

**MCKOOL SMITH, PC**

John J. Sparacino (TX Bar No. 18873700)  
S. Margie Venus (TX Bar No. 20545900)  
600 Travis Street, Suite 7000  
Houston, Texas 77002  
Telephone: (713) 485-7300  
Facsimile: (713) 485-7344  
Email: jsparacino@mckoolsmith.com  
Email: mvenus@mckoolsmith.com

Travis E. DeArman (TX Bar No. 24074117)  
300 Crescent Court, Suite 1200  
Dallas, Texas 75201  
Telephone: (214) 978-4000  
Facsimile: (214) 978-4044  
Email: tdearman@mckoolsmith.com

*Counsel for the Liquidating Trustee, Dundon  
Advisers LLC*

**PORZIO, BROMBERG & NEWMAN, P.C.**

Warren J. Martin Jr. (admitted *pro hac vice*)  
Rachel A. Parisi (admitted *pro hac vice*)  
100 Southgate Parkway  
P.O. Box 1997  
Morristown, New Jersey 07962-1997  
Telephone: (973) 538-4006  
Facsimile: (973) 538-5146  
Email: WJMartin@pbnlaw.com  
Email: RAParisi@pbnlaw.com

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

|   |   |                                |
|---|---|--------------------------------|
| <b>In re:</b>   | § | <b>Chapter 11</b>              |
|   | § |                                |
| <b>EIGER BIOPHARMACEUTICALS, INC., et al.<sup>1</sup></b> | § | <b>Case No. 24-80040 (SGJ)</b> |
|   | § |                                |
| <b>Debtors.</b>   | § | <b>(Jointly Administered)</b>  |

**THE LIQUIDATING TRUSTEE'S OBJECTION TO CLAIM  
NO. 90 FILED BY SCIENSUS INTERNATIONAL B.V.**

**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 thirty-one (31) 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 thirty-one (31) days after the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

<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 Ave., Dallas, Texas 75201.



Dundon Advisers LLC, c/o Joshua Nahas, in its capacity as liquidating trustee (the “Liquidating Trustee”) of the liquidating trust of Eiger BioPharmaceuticals, Inc., *et al.* (the “Debtors” or the “Company”), by and through its undersigned counsel, hereby objects (this “Objection”) to proof of claim numbered 90 (the “Claim”) filed by Sciensus International B.V. (“Claimant” or “Sciensus”) against Debtor Eiger BioPharmaceuticals, Inc. In support of this Objection, the Liquidating Trustee submits the accompanying *Declaration of Joshua Nahas in Support of the Liquidating Trustee’s Objection to Claim No. 90 Filed By Sciensus International B.V.* (the “Nahas Decl.”), which is fully incorporated by reference herein, and respectfully represents as follows:

### **PRELIMINARY STATEMENT**

1. The Liquidating Trustee submits that the Claim should be expunged as it asserts a right to \$93,882.48 in attorneys’ fees under a rejection damages theory. However, the underlying contract does not entitle Sciensus to the requested attorneys’ fees. By the rejected contract’s own terms, Sciensus’ Claim is simply unrecoverable against the Debtors.

### **JURISDICTION, VENUE & STATUTORY PREDICATE**

2. This Court has jurisdiction to consider the Objection as a core proceeding pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these proceedings is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicate for the relief requested herein is 11 U.S.C. § 502, as supplemented by Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 3007-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the “Local Rules”).

## **RELEVANT FACTUAL & PROCEDURAL BACKGROUND**

### **I. Chapter 11 Cases**

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

5. 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. 635-1] (as amended or supplemented from time to time, the “Plan”). Pursuant to paragraph 114 of the Confirmation Order, all executory contracts that were not previously assumed, assigned or rejected were to be rejected on the effective date of the Plan- which occurred on September 30, 2024 (the “Effective Date”). *See* Docket No. 685. As the contracts Sciensus held with the Debtors were not assumed, assigned or rejected prior to September 30, 2024, they were then rejected on the Effective Date.

6. On August 16, 2024, the Debtors filed the *Notice of Filing Plan Supplement* [Docket No. 525] (the “First Plan Supplement”), which included the Liquidating Trust Agreement.

7. Pursuant to the Plan, the Liquidating Trustee was appointed with consent of the Debtors and the respective committees in this case to administer the liquidating trust and was tasked with (1) preserving and liquidating the Debtors’ remaining assets, (2) litigating and resolving any disputed claims, (3) making distributions to allowed claims pursuant to the Plan, and

(4) procuring necessary insurance for the wind-down of the Debtors' estate. *See* the Plan, Article IV, Section D(1), p. 95.

## II. The Sciensus Claims

8. Sciensus filed a claim #59 on July 22, 2024 against Debtor Eiger BioPharmaceuticals, Inc., which was a duplicate of claim #61 also filed on July 22, 2024 against Debtor EigerBio Europe Limited. Pursuant to a global settlement reached in September 2024 with the Debtors, Sciensus agreed that claims 59 and 61 had been fully satisfied. *See* Nahas Decl. at ¶ 3. Claim # 61 was erroneously excluded from the *Notice of Expungement of Claims from Claims Register* filed on November 13, 2024, at Docket No. 741. As such, the Liquidating Trustee filed a *Second Supplement to Notice of Expungement of Claims Register* on June 6, 2025, which notified the expungement of claim # 61 [Docket No. 880]. *See id.*, at ¶ 4.

7. On October 30, 2024, Sciensus filed two claims: the remaining Claim (No. 90) subject to this Objection, and claim # 94, which was filed against Debtor EigerBio Europe Limited. Pursuant to communications with counsel for Sciensus, it was confirmed that claim #94 was a duplicate of the Claim. *See* Nahas Decl., at ¶ 5. As a result, the claims and noticing agent expunged claim # 94, leaving the Claim as Sciensus' only remaining claim. *Id.*

### **OBJECTION**

8. The Claim asserts an entitlement to damages for attorneys' fees flowing from the rejection of a Distribution Agreement entered into by Sciensus with Debtor Eiger BioPharmaceuticals, Inc. on January 8, 2021 (the "Subject Contract"). *See* Nahas Decl., at ¶ 6. The time records for the attorneys included in the Claim provide descriptions that relate to Sciensus ultimately entering into a new contract with one of the purchasers of the Debtors' assets, Sentyln Therapeutics, Inc. *See id.*

9. “Whether certain types of damages are recoverable under Section 502 will depend upon the particular contract at issue and the circumstances surrounding its rejection.” *In re Cont'l Airlines Corp.*, 901 F.2d 1259, 1264 (5th Cir. 1990). And, “whenever the parties have, as here, excluded consequential damages by agreement, the court must be careful to limit the damage award to the difference-in-value component of the contract claim and must not include damages for that which would otherwise be compensable as consequential losses.” *Reynolds Metals Co. v. Westinghouse Elec. Corp.*, 758 F.2d 1073, 1079 (5th Cir. 1985).

10. Pursuant to Section 21.2 of the Subject Contract, both Debtor Eiger BioPharmaceuticals, Inc. and Sciensus expressly agreed that “neither party shall in any circumstances be liable to the other party for: 21.2.1. any direct, special or consequential loss.” *See Nahas Decl.*, at ¶ 7. As such, the attorneys’ fees that were incurred by Sciensus in the Claim, specifically to negotiate a contract with purchaser Sentynl Therapeutics, are not recoverable against the Debtors’ estates, and the Claim should therefore be expunged. *See id.*

### **RESERVATION OF RIGHTS**

11. The Liquidating Trustee expressly reserves the right to amend, modify or supplement this Objection in any way and on any other applicable substantive or non-substantive ground(s).

### **NOTICE**

12. The Liquidating Trustee shall provide notice of this Objection by serving a copy of such (together with the Nahas Declaration and all exhibits) upon: (a) Sciensus; and (b) all other parties-in-interest who are required to receive notice in accordance with the Plan. The Liquidating Trustee submits that, in light of the nature of the relief requested, no other or further notice need be provided.

**CONCLUSION**

**WHEREFORE**, the Liquidating Trustee respectfully requests the entry of an order substantially in the form of the proposed order submitted herewith disallowing/expunging the Claim as set forth herein, and for such other and further relief as the Court deems just and proper.

*[signature page follows]*

Dated: June 20, 2025

**Respectfully submitted,**

/s/ S. Margie Venus

**MCKOOL SMITH, PC**

John J. Sparacino (TX Bar No. 18873700)

S. Margie Venus (TX Bar No. 20545900)

600 Travis Street, Suite 7000

Houston, Texas 77002

Telephone: (713) 485-7300

Facsimile: (713) 485-7344

Email: jsparacino@mckoolsmith.com

Email: mvenus@mckoolsmith.com

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P.O. Box 1997

Morristown, New Jersey 07962-1997

Telephone: (973) 538-4006

Facsimile: (973) 538-5146

Email: WJMartin@pbnlaw.com

Email: RAParisi@pbnlaw.com

*Counsel for the Liquidating Trustee*

**CERTIFICATE OF SERVICE**

I certify that on June 20, 2025, 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



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

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| <b>In re:</b>  | § | <b>Chapter 11</b>              |
|  | § |                                |
| <b>EIGER BIOPHARMACEUTICALS, INC., <i>et al.</i><sup>1</sup></b> | § | <b>Case No. 24-80040 (SGJ)</b> |
|  | § |                                |
| <b>Debtors.</b>  | § | <b>(Jointly Administered)</b>  |

**ORDER GRANTING THE LIQUIDATING TRUSTEE OBJECTION TO CLAIM NO. 90  
FILED BY SCIENSUS INTERNATIONAL B.V.**

Upon the objection (the “Objection”)<sup>2</sup> of Dundon Advisers, LLC in its capacity as the Liquidating Trustee (the “Liquidating Trustee”, “Movant”) for an order disallowing and expunging claim No. 90 filed by Sciensus International B.V.; and the Court having jurisdiction to consider the Objection and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Objection 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

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

notice of the Objection 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 Objection; and the Court having determined that the legal and factual bases set forth in the Objection 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. Claim No. 90 filed by Sciensus International B.V. is hereby disallowed and expunged.
2. Verita Global, the claims and noticing agent appointed in these cases, is authorized to update the Claims Register to reflect the relief granted in this Order.
3. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
4. The Movant is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.
5. 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 ###**

Order Submitted by:

**MCKOOL SMITH, PC**

John J. Sparacino (TX Bar No. 18873700)  
S. Margie Venus (TX Bar No. 20545900)  
600 Travis Street, Suite 7000  
Houston, Texas 77002  
Telephone: (713) 485-7300  
Facsimile: (713) 485-7344  
Email: jsparacino@mckoolsmith.com  
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and

Travis E. DeArman (TX Bar No. 24074117)  
300 Crescent Court, Suite 1200  
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***Counsel for the Liquidating Trustee***