. *See* 11 U.S.C. § 107(b). Specifically, section 107(b) provides, in relevant part, that:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may — (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . . .

11 U.S.C. § 107(b); *see In re Gen. Homes Corp.*, 181 B.R. 898, 903 (Bankr. S.D. Tex. 1995) (“The court has authority to seal court records, in order to protect trade secrets or confidential

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<sup>4</sup> Docket Nos. 792 (Emergency Motion) and 803 (Motion to Enforce).

research, development, or confidential information, or to protect a person with regard to a scandalous or defamatory matter.”).

11. Bankruptcy Rule 9018 sets forth the procedures by which a party may obtain a protective order authorizing the filing of a redacted document. Bankruptcy Rule 9018 provides, in relevant part, that “[o]n motion, or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information[.]” Fed. R. Bankr. P. 9018; *see also* Bankruptcy Local Rule 9077-1(b) (“If no statute or rule requires or permits a document to be filed under seal, a party may file a document under seal only on motion and by permission of the Presiding Judge.”).

12. Unlike its counterpart in Rule 26(c) of the Federal Rules of Civil Procedure, section 107(b) of the Bankruptcy Code does not require an entity seeking such protection to demonstrate “good cause.” *See, e.g., Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 28 (2d Cir. 1994) (holding that a license agreement authorizing a licensee “to reproduce, manufacture, distribute, and sell videocassettes” of three films contained confidential commercial information). Rather, if the material sought to be protected satisfies one of the categories identified in section 107(b), the court is required to protect a requesting party and has no discretion to deny the application. *See In re 50-Off Stores, Inc.*, 213 B.R. 646, 655–56 (Bankr. W.D. Tex. 1997) (“The statute, on its face, states that the bankruptcy court is *required* to protect such an entity on request of a party in interest.”) (emphasis in original).

13. PRF submits that the commercially sensitive information in the Sealed Response falls within the scope of commercial information that may be protected by the Court pursuant to section 107(b)(1) of the Bankruptcy Code and Bankruptcy Rule 9018. Commercial information

is information which would result in “an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.” *In re Faucett*, 438 B.R. 564, 567 (Bankr. W.D. Tex. 2010) (citing *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994)). Commercial information need not rise to the level of a “trade secret” to be protected under section 107(b) of the Bankruptcy Code. See *In re Northstar Energy, Inc.*, 315 B.R. 425, 429 (Bankr. E.D. Tex. 2004) (“A bankruptcy court is required to seal documentary information filed in court that does not rise to the level of a trade secret but that is so critical to the operations of the entity seeking the protective order that its disclosure will unfairly benefit that entity’s competitors.”). Rather, section 107(b)’s protections extend to commercial information that, if disclosed to the public, could be used by various parties for an unfair advantage. *In re Orion Pictures Corp.*, 21 F.3d at 27–28. Once a court determines that a party in interest is seeking to protect “commercial information,” the court “is required to protect a requesting interested party and has no discretion to deny the application.” *Id.* at 27.

14. Here, the Sealed Response contains commercially sensitive information and information that is confidential and that may be proprietary (such information, the “**Confidential Information**”). This Court has previously sealed documents related to various sale transactions. See Docket Nos. 188, 773, 783, 804, and the creditors and any parties-in-interest to these chapter 11 cases will not be prejudiced by allowing PRF to file the Confidential Information under seal. Accordingly, PRF asserts that good cause exists to authorize filing of the Response under seal.

#### **Emergency Consideration**

15. The hearing on the Motion to Enforce and Emergency Motion is currently set for April 15, 2025. There is insufficient time for a motion authorizing PRF filing under seal to be heard on full notice. Filing under seal is necessary to protect confidential and commercially

sensitive information contained in the Response. PRF therefore requests that the Court approve the relief requested herein on an emergency basis.

**Notice**

16. PRF will provide notice of this Motion to the following: (a) the U.S. Trustee for the Northern District of Texas; (b) Sentynl's counsel; (c) the Liquidating Trustee's counsel; (d) EIT's counsel; (e) Lonza; and (f) Corden. No other or further notice is needed in light of the nature of the relief requested.

Dated: April 15, 2025

Respectfully submitted,

**WEIL, GOTSHAL & MANGES LLP**

By: /s/ Clifford W. Carlson

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***Counsel for Progeria Research Foundation (PRF)***

**CERTIFICATE OF SERVICE**

I certify that, on April 15, 2025, I caused a copy of the foregoing Motion to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas and to be emailed to the following parties.

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/s/ Clifford W. Carlson  
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**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)

**ORDER ON PROGERIA RESEARCH FOUNDATION’S EMERGENCY  
MOTION FOR ENTRY OF AN ORDER AUTHORIZING PROGERIA  
RESEARCH FOUNDATION TO FILE ITS RESPONSE UNDER SEAL**

Upon the motion (“**Motion**”)<sup>2</sup> of the Progeria Research Foundation (“**PRF**”) for entry of an order (this “**Order**”) authorizing PRF to file its Response Under Seal, 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 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:

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<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.

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

1. The Motion is granted on a final basis as set forth herein.
2. PRF is authorized to file an unredacted version of the Response under seal, along with any other information, documents, or subsequent pleadings required by the Court, related thereto, or otherwise necessary to submit to the Court in connection with the Response as determined by PRF. The Response, other information or documents related thereto, and references thereto shall remain confidential, and shall not be made available to anyone, other than the Court, the United States Trustee, Sentynl, EIT, the Liquidating Trustee, Lonza, Corden, and their respective counsel, without (i) the prior written consent of PRF and their successors or assigns; or (ii) further order of the Court after notice to PRF with an opportunity to object, and after a hearing. All parties are directed to redact any Confidential Information which may be contained in any pleadings filed in these chapter 11 cases.
3. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion under the circumstances and the requirements of Bankruptcy Rule 6004(a) and the local rules for the Bankruptcy Court for the Northern District of Texas are satisfied by such notice. Notwithstanding the applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
4. PRF is authorized, but not directed, to take all such actions as are necessary or appropriate to implement the terms of this Order.
5. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.
6. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**### END OF ORDER ###**