Exhibit A

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

Counsel for Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**Chapter 11**
ENDO INTERNATIONAL plc, *et al.*,	**Case No. 22-22549 (JLG)**
Debtors.[1]	**(Jointly Administered)**
	Related Docket No. 1765

NOTICE OF (I) DEBTORS' TERMINATION OF THE SALE AND MARKETING PROCESS, (II) NAMING THE STALKING HORSE BIDDER AS THE SUCCESSFUL BIDDER, AND (III) SCHEDULING OF THE ACCELERATED SALE HEARING

PLEASE TAKE NOTICE that on April 3, 2023 the Court entered the *Order (I) Establishing Bidding, Noticing, and Assumption and Assignment Procedures, (II) Approving Certain Transaction Steps, and (III) Granting Related Relief* [Docket No. 1765] (the "Bidding Procedures Order"), approving, among other things, certain bidding procedures attached thereto as Exhibit 1 (the "Bidding Procedures")[2] in connection with the sale or sales of substantially all of the assets of the above captioned debtors and debtors in possession (jointly, the "Debtors").

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Bidding Procedures Order or the Bidding Procedures, as applicable.

PLEASE TAKE FURTHER NOTICE that pursuant to the Bidding Procedures Order, the Indication of Interest Deadline passed on **June 13, 2023 at 4:00 p.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that the Debtors, in their reasonable business judgment and in consultation with the Consultation Parties and the Multi-State Endo Executive Committee, have determined that no Indications of Interest received prior to the Indication of Interest Deadline, viewed individually or together with other Indications of Interest, were reasonably likely to result in the submission of a Qualified Bid.

PLEASE TAKE FURTHER NOTICE that, given the above and in accordance with the Bidding Procedures, the Debtors have decided to terminate the remainder of the sale and marketing process (including Phase B, the Bid Deadline, and the Auction); the Stalking Horse Bidder will be the sole Successful Bidder in the sale for the Debtors' Assets; and the Debtors intend to seek final Court approval for the sale of substantially all of their Assets to the Stalking Horse Bidder at the Accelerated Sale Hearing.

PLEASE TAKE FURTHER NOTICE that, as set forth in the Bidding Procedures Order:

- the Sale Objection Deadline is **July 7, 2023 at 4:00 p.m. (prevailing Eastern Time)** for all parties;
- the Sale Reply Deadline is **July 19, 2023 at 12:00 p.m. (prevailing Eastern Time)**; and
- the Accelerated Sale Hearing has been scheduled on **July 28, 2023 at 10:00 a.m. (prevailing Eastern Time)** in a hybrid format (*i.e.*, both in-person and "live" via Zoom for Government).

PLEASE TAKE FURTHER NOTICE that those wishing to participate in the Accelerated Sale Hearing in person may appear before the Honorable James L. Garrity, Jr., United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, in Courtroom No. 723, located at One Bowling Green, New York, NY 10004. For those wishing to participate remotely, in accordance with General Order M-543 dated March 20, 2020, the Accelerated Sale Hearing will be conducted remotely using Zoom for Government. Parties wishing to appear at or listen to the Accelerated Sale Hearing, whether (a) an attorney or non-attorney, (b) appearing in person or remotely, or (c) making a "live" or "listen only" appearance before the Court, are to make an electronic appearance (an "eCourtAppearance") through the Court's website at https://www.nysb.uscourts.gov/ecourt-appearances. When making an eCourtAppearance, parties must specify whether they will appear at the Accelerated Sale Hearing remotely or in person and, if appearing remotely, whether they are making a "live" or "listen only" appearance. Electronic appearances (eCourtAppearances) are to be made no later than **July 26, 2023 at 10:00 a.m. (prevailing Eastern Time)** (the "Appearance Deadline"). Following the Appearance Deadline, the Court will circulate by email a Zoom link to those parties appearing remotely who made an electronic appearance.

Exhibit A

PLEASE TAKE FURTHER NOTICE that copies of the Bidding Procedures and other relevant documents can be viewed and/or obtained by: (i) accessing the Court's website at www.nysb.uscourts.gov; (ii) contacting the Office of the Clerk of the Court at United States Bankruptcy Court for the Southern District of New York; (iii) accessing the website of the Debtors' claims and noticing agent, Kroll Restructuring Administration LLC, at https://restructuring.ra.kroll.com/Endo; or (iv) contacting Kroll directly at (877) 542-1878 (toll free for callers within the United States and Canada) and (929) 284-1688 (for international callers).

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to extend or delay the above deadlines and dates (including, for the avoidance of doubt, the Accelerated Sale Hearing date) in accordance with the Bidding Procedures Order and the Bidding Procedures and subject to the availability of the Court.

Dated: June 20 2023
New York, New York

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

/s/ Paul D. Leake
Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

Counsel for the Debtors and Debtors in Possession

Exhibit B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	Case No. 22-22549 (JLG)
Endo International plc, *et al.,*	Jointly Administered
Debtors.	

NOTICE OF APPOINTMENT OF
OFFICIAL COMMITTEE OF OPIOID CLAIMANTS

William K. Harrington, United States Trustee for Region 2, pursuant to Section 1102(a) of title 11, United States Code, hereby appoints the following unsecured creditors that are willing to serve on the Official Committee of Opioid Claimants of Endo International plc and its affiliated debtors-in-possession:

1. Blue Cross and Blue Shield Association
1310 G Street NW
Washington, DC 20005
Attention: Brendan Stuhan, Assistant General Counsel
E-Mail: brendan.stuhan@bcbsa.com
Telephone: (202) 942-1069

2. Erie County Medical Center Corporation
462 Grider Street
Buffalo, New York 14215
Attention: Joseph Giglia, Esq., General Counsel
E-Mail: jgiglia@ecmc.edu
Telephone: (716) 898-3149

3. Michael Masiowski, M.D.
c/o Paul S. Rothstein, P.A.
626 NE 1st Street, Gainesville, FL 32601
Attention: Paul S. Rothstein, Esq.
E-Mail: psr@rothsteinforjustice.com
Telephone: 352-376-7650

4. Alan MacDonald

Exhibit B

5. Sean Higginbotham

6. Robert Asbury, as Guardian ad litem for NAS Infants

7. Sabrina Barry

Dated: New York, New York
September 2, 2022

Sincerely,

WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE

By: *Paul K. Schwartzberg*
Paul K. Schwartzberg
Trial Attorney
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014
Tel. (212) 510-0500
Fax (212) 668-2255

Exhibit C

COOLEY LLP
Cullen D. Speckhart
Michael Klein
Evan Lazerowitz
55 Hudson Yards
New York, NY 10001
Telephone: (212) 479-6000

Proposed Lead Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

AKIN GUMP STRAUSS HAUER & FELD LLP
Arik Preis
Mitchell P. Hurley
Kate Doorley
Theodore James Salwen
One Bryant Park
New York, New York 10036
Telephone: (212) 872-1000

Proposed Special Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
ENDO INTERNATIONAL PLC, *et al.*,	)	Case No. 22-22549 (JLG)
Debtors.[1]	)	(Jointly Administered)

VERIFIED STATEMENT OF THE OFFICIAL COMMITTEE OF OPIOID CLAIMANTS OF ENDO INTERNATIONAL PLC, *ET AL.*, PURSUANT TO BANKRUPTCY RULE 2019

Pursuant to Rule 2019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the Official Committee of Opioid Claimants (the "OCC") appointed in the chapter 11 cases (the "Chapter 11 Cases") of Endo International plc and its affiliated debtors-in-possession (the "Debtors") hereby submits this verified statement (the "Verified Statement") and in support thereof respectfully states as follows:

1. The Debtors are a specialty pharmaceutical company that has developed, manufactured and sold branded and generic products to customers in a wide range of medical fields

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

since 1997. The Debtors' products have included branded opioid products such as Opana® and Opana® ER (together, the "Opana Medications") and generic opioid products, including morphine sulfate, oxycodone, hydrocodone and oxycodone hydrochloride products. The Debtors have been named as defendants in over 3,500 lawsuits seeking to hold them liable for their marketing and sale of opioid products, including the Opana Medications. The Debtors removed Opana® ER from the market at the request of the United States Food and Drug Administration in 2017, and the Debtors have not sold any Opana Medications since June 2019.[2] Certain of the Debtors, however, continue to manufacture and sell generic opioid medication.[3]

2. On August 17, 2022, the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Court. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request has been made for the appointment of a trustee or an examiner in the Chapter 11 Cases.

3. On September 2, 2022, the Office of the United States Trustee for Region 2 appointed seven of the Debtors' opioid claimants to serve as members of the OCC [ECF No. 163]. The OCC currently comprises the following entities and persons: (i) Robert Asbury as Guardian *Ad Litem* for certain NAS Infants (as defined below); (ii) Sabrina Barry; (iii) Blue Cross and Blue Shield Association ("BCBSA"); (iv) Erie County Medical Center Corporation ("ECMCC"); (v) Sean Higginbotham; (vi) Alan MacDonald; and (vii) Michael Masiowski, M.D. (collectively, and in such capacity, the "Members" and each, a "Member"). Each Member of the OCC takes

[2] *Declaration of Mark Bradley In Support of Chapter 11 Petitions and First Day Papers*, dated August 17, 2022 [ECF No. 38] ¶ 50.

[3] *Id*.

seriously the OCC's role as a fiduciary for the interests of opioid claimants seeking compensation for opioid-related losses and injuries caused by the Debtors.

Composition of the Official Committee of Opioid Claimants

4. The OCC Members include the following claimants asserting claims arising from the Debtors' actions:

- **Robert Asbury** serves as a Guardian *Ad Litem* representing two children afflicted with Neonatal Abstinence Syndrome ("NAS") who are plaintiffs in a Tennessee lawsuit seeking damages under Tennessee's Drug Dealer Liability Act from certain of the Debtors.[4] Infants who are exposed to opioids in utero may be born dependent on opioids and diagnosed with NAS ("NAS Infants"). NAS Infants typically require extended stays in Neonatal Intensive Care Units where they are inconsolable, shake and cry uncontrollably and suffer a myriad of physical issues. During hospital stays, they often must be weaned from their opioid dependence with controlled doses of morphine. During childhood, these children typically suffer from a combination of significant learning disabilities, attention deficit issues, oppositional defiance issues and other manifestations of their NAS diagnosis. Longer-term, children diagnosed with NAS are likely to continue to suffer from these same impairments throughout their lives, and face a heightened risk of substance addiction.

- **Sabrina Barry** is a mother and caregiver of two children exposed to opioids in utero. In 2011, Ms. Barry suffered a car accident. When she was admitted to the hospital for treatment for her injuries, she learned she was pregnant. Without receiving information from her doctors regarding the risks, Ms. Barry was prescribed opioids, including Percocet, throughout her entire pregnancy and for a year and a half after she gave birth to her firstborn son. Ms. Barry became opioid dependent and eventually entered medication-assisted treatment. As a result of his opioid exposure in utero, Ms. Barry's eldest son has been diagnosed with autism, speech delays and sleep disorders. Her youngest son, who was also exposed to opioids in utero, was born in 2016 and was treated with morphine for withdrawal symptoms after birth. He continues to experience speech delays, allergies and asthma. Ms. Barry's unliquidated claims are based on theories of public nuisance, negligence, breach of implied warranty, breach of implied warranty for fitness of a particular purpose, fraudulent misrepresentation, fraudulent concealment, negligent misrepresentation, strict products liability and products liability. Ms. Barry's unliquidated claims comprise personal injury and punitive damages.

[4] *Baby Doe #1 and #2 v. Endo,* et al., Case No. 16596 (Tenn. Cir. Ct. Campbell Cnty.).

- **BCBSA** is a national association of 34 independent, community-based Blue Cross and Blue Shield companies (the "BCBS Companies"). The BCBS Companies provide healthcare coverage to one-third of all Americans, including approximately 5.5 million federal employees and annuitants who are members of a health plan established under the Federal Employee Health Benefits Act that BCBSA administers. BCBSA's claims arise from payments of excessive amounts for prescription medications used by members of private Medicare Part C and Medicaid plans, Federal Employee Health Benefits Act plans and coverage and administrative services for fully insured and self-funded employer health plans under ERISA. BCBSA's claims also arise from the downstream effects of these opioid prescriptions, including paying for the treatment—emergency treatment and protracted rehabilitation—of current and former members who have suffered the effects of improper opioid prescriptions.

- **ECMCC** is one of Western New York's leading hospitals, serving Western New York and its surrounding areas. ECMCC specializes in trauma care, transplantation and kidney care, oncology and behavioral health, including the care and treatment of those afflicted with opioid addiction. ECMCC has been at the forefront of addressing the opioid crisis in Western New York, and has borne the brunt of uncompensated and undercompensated care for harm inflicted by the Debtors. Not only is ECMCC a leader in the treatment and care of those afflicted with opioid addiction, but it also is at the cutting-edge of researching, strategizing and developing new protocols and remedies to fight the opioid crisis to ease the burdens of those affected most. Before the Debtors commenced the Chapter 11 Cases, ECMCC asserted claims for these harms in litigation under New York's Consumer Protection from Deceptive Acts and Practices statute, as well as under theories of negligence, nuisance, unjust enrichment, fraud and deceit, fraudulent concealment, civil conspiracy and concert of action.[5] ECMCC's damages include: (i) the cost of providing health care to patients with opioid-related conditions; and (ii) the cost of operational expenses incurred to respond to conditions created by the opioid epidemic.

- **Sean Higginbotham** and his late wife, Lisa, met in Fort Worth, Texas and moved to rural Oklahoma to raise their growing family. However, a hit-and-run accident left Lisa with severe back problems and intense chronic pain. A number of surgeries and years of use of prescription opioids—including opioids manufactured by certain of the Debtors—did little to solve these issues. By 2012, Lisa had a noticeable change in her personality, having become increasingly reserved and refusing to leave her home. Lisa's opioid dependence symptoms worsened until her children found her deceased due to an opioid overdose in 2018. Mr. Higginbotham's claims are unliquidated and, when filed, will include, among others, a claim for wrongful death and a survival action.

[5] *Erie Cnty. Med. Ctr. Corp.*, et al. *v. Teva Pharm. USA, Inc.*, et al., Case No. 1:21-op-45116 (DAP) (N.D. Ohio). ECMCC's suit has been consolidated in the multi-district opioid litigation currently pending in the Northern District of Ohio.

- **Alan MacDonald** was prescribed opioids—including oxycodone manufactured by certain of the Debtors—to treat his pain after suffering an injury. Soon thereafter, his growing dependence on opioids affected his life and his family. Mr. MacDonald lost his job, suffered a divorce from his wife and lost custody of his two daughters. He subsequently pursued rehabilitation seeking the help he desperately needed, however, he needed more time than he had to recover from his dependence on opioids. After struggling with recovery for many years, Mr. MacDonald now attends and hosts AA meetings to help others who have also suffered from opioid addiction. Mr. MacDonald's claims are unliquidated and, when filed, will include a claim for personal injury damages.

- **Michael Masiowski, M.D.** is an independent emergency room physician who has provided emergency opioid treatment services to patients who were uninsured, indigent or otherwise eligible for services through programs such as Medicaid. Dr. Masiowski is the putative class representative for a class of emergency room physicians who have been forced to provide an inordinate amount of emergency room services related to the "opioid epidemic," either for no compensation or for compensation substantially below market rates.[6] Other damages relate to unreimbursed expenses incurred. Dr. Masiowski's putative class action against certain of the Debtors, along with other opioid manufacturers, seeks damages for these harms based on RICO violations, various forms of negligence and fraud.

5. In accordance with Bankruptcy Rule 2019, attached hereto as **Exhibit A** is a list of the names and addresses of, and the nature and amount of all disclosable economic interests held by, each OCC Member in relation to the Debtors. The statements in paragraph four, and the claims and claim amounts set forth in this Verified Statement and on **Exhibit A**, have been provided by the applicable OCC Member and, by filing this Verified Statement, the OCC makes no representation with respect to the statements in paragraph four, nor with respect to the amount, allowance, validity, secured status or priority of such claims and reserves all rights with respect thereto.

6. Nothing contained in this Verified Statement (or **Exhibit A** hereto) should be construed as a limitation upon, or waiver of any OCC Member's rights to assert, file and/or amend

[6] *Michael Masiowski, M.D. v. AmerisourceBergen Drug Corporation*, Case No. 2:18-cv-02080-MDL (D.S.C.).

its claim(s) in accordance with applicable law and any orders entered in the Chapter 11 Cases establishing procedures for filing proofs of claim.

7. The OCC reserves the right to amend or supplement this Verified Statement in accordance with the requirements set forth in Bankruptcy Rule 2019.

Dated: September 27, 2022

Respectfully submitted,

COOLEY LLP

/s/ Cullen D. Speckhart

Cullen D. Speckhart
Michael Klein
Evan Lazerowitz
55 Hudson Yards
New York, NY 10001
Telephone: (212) 479-6000
Facsimile: (212) 479-6275
cspeckhart@cooley.com
mklein@cooley.com
elazerowitz@cooley.com

Proposed Lead Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

-and-

AKIN GUMP STRAUSS HAUER & FELD LLP
Arik Preis
Mitchell P. Hurley
Theodore James Salwen
One Bryant Park
New York, NY 10036-6745
Telephone: (212) 872-1000
Facsimile: (212) 872-1002
apreis@akingump.com
mhurley@akingump.com
jsalwen@akingump.com

-and-

Kate Doorley
2001 K Street NW

Washington, DC 20006
Telephone: (202) 887-4000
Facsimile: (202) 887-4288
kdoorley@akingump.com

Proposed Special Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

Exhibit A

Exhibit C

Name	Address	Nature and Amount of Disclosable Economic Interests[1]
Robert Asbury, as Guardian *Ad Litem* for certain NAS Infants	567 Main Street Jacksboro, TN 37757	Unliquidated unsecured claim on the basis of, among other things, personal injury of each NAS victim.
Sabrina Barry	16 Bowstring Way Marlborough, MA 01752	Unliquidated unsecured claim on the basis of, among other things, personal injury of herself and her two children, who suffer the long term effects of NAS.
Blue Cross and Blue Shield Association	1310 G Street NW Washington, D.C. 20005	Unliquidated unsecured claim on the basis of, among other things, covering treatment for opioid use disorder.
Erie County Medical Center Corporation	462 Grider Street Buffalo, NY 14215	Unliquidated unsecured claims.
Sean Higginbotham	2466 E 2030 Rd. Hugo, OK 74743	Unliquidated unsecured claim on the basis of, among other things, wrongful death.
Alan MacDonald	53 Taunton Ave. Rockland, MA 02370	Unliquidated unsecured claim on the basis of, among other things, personal injury, including addiction, lost wages and emotional injury.
Michael Masiowski, M.D.	626 NE 1st Street Gainesville, FL 32601	Unliquidated unsecured claim on the basis of, among other things, RICO violations, various forms of negligence and fraud.

[1] To the best of counsel's knowledge, the information included herein is accurate as of September 27, 2022.

Exhibit D

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
ENDO INTERNATIONAL PLC, *et al.*,	)	Case No. 22-22549 (JLG)
Debtors.[1]	)	(Jointly Administered)
	)	**Re: ECF No. 505**

ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF OPIOID CLAIMANTS OF ENDO INTERNATIONAL PLC, *ET AL.* TO RETAIN AND EMPLOY AKIN GUMP STRAUSS HAUER & FELD LLP AS SPECIAL COUNSEL, EFFECTIVE AS OF SEPTEMBER 8, 2022

Upon the application (the "Application")[2] of the Official Committee of Opioid Claimants (the "OCC") of Endo International plc, *et al.* (collectively, the "Debtors") for entry of an order (this "Order"), pursuant to sections 328(a) and 1103(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 2014-1 and 2016-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the "Local Rules"), authorizing the OCC to retain and employ Akin Gump Strauss Hauer & Feld LLP ("Akin Gump") as special counsel in connection with the Debtors' chapter 11 cases (the "Chapter 11 Cases"), effective as of September 8, 2022; and upon the declaration of Arik Preis, a partner of Akin Gump (the "Preis Declaration"), the declaration of Sean Higginbotham, in his capacity as co-chair of the OCC (the "Higginbotham Declaration"), the declaration of Ira S. Dizengoff (together with the Preis Declaration and the

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Application.

Higginbotham Declaration, the "Declarations"), and the Cooley Application; and the Court having conducted a hearing on November 10, 2022 (the "Hearing"); and the objection of the United States Trustee for Region 2 having been resolved as set forth on the record at the Hearing that GoldenTree Asset Management LP and Akin Gump have terminated their engagement in the Chapter 11 Cases; and all parties in interest having been heard or having had the opportunity to be heard regarding the Application; and it appearing that the professionals of Akin Gump who will perform services on behalf of the OCC in the Chapter 11 Cases are duly qualified to practice before this Court; and the Court finding, based on the representations made in the Application and the Declarations, that Akin Gump does not represent any interest adverse to the OCC and/or the Debtors' estates with respect to the Opioid-Related Matters or any other matters upon which it is to be engaged, that it is a "disinterested person," as that term is defined in Bankruptcy Code section 101(14), and that its employment is necessary and appropriate and in the best interests of the OCC and the Debtors' estates; and finding that adequate notice of the Application having been given; and it appearing that no other notice need be given; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED, ADJUDGED AND DECREED THAT**:

1. The relief requested in the Application is granted as set forth herein.

2. In accordance with Bankruptcy Code sections 328(a) and 1103(a) and Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, the OCC is hereby authorized and empowered to retain and employ Akin Gump as Special Counsel, effective as of September 8, 2022, to represent it in the Chapter 11 Cases on the terms set forth in the Application and the Declarations.

3. Akin Gump shall be compensated in accordance with the procedures set forth in Bankruptcy Code sections 328, 330 and 331, the applicable Bankruptcy Rules and Local Rules as

may then be applicable from time to time, the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals*, dated October 3, 2022 [ECF No. 326], any other applicable order of this Court and any fee and expense guidelines of this Court.

4. Akin Gump shall make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013*, in connection with any interim or final fee applications it files in the Chapter 11 Cases.

5. Akin Gump shall (a) only provide the services set forth in the Application, on the terms set forth therein, and (b) use its reasonable efforts to avoid any duplication of services provided by any of the OCC's other retained professionals in the Chapter 11 Cases.

6. Akin Gump shall provide ten (10) business days' notice to the OCC, the UCC, the Debtors and the U.S. Trustee before any increases in the rates set forth in the Application are implemented and shall file a notice setting forth any such increases with the Court. The U.S. Trustee retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in Bankruptcy Code section 330, and the Court retains the right to review any rate increase pursuant to Bankruptcy Code section 330.

7. Notice of the Application as provided therein is deemed to be good and sufficient notice of such Application, and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

8. To the extent that there may be any inconsistency among the terms of the Application, the Declarations and this Order, the terms of this Order shall govern.

9. No agreement or understanding exists between Akin Gump and any other person, other than as permitted by Bankruptcy Code section 504, to share compensation received for services rendered in connection with the Chapter 11 Cases, nor shall Akin Gump share or agree to share compensation received for services rendered in connection with the Chapter 11 Cases with any other person other than as permitted by Bankruptcy Code section 504.

10. The OCC and Akin Gump are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

11. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: November 15, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

Exhibit D

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: ENDO INTERNATIONAL plc, *et al.*,[1] Debtors.	Chapter 11 Case No. 22-22549 (JLG) (Jointly Administered) Related Doc. No. 504

ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF COOLEY LLP AS LEAD AND GENERAL BANKRUPTCY COUNSEL FOR THE OFFICIAL COMMITTEE OF OPIOID CLAIMANTS

Upon the application (the "Application")[2] of the Official Committee of Opioid Claimants (the "OCC") in the above-captioned chapter 11 cases for entry of an order authorizing the OCC to employ and retain Cooley LLP ("Cooley") as its lead and general bankruptcy counsel effective as of September 8, 2022, the date the OCC determined to employ Cooley as lead and general bankruptcy counsel in the Chapter 11 Cases, pursuant to section 1103 of title 11 of the United States Code; and upon the Declaration of Cullen D. Speckhart of Cooley LLP in support of the Application (the "Speckhart Declaration") attached to the Application as **Exhibit B**; and upon the Declaration of Sean Higginbotham, Co-Chairperson of the OCC attached to the Application as **Exhibit C**; and the Court having jurisdiction pursuant to sections 157 and 1334 of title 28 of the United States Code to consider the Application and the relief requested therein; and venue being

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[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Application.

proper in this Court pursuant to sections 1408 and 1409 of title 28 of the United States Code; and the Court being satisfied that notice of this Application and the opportunity for a hearing on this Application was appropriate under the particular circumstances and no further or other notice need be given; and the Court being satisfied, based on the representations made in the Application and the Speckhart Declaration, that Cooley does not represent or hold any interest adverse to the Debtors or their estates as to the matters upon which Cooley has been and is to be employed, and that Cooley is a "disinterested person" as such term is defined in section 101(14) of the Bankruptcy Code; and the Court having determined that the relief sought in the Application is in the best interests of the OCC, the Debtors, their creditors, and all parties in interest; and this Court having determined that the legal and factual bases set forth in the Application and in the Speckhart Declaration establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Application is GRANTED to the extent set forth herein.

2. In accordance with section 1103(a) of the Bankruptcy Code and Bankruptcy Rule 2014, the OCC is authorized to employ and to retain Cooley LLP as its lead and general bankruptcy counsel, effective as of September 8, 2022, on the terms and conditions set forth in the Application and in the Speckhart Declaration. Cooley shall use its reasonable efforts to avoid any duplication of services provided by any of the OCC's other retained professionals in these Chapter 11 Cases.

3. Cooley shall be entitled to allowance of compensation and reimbursement of expenses upon the filing and approval of interim and final applications pursuant to the Bankruptcy Rules, the Local Bankruptcy Rules, and such other orders as this Court may direct.

4. Cooley shall apply for compensation and reimbursement in accordance with the procedures set forth in sections 330 and 331 of the Bankruptcy Code, applicable provisions of the

Bankruptcy Rules, the Local Rules, the U.S. Trustee Guidelines, any order establishing procedures for interim compensation, and any fee and expense guidelines of this Court. Cooley will make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013*, both in connection with this Application and the interim and final fee applications to be filed by Cooley in the Chapter 11 Cases.

5. Cooley will provide ten (10) business days' notice of any rate increases by notifying the OCC, the Debtors, the U.S. Trustee, and by filing a notice with the Court. The OCC, the U.S. Trustee, and all parties in interest retain all rights to object to any rate increase on all grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

6. No agreement or understanding exists between Cooley and any other person, other than as permitted by section 504 of the Bankruptcy Code, to share compensation received for services rendered in connection with the Chapter 11 Cases, nor shall Cooley share or agree to share compensation received for services rendered in connection with the Chapter 11 Cases with any other person other than as permitted by section 504 of the Bankruptcy Code.

7. The OCC and Cooley are authorized to take all actions they deem necessary and appropriate to effectuate the relief granted pursuant to this Order in accordance with the Application.

8. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Exhibit D

9. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Date: November 18, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
The Honorable James L. Garrity, Jr.
United States Bankruptcy Judge

Exhibit D

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
ENDO INTERNATIONAL plc, *et al.*,[1]	Case No. 22-22549 (JLG)
	(Jointly Administered)
Debtors.	Related Doc. No. 1012, 1250

ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF MAPLES AND CALDER (IRELAND) LLP AS SPECIAL FOREIGN COUNSEL *NUNC PRO TUNC* TO NOVEMBER 14, 2022

Upon the application (the "Application") of the Official Committee of Opioid Claimants (the "OCC") in the above-captioned chapter 11 cases for entry of an order (this "Order") authorizing the OCC to retain and employ Maples and Calder (Ireland) LLP ("Maples") as its special foreign counsel in connection with the chapter 11 cases of Endo International plc and its affiliated debtors and debtors in possession (collectively, the "Debtors"), effective *nunc pro tunc* to November 14, 2022; and upon the *Declaration of Sean Higginbotham, Co-Chairperson of the OCC, in Support of the Application to Retain and Employ Maples and Calder (Ireland) LLP as Special Foreign Counsel to the Official Committee of Opioid Claimants Effective* Nunc Pro Tunc *to November 14, 2022* (the "Higginbotham Declaration"), attached as **Exhibit B** to the Application; and upon the *Declaration of William Fogarty of Maples and Calder (Ireland) LLP,*

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

in Support of the Application to Retain and Employ Maples and Calder (Ireland) LLP as Special Foreign Counsel to the Official Committee of Opioid Claimants Effective Nunc Pro Tunc *to November 14, 2022* (the "Fogarty Declaration"), attached as **Exhibit C** to the Application; and the Court having jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334 to consider the Application and the relief requested therein; and venue being proper in this Court pursuant to sections 1408 and 1409 of title 28 of the United States Code; and the Court being satisfied that notice of this Application and the opportunity for a hearing on this Application was appropriate under the particular circumstances and no further or other notice need be given; and the Court being satisfied, based on the representations made in the Application and the Fogarty Declaration that that Maples does not represent or hold any interest adverse to the Debtors or their estates as to the matters upon which Maples has been and is to be employed, and that Maples is a "disinterested person" as such term is defined in section 101(14) of the Bankruptcy Code; and the Court having determined that the relief sought in the Application is in the best interests of the OCC, the Debtors, their creditors, and all parties in interest; and this Court having determined that the legal and factual bases set forth in the Application and in the Fogarty Declaration establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Application is APPROVED as set forth herein.

2. In accordance with section 1103(a) of the Bankruptcy Code and Bankruptcy Rule 2014, the OCC is authorized to employ and to retain Maples and Calder (Ireland) LLP as special foreign counsel, effective as of November 14, 2022, on the terms and conditions set forth in the Application and in the Fogarty Declaration.

3. Maples shall be entitled to allowance of compensation and reimbursement of expenses upon the filing and approval of interim and final applications pursuant to the Bankruptcy

Rules, the Local Bankruptcy Rules, and such other orders as this Court may direct. Maples shall use its reasonable efforts to avoid any duplication of services provided by any of the OCC's other retained professionals in these Chapter 11 Cases.

4. Maples shall apply for compensation and reimbursement in accordance with the procedures set forth in sections 330 and 331 of the Bankruptcy Code, applicable provisions of the Bankruptcy Rules, the Local Rules, the U.S. Trustee Guidelines, any order establishing procedures for interim compensation, and any fee and expense guidelines of this Court. Maples will make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013*, both in connection with this Application and the interim and final fee applications to be filed by Maples in the Chapter 11 Cases.

5. Maples will provide ten (10) business days' notice of any rate increases by notifying the Debtors, the U.S. Trustee, and by filing a notice with the Court. The U.S. Trustee and all parties in interest retain all rights to object to any rate increase on all grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

6. No agreement or understanding exists between Maples and any other person, other than as permitted by section 504 of the Bankruptcy Code, to share compensation received for services rendered in connection with the Chapter 11 Cases, nor shall Maples share or agree to share compensation received for services rendered in connection with the Chapter 11 Cases with any other person other than as permitted by section 504 of the Bankruptcy Code.

Exhibit D

7. The OCC and Maples are authorized to take all actions they deem necessary and appropriate to effectuate the relief granted pursuant to this Order in accordance with the Application.

8. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Date: February 1, 2023
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

NO OBJECTION:

WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE

By: */s/ Paul K. Schwartzberg*
PAUL L. SCHWARTZBERG
TRIAL ATTORNEY

Exhibit E

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
By: JEAN-DAVID BARNEA
PETER M. ARONOFF
TARA SCHWARTZ
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2697/2697/2633
Email: jean-david.barnea@usdoj.gov
peter.aronoff@usdoj.gov
tara.schwartz@usdoj.gov

Hearing Date: August 4, 2023
Hearing Time: 11:00 am

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
ENDO INTERNATIONAL plc, *et al.*,[1]	Case No. 22-22549 (JLG)
Debtors.	(Jointly Administered)

OBJECTION OF THE UNITED STATES OF AMERICA TO THE DEBTORS' MOTION FOR AN ORDER (I) ESTABLISHING BIDDING, NOTICING, AND ASSUMPTION AND ASSIGNMENT PROCEDURES, (II) APPROVING CERTAIN TRANSACTION STEPS, (III) APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS AND (IV) GRANTING RELATED RELIEF
-AND-
MEMORANDUM OF LAW IN SUPPORT OF MOTION TO APPOINT CHAPTER 11 TRUSTEE

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

Exhibit E

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PRELIMINARY STATEMENT

The United States of America (the "United States" or the "Government"), on behalf of the Internal Revenue Service ("IRS"), the U.S. Department of Justice ("DOJ"), the U.S. Department of Health and Human Services ("HHS"), and the U.S. Department of Veterans Affairs ("VA"), by its attorney, Damian Williams, United States Attorney for the Southern District of New York, respectfully submits this objection to the *Debtors' Motion for an Order (I) Establishing Bidding, Noticing, and Assumption and Assignment Procedures, (II) Approving Certain Transaction Steps, (III) Approving the Sale of Substantially All of the Debtors' Assets and (IV) Granting Related Relief*, Dkt. No. 728 (the "Sale Motion" and the "Proposed Sale"), and memorandum of law in support of its concurrently filed motion to appoint a Chapter 11 trustee in these cases.[2]

Under the terms of the Proposed Sale to the Stalking Horse Bidder (hereinafter, the "First Lienholders" or the "Buyer"), the United States and certain other unsecured creditors have been singled out to recover nothing, while other junior or co-equal creditors will receive hundreds of millions of dollars of compensation for their prepetition claims. This transaction is an abuse of the bankruptcy system that is plainly unlawful and should be rejected by this Court.

First, as Debtors candidly admit in public filings, the purported "business purpose" for a sale of substantially all of their assets outside of a Chapter 11 plan is to avoid paying the priority and potential administrative tax claims that Congress has dictated must be satisfied to confirm such a plan, and to discharge fraud debts that Congress has deemed nondischargeable. Evasion of statutory mandates for a Chapter 11 plan is not a "good business purpose" for a section 363 sale under the governing test.

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[2] Unless otherwise specified, all capitalized terms herein are defined in the Sale Motion.

Second, in addition to structuring a deal for the principal purpose of evading the legal requirements for plan confirmation, the proposed sale transaction is a prohibited *sub rosa* plan of reorganization. It would impermissibly dictate distribution of the sale proceeds to creditors on account of their prepetition claims, discharge nondischargeable debt, settle claims against the estate, provide broad third-party releases, and provide the functional equivalent of a discharge to the Debtors (and others) in exchange for payments to certain unsecured creditors. Both its bankruptcy features and its substantive objective—reorganization—are the hallmarks of a Chapter 11 plan. But this shadow plan would fail the requirements of Chapter 11: the transaction is structured so that certain preferred classes of junior creditors will receive substantial payments on account of their prepetition claims, while the Government's priority tax claims and other general unsecured claims will be left completely unsatisfied. Such priority-skipping and disparate treatment of equal-priority creditors runs afoul of the priority and distribution scheme that Congress established in the Bankruptcy Code.

Additionally, the Proposed Sale Order would improperly curtail the Government's post-sale rights to pursue claims against third parties, which, among other things, is not authorized in the Bankruptcy Code and is non-"core," and thus cannot be part of any final order issued by this Court.

The Proposed Sale is further impermissible as it includes improper resolutions of the proposed Challenges[3] by the Official Committee of Unsecured Creditors ("UCC") and the Official Committee of Opioid Creditors ("OCC," and together with the UCC, the

[3] As defined in the *Amended Final Order (I) Authorizing Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief*, Dkt. No. 535 (the "Cash Collateral Order").

"Committees")[4] to the Debtors' Prepetition Secured Indebtedness (as defined in the Cash Collateral Order), outside the context of either a motion under Federal Rule of Bankruptcy Procedure 9019 or the plan confirmation process. Moreover, the proceeds of the resolutions of these claims (which were to be brought on behalf of the estate) are not slated to be distributed to the estate, but only to the Committees' narrow constituencies. The Court should thus at least defer any ruling on the sale and appoint a Chapter 11 Trustee to prosecute any such claims on behalf of all creditors, by investigating and determining independently whether to pursue and litigate the estate's potential challenges to the proper extent and coverage or partial avoidability of the liens encumbering the Debtors' assets.

And finally, the Proposed Sale Order asks this Court to eliminate the fourteen-day stay of any order approving the sale, imposed by Federal Rule of Bankruptcy Procedure 6004(h), though this would impermissibly interfere with the Government's ability to appeal any such order. This too should be rejected.

BACKGROUND

1. The Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on August 16, 2022 (the "Petition Date"). These cases are being jointly administered. Dkt. No. 45.

A. The Restructuring Support Agreement and the Sale Motion

2. The next day, on August 17, 2022, Debtors filed the Restructuring Support Agreement between themselves and the First Lienholders. Dkt. No. 20. In this agreement,

[4] *See Motion of the Official Committee of Unsecured Creditors and the Official Committee of Opioid Claimants for (I) Entry of an Order Granting Leave, Standing, and Authority to Commence and Prosecute Certain Claims on Behalf of the Debtors and (II) Settlement Authority in Respect of Such Claims*, Dkt. No. 1243 (the "Standing Motion").

Debtors agreed that they would sell substantially all of their assets pursuant to 11 U.S.C. § 363, and that the First Lienholders would submit a Stalking Horse Bid in connection with the proposed sale. *Id.* Ex. A. The agreement attached a Voluntary Opioid Trust Sheet, according to which the First Lienholders would create trusts totaling $550 million that they would fund over time after a sale to distribute to certain groups of unsecured creditors in this case—certain states and municipalities ($450 million), Indian tribes ($15 million), and private opioid plaintiffs ($85 million). *Id.* Ex. E. In exchange for the funds to be paid into these trusts, the trust beneficiaries would release all their opioid-related claims against the Debtor, non-Debtor affiliates, and the Buyer and its present and future subsidiaries. *Id*. Ex. A.

3. On November 23, 2022, the Debtors filed the Sale Motion. This motion attached a Stalking Horse Agreement, which indicated (in relevant part) that the First Lienholders would credit-bid approximately $5.9 billion under 11 U.S.C. § 363(k) for all assets subject to their liens, pay $5 million for all unencumbered assets in the estate (without any discussion of what those assets were and how much they were worth), and provide the estate with $122 million to wind down the Debtors' operations, including the payment of professional fees under 11 U.S.C. § 330. Sale Motion ¶ 19; Stalking Horse Agreement § 2.7. No provision was made in the Stalking Horse Agreement for paying the claims of priority or general unsecured creditors—other than through the voluntary trusts for the benefit of certain groups of general unsecured creditors. The Stalking Horse Agreement included among the Transferred Assets all of the estate's potential Avoidance Claims (defined to include any estate claims under 11 U.S.C. §§ 544-551, 553, and 558), with narrow exceptions. Sale Motion ¶ 49(d); Stalking Horse Agreement § 2.1(b)(xvii).

4. On December 2, 2022, the Government sought adjournment of the Sale Motion to the extent it sought any relief beyond setting a schedule for the bidding process. Dkt. No. 912.

The United States Trustee for Region 2 objected on the same day in relevant part on the grounds that the proposed sale is a *sub rosa* plan, and that the proposed arrangements with the trust-receiving creditors has not been brought before the Court for necessary approval under Rule 9019 and 11 U.S.C. § 363(b). Dkt. No. 910.

5. On January 6, 2023, the UCC objected to the Sale Motion as well. Dkt. No. 1144. It argued in relevant part that the proposed sale of all of Debtors' assets is not appropriate because there is no "good business reason" for the sale as required by the Second Circuit's decision in *Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983); and that the First Lienholders' proposed payment of only $5 million for all of the estate's unencumbered assets is woefully insufficient—and indeed that the value of those unencumbered assets must be actually ascertained before any such bid is properly considered. *Id.* at 14-19. The UCC further objected to the proposed bidding procedures themselves, which gave an unfair advantage to the First Lienholders. *Id.* at 19-31. The UCC proposed instead that the Debtors pursue a plan of reorganization that would properly value the assets in the estate and distribute them fairly to all creditors. *Id.* at 7-8. The OCC raised several similar concerns, and additionally objected (in relevant part) to the proposed sale of the estate's avoidance actions, which would encompass potential preference and other claims against Debtors' executives who received large prepaid compensation packages shortly before the Petition Date. Dkt. No. 1145 at 3-5, 10-11.

6. The Debtors confirmed in their reply brief that they were only seeking approval of the bidding procedures (and certain Reconstruction Steps) at that time, and that objections to any sale itself (including the various objections described above) could be made before the sale hearing. Dkt. No. 1200 at 2-5; *see also id.* at 56 (noting that any objection to the trusts for the

benefit of certain unsecured creditors could be made if the sale to the First Lienholders goes forward).

7. The Debtors explained, among other things, that two of the principal reasons why they were justified in not pursuing a plan of reorganization were because a sale would permit them to sidestep paying (or litigating over) what was then a large potential priority tax claim and would avoid potential litigation over the non-dischargeability of any opioid-related fraud claims by the Government and others. *Id.* at 35-39. They also defended the First Lienholders' proposed bid of $5 million for all of the estate's unencumbered assets, *id.* at 41-43, and asserted that the proposed sale is not a *sub rosa* plan, *id.* at 43-46.

8. On April 3, 2023, the Court entered an agreed order approving only the bidding and other procedures for Debtors' assets. Dkt. No. 1765.

B. The Cash Collateral Order and the Committees' Challenges to the Prepetition Secured Indebtedness

9. Meanwhile, on October 27, 2022, the Court entered the Cash Collateral Order. Dkt. 535. Among other things, it set a deadline for the Committees to assert Challenges to the Debtors' Prepetition Secured Indebtedness on behalf of the estate, by filing motions for derivative standing by January 20, 2023, *id.* ¶ 19(a)—later extended until January 23, 2023, *see* Standing Motion (Dkt. No. 1243) at 7 n.2. The deadline for certain objections by other parties was set at January 10, 2023, 75 days from the entry of the Order. *See* Cash Collateral Order ¶ 19(a).

10. From November 2022 until January 2023, the Committees requested and received substantial discovery under Federal Rule of Bankruptcy Procedure 2004 (including documents and deposition testimony) from the Debtors and the lienholders holding the Prepetition Secured Debt regarding the validity and extent of the relevant liens. *E.g.*, Dkt. Nos. 1003, 1778.

11. On January 23, 2023, the Committees filed the Standing Motion, which asks the Court to grant them derivative standing to bring, litigate, and (if appropriate) settle certain Challenges to the liens encumbering the Debtors' assets "on behalf of the Debtors' estates." Dkt. No. 1243 at 1. The Committees explained that they should be allowed to pursue these claims on behalf of the estate because the "Debtors have entered into stipulations that prevent them from bringing claims against the Prepetition Secured Parties, and conflicts of interest prevent them from bringing claims against their own insiders." *Id.* ¶ 118; *see also id.* ("'Derivative standing . . . may be necessary to avoid the inherent conflict of interest that exists when those with the power to pursue a claim are those who may be the target of such a claim.'" (quoting *Smart World Techs., LLC v. Juno Online Servs., Inc. (In re Smart World Techs.)*, 423 F.3d 166, 177 (2d Cir. 2005))).

12. Attached to the motion were four proposed Challenges (that is, proposed adversary complaints), respectively seeking: (1) a declaration that secured creditors' purported liens on Debtors' deposit accounts were unperfected on the Petition Date and should be avoided (the "Deposit Account Complaint"); (2) a declaration that certain other estate assets are unencumbered, or that the liens on them should be avoided (the "Disputed Assets Complaint"); (3) avoidance as preferences and fraudulent transfers of approximately $95 million in prepaid compensation to executives and other insiders of Debtors in the days and months before the bankruptcy petitions were filed (the "Prepaid Compensation Complaint");[5] and (4) a determination that three debt transactions the Debtors undertook between 2019 and 2021, by

[5] The potential Challenge asserting that the prepetition prepaid compensation paid to Debtors' executives was a preference or fraudulent transfer was not subject to the Challenge Period deadline since it does not concern the Prepetition Secured Indebtedness. *See* Standing Motion ¶ 14 n.4.

which (among other things) certain unsecured debt became secured, were constructively or intentionally fraudulent, and thus that the obligations and transfers of security interests of certain Debtors in connection with these transactions should be avoided (the "Secured Debt Complaint"). *See id.*, Exs. B-E.

13. In the Standing Motion, the Committees sought the exclusive right to control the litigation and settlement of the proposed Challenges—to the exclusion of the Debtors—because "[t]he Debtors' unwillingness to pursue the Proposed Claims also makes them unable to effectively manage or settle any resulting litigation. Indeed, the Debtors have shown, repeatedly, throughout these Bankruptcy Cases, that they are willing to waive and/or sell the Proposed Claims for little or no consideration. Moreover, it is indisputable that any decision to settle any of the Proposed Claims, and at what level, will have a disproportionate economic impact on the Debtors' unsecured creditors and opioid claimants, whose interests the . . . Committees represent in these cases." Standing Motion ¶ 122; *see also id.* ¶ 121 ("[T]he Debtors are not positioned to pursue the Prepetition Compensation Claims, having agreed to sell those claims to the Stalking Horse Bidder in exchange for no consideration, and with the terms of the proposed sale further providing that the Stalking Horse Bidder will immediately *release* the Prepetition Compensation Claims upon completion of the sale.").

14. Also on January 23, 2023, the court-appointed Future Claims Representative ("FCR") filed a *Motion to Preserve Standing to Seek to Intervene*, Dkt. No. 1242, which sought to clarify and preserve its ability to intervene in any of the Challenges if the Standing Motion is granted.

15. On January 27, 2023, the Court entered a stipulation and order creating a mediation process in an attempt to resolve various disputes between the parties, including the

Committees' Standing Motion regarding their potential Challenges to the Prepetition Secured Indebtedness. Dkt. No. 1257, ¶ 2.

C. The Government's Proofs of Claim

16. The deadline for government creditors to file their proofs of claim in these cases was May 31, 2023. Dkt. No. 1767.

17. On January 19, 2023, the IRS filed an initial set of proofs of claim against several Debtors, some of which were amended on January 27, 2023. IRS claims against other Debtors were filed on January 30, 2023. The IRS filed further amended proofs of claim on May 23, 2023. The operative proof of claim against the principal Debtor, Endo U.S. Inc., includes a priority unsecured claim of $3,495,542,269.77 and a general unsecured claim of $516,700,716.00. Claim No. 3289 (the "IRS Claim").[6] The claim is for corporate income tax liabilities for tax years 2006 through 2013, and 2016.[7] The amounts in the IRS Claim are all estimated, as examinations of the relevant tax returns are pending, *id.* at 4 n.1;[8] the liabilities for all of the tax years are thus entitled to priority under the Bankruptcy Code because the taxes remain assessable under 11 U.S.C. § 507(a)(8)(A)(iii).[9]

[6] The IRS filed proofs of claim against other Debtors as well, some of which partially overlap with this claim because the Debtors are jointly and severally liable for certain taxes.

[7] As explained therein, the IRS's proof of claim "consists, in part, of a transfer pricing adjustment. This claim is fully payable in 2016. To the extent it is determined that the income attributed to the transfer pricing adjustment should be allocated over future years, then the IRS, in the alternative, claims additional tax due for tax years 2017 through 2021, inclusive, in amounts consistent with the reduction in the 2016 tax subject to appropriate adjustments." *Id.* at 4 n.**.

[8] Additional information regarding the tax liabilities comprising the IRS's claims was included in a filing on June 14, 2023. Dkt. No. 2223.

[9] Importantly, the IRS's claims for the older years are not due to tax deficiencies based on the original returns for those years; instead, they are due to more recent IRS payments to the principal Debtor of tentative tax refunds under 26 U.S.C. § 6411 based on its proposed carrying

18. On May 30, 2023, DOJ filed two proofs of claim. One claim pertains to a pending criminal investigation against certain Debtors. Claim No. 3056. It asserts that DOJ is investigating those Debtors for criminal violations under the Food, Drug, and Cosmetic Act (21 U.S.C. §§ 331, 333, 352, 353), conspiracy (18 U.S.C. § 371), and other statutes. *Id.* Addendum, ¶ 1. The alleged conduct giving rise to these violations includes marketing certain opioid drugs to healthcare providers who the company knew were writing or facilitating prescriptions for non-medically accepted indications, and marketing a certain opioid medication as abuse-deterrent or crush-resistant though these claims were not supported. *Id.* ¶¶ 5-6. If convicted of these offenses, the defendants would be liable for a criminal fine of approximately $2.12 billion, forfeiture of approximately $589 million, and restitution in an uncertain amount. *Id.* ¶¶ 2-4.

19. The other DOJ claim relates to a pending civil fraud investigation against certain Debtors on behalf of federal healthcare programs. Claim No. 3157, Addendum, ¶ 1. This claim also alleges that the company improperly marketed opioid drugs to healthcare professionals who it knew were writing or facilitating prescriptions for non-medically accepted indications, and thus caused the submission of false claims to federal healthcare programs. *Id.* ¶¶ 7-9. The claim noted that as a result of this conduct, the Government has suffered single damages of approximately $232 million, which are subject to statutory trebling and penalties under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, and also that it has common-law remedies under the doctrine of unjust enrichment. *Id.* ¶¶ 38-45.

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back of later losses to several previous years. In other words, the Debtors received relatively recent tentative tax-refund payments that the IRS maintains were improperly claimed.

20. Three federal agencies that provide and oversee healthcare, health insurance, and related services also filed proofs of claim for costs they have incurred because of Debtors' marketing and sale of certain products, primarily opioids.

21. HHS's Center for Medicare and Medicaid Services ("CMS") filed a conditional and unliquidated proof of claim (Claim No. 2350) in the amount of $1.2 billion reflecting its rights under the Medicare Secondary Payer ("MSP") statute, 42 U.S.C. § 1395y(b) *et seq*. This statute makes Medicare the "secondary payer" for medical services provided to beneficiaries whenever payment is available from another primary payer, *id.* § 1395y(b)(2), such as a tortfeasor, *see, e.g.*, *Bio-Med. Applications of Tenn., Inc. v. Cent. States Health & Welfare Fund*, 656 F.3d 277, 287 (6th Cir. 2011); 42 U.S.C. § 1395y(b)(2)(A)(ii). The value of this claim is based on CMS's estimated additional costs of providing services related to opioid-use disorder ("OUD") between 2011 and 2017 for an estimated 20,000 Medicare Part A and B beneficiaries who may make claims in these cases.

22. CMS also filed a separate MSP proof of claim (Claim No. 2211) for Medicare costs related to Debtors' transvaginal mesh products and ranitidine, in the amount of $33.75 million.

23. Two other federal healthcare agencies—the Indian Health Service ("IHS"), a component of HHS, and the VA—filed unliquidated proofs of claim to recover their costs for providing OUD-related treatment and care. (Claim Nos. 3636, 4186).

D. Acceptance of the Stalking Horse Bid and Settlements Between the First Lienholders and Certain Unsecured Creditors

24. As a result of the mediation, the Debtors and First Lienholders entered into an amended Restructuring Support Agreement and amended Purchase and Sale Agreement. *See* Dkt. No. 1502.

25. These agreements make clear that the First Lienholders are simply replacing Endo's current ownership and will operate the new company much the same as the old one:

- The transferred assets consist of all the important assets of the Debtors, including all equity interests in Endo's subsidiaries, all intellectual property rights, product marketing materials, product regulatory materials, contracts, books and records, goodwill, owned and leased real property, machinery, inventory, permits and regulatory approvals, insurance policies, telephone numbers, tax records, legal claims and causes of action (even those arising out of events occurring prior to the closing), confidentiality agreements with former and current employees, and compensation and employee benefit plans. *See id.* Ex. 1, Ex. A, at 2-4.

- The Buyer is required to offer employment to all current Endo employees for essentially the same roles, with at least equal compensation; pay unpaid wages or compensation; and credit employees for their past work for Endo. *See id.* at 195-98.

- The Debtors are required to cooperate with the Buyer to file notices and applications with the FDA and other government authorities to transfer regulatory approvals from the Seller to Buyer. *See id*. at 205-06.

- The Debtors are required to cooperate in coordinating the Buyer's communications with any customer, supplier, or contractual counterparty. *See id*. at 206-07.

26. Indeed, Debtors' website publicly reassures its customers, suppliers, employees, and other stakeholders that these bankruptcy cases mean "'[b]usiness as usual' for all of Endo," that its workforce will be retained with no changes to salaries or benefits, and that the "[s]ame experienced management team" will remain in place. Endo, *Strengthening Endo for Tomorrow*, https://endotomorrow.com/wp-content/uploads/2022/08/Endo-Fact-Sheet.pdf (last visited July 13, 2023).

27. As a result of an agreement reached through the mediation, the Debtors, the First Lienholders, and the Committees entered into a stipulation (the "Settlement Stipulation"), *see* Dkt. No. 1505, which attaches term sheets for potential resolutions of the claims of certain groups of unsecured creditors, including the Committees (the "Term Sheets"). These agreements

increase the payment from the First Lienholders to the voluntary trust for the benefit of the states and municipalities from $450 million to $465.2 million over time. Dkt. No. 1502, Term Sheet Ex. C.

28. In these documents, the Committees agreed that their Standing Motion would be held in abeyance and not adjudicated pending a sale to the First Lienholders, when it would be withdrawn. Settlement Stipulation ¶¶ 5, 15. The Committees also agreed not to further assert, investigate or pursue any Challenges to the Prepetition Secured Indebtedness, and that they would not attack the relevant liens pursuant to the Cash Collateral Order. *Id.* ¶¶ 6, 10. The Committees further agreed to support the proposed sale. *Id.* ¶ 7. However, the parties agreed that if the Committees' agreement with the First Lienholders is terminated (including because the Proposed Sale is not approved), the Standing Motion (and thus the Challenges) may proceed. *Id.* ¶ 13.

29. In exchange for these agreements, and in satisfaction of the general unsecured claims by the specific constituencies represented by each of the Committees, the First Lienholders agreed to make certain additional payments. Specifically, for the general unsecured creditors that are part of the UCC (who include Debtors' unsecured bondholders and non-opioid product liability plaintiffs), the First Lienholders agreed to establish a Voluntary GUC Creditor Trust that would be funded with $60 million in cash, 4.25% of the equity in the new entity, and the option to purchase up to $160 million worth of additional common equity in the new entity on favorable terms, in exchange for those creditors' voluntarily releasing their prepetition claims against the Debtors and their affiliates, the Buyer, the Committees and their respective officers, directors, and employees. *See* Dkt. No. 2384, Ex. 2-A, § 3.1 (requiring holder of general

unsecured claim to accept distributions from the GUC Trust in *full and complete satisfaction* of such general unsecured claim).

30. The general unsecured creditors that are part of the OCC (which include the private opioid plaintiffs, but not other groups with opioid-related claims such as the Canadian Governments[10] and public school districts[11]) would be eligible to participate in a PPOC Trust that would be funded with $119.2 million over time in exchange for a similar voluntary release of their prepetition claims against the Debtors and their affiliates, the Stalking Horse Bidder, the Committees, and their respective officers, directors, and employees. *See id.* Ex. 3-F, Ex. B at 1 ("If you elect to participate in the PPOC Trust (and your applicable PPOC Sub-Trust) by submitting an executed Release Form in exchange for the ability to receive a distribution of the PPOC Trust Consideration, you will be granting the releases contained in the OCC Resolution (the 'Releases'). If you choose to grant the Releases, you will be releasing, with certain exceptions described below, any 'Released Claims' that you may have against the 'Released Parties' including any and all claims related in any way to any of the Debtors, the Debtors' estates, the Endo's business or the Chapter 11 Cases, including claims related to the Endo's opioid products." (underlining omitted)).

31. These agreements and term sheets do not include any benefit for the estate (other than the $122 million for administrative wind-down expenses) or to unsecured creditors as a group. In other words, the Committees negotiated to enhance the recoveries of only select

[10] All thirteen Canadian provincial and territorial governments (together, the "Canadian Governments") object to the sale as an impermissible *sub rosa* plan that unfairly discriminates against them by offering them nothing on account of their $65.7 billion in unsecured claims. Dkt. No. 2418.

[11] Over one hundred public school districts similarly object to the proposed sale, as they were not included the trust for the states and municipalities and therefore stand to receive nothing as a result of the sale. Dkt. No. 2420.

unsecured creditors in exchange for abandoning the Challenges that were to be brought for the benefit of *all* creditors of the estate.

32. On June 20, 2023, the Debtors filed a *Notice of (I) Debtors' Termination of the Sale and Marketing Process, (II) Naming the Stalking Horse Bidder as the Successful Bidder, and (III) Scheduling of the Accelerated Sale Hearing*, Dkt. No. 2240, which announced that the Debtors had received no Qualifying Bids and thus that the First Lienholders' bid for substantially all of the Debtors' assets had been accepted pending this Court's consideration and approval.

33. On June 13, 2023, the Debtors filed a term sheet describing a settlement with the FCR. Dkt. No. 2415. In exchange for the FCR agreeing not to object to the Sale Motion, the Buyer promised to establish a trust for future opioid claimants of up to $11.5 million and a trust for future transvaginal mesh claimants of $500,000, each to be funded over time. *Id*. Ex. A.

E. The Proposed Order Approving the Sale

34. On July 7, 2023, the Debtors filed a proposed *Order (A) Approving the Purchase and Sale Agreement, (B) Authorizing the Sale of Assets, (C) Authorizing the Assumption and Assignment of Contracts and Leases, and (D) Granting Related Relief*, as updated on July 13, 2023, Dkt. No. 2413, Ex. A (the "Proposed Sale Order" or "Proposed Order"). This Proposed Order includes a series of lettered findings to be made by the Court, *see id.* at 3-26, which list proposed conclusions such as that the sale is legal and valid (Proposed Finding I), that the Debtor and Buyer are operating in good faith (Proposed Finding J), that the Buyer's secured claims and credit bid are appropriate and valid (Proposed Finding M), that the Buyer shall have no successor liability (Proposed Finding N), that the sale should be free and clear of all claims and interests (Proposed Finding O), that an injunction is necessary to protect the Buyer from any Encumbrances, which are defined broadly to include nearly any claim or cause of action relating

to the Debtors, the estate or the transactions leading up to or during these cases (Proposed Finding Q), and that the proposed sale is not a *sub rosa* plan (Proposed Finding U).

35. The Proposed Sale Order also includes a series of provisions designed to ensure that the Buyer has no successor liability for the Debtors' obligations of any type, Proposed Order ¶¶ 16-21, including under "any theories of successor or transferee liability, antitrust, environmental, product line, de facto merger or substantial continuity or similar theories or applicable state or federal law or otherwise," and specifically not with respect to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, *id.* ¶ 9; *see also* Proposed Finding N.

36. The Proposed Sale order would further enjoin "all persons and entities," including the Government, from bringing any claim arising prior to or on the Closing Date, connected to the Debtors or any of the relevant transactions during or before these bankruptcy cases, against the Buyer and other persons or entities. Proposed Order ¶ 15. This injunction further forbids any person from "asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Buyer, its affiliates, or its and their successors and assigns (including the Voluntary GUC Creditor Trust and PPOC Trust)." *Id.* ¶ 16(d).

ARGUMENT

I. THE SALE MOTION SHOULD BE DENIED

37. The Sale Motion fails in all respects. As a threshold matter, Debtors have not established a good business purpose for the proposed transaction. Further, the Proposed Sale is an impermissible *sub rosa* plan. It dictates the distribution of funds to different classes of creditors (and to creditors within a single class) in contravention of the Bankruptcy Code's priority rules. It contains broad injunctive provisions and third-party releases that abrogate the rights of creditors and some of which could not be granted even in a Chapter 11 plan. It purports to permanently resolve estate causes of action without the procedural protections of either a Rule 9019 motion or the plan confirmation process. And it seeks relief that is beyond this Court's jurisdiction to grant. In short, the Proposed Sale abuses both the fundamental substantive creditor rights and procedural protections that Congress dictated in the Bankruptcy Code. Accordingly, the Sale Motion should be denied.

A. Debtors Offer No Good Business Reason for a Sale of All Assets Outside a Plan

38. The Proposed Sale is doomed from the start because the Debtors' stated reason for pursuing a sale—to avoid paying substantial tax and other liabilities to the Government—is not a permissible justification for a bankruptcy court to approve the sale of substantially all of their assets outside a Chapter 11 plan.

39. Filing a voluntary Chapter 11 petition provides a debtor with some "breathing room" to negotiate with its creditors while continuing to operate its business and, with court approval, borrow new money. *In re Cohoes Indus. Terminal, Inc.*, 931 F.2d 222, 228 (2d Cir. 1991) (a "major purpose behind bankruptcy laws is to afford debtor some breathing room from creditors"). At the same time, Chapter 11 provides creditors of the estate with various safeguards

as a debtor moves through the reorganization process. *See generally In re Brookfield Clothes, Inc.*, 31 B.R. 978, 983 (S.D.N.Y. 1983).

40. Chapter 11 establishes an elaborate set of procedures to ensure that the outcome of this process achieves a fair balance between the debtor's needs and possibly divergent interests among creditors. *See* 11 U.S.C. §§ 1125 (postpetition disclosure and solicitation), 1126 (voting requirements for acceptance), 1128 (confirmation hearing with opportunity for objection), 1129(a)(7) (best-interests-of-creditors test), and 1129(b)(2)(B) (absolute priority test that lower-tier creditors cannot receive recovery unless higher-tier creditors are paid in full). These protections apply even in a liquidating Chapter 11 plan. *Id.* §§ 1123, 1129.

41. While a plan of reorganization is the default resolution of a Chapter 11 case, *see In re Ditech Holding Corp.*, 606 B.R. 544, 586 (Bankr. S.D.N.Y. 2019) ("[T]he chapter 11 plan is the crucible by which the parties' claims and rights in property dealt with under the plan are transformed and governed postconfirmation." (internal quotation marks omitted)), the Code permits the sale of an estate's assets before plan confirmation, subject to notice and a hearing, *see* 11 U.S.C. §§ 363, 103(a). But in light of the "apparent conflict" between the expediency of a section 363 sale of substantially all of a debtor's assets and the otherwise applicable features and safeguards that would govern if assets were sold pursuant to a Chapter 11 plan, debtors do not have "carte blanche" to pursue such sales. *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983); *see also Brookfield Clothes*, 31 B.R. at 983 ("Congress' adoption of the procedural safeguards incorporated in [Chapters 7 and 11] militates against too freely permitting a Chapter 11 debtor to resort to § 363(b)."). Instead, the Second Circuit requires that a debtor must provide a "good business reason" for selling substantially all its assets outside of a plan. *Lionel*, 722 F.2d at 1071; *see Ditech,* 606 B.R. at 580 ("To obtain court approval of such a sale, the debtor or

trustee must prove that the sale is an exercise of its sound business judgment."); *Parker v. Motors Liquidation Co. (In re Motors Liquidation Co.)*, 430 B.R. 65, 83 (S.D.N.Y. 2010) ("The overriding consideration for approval of a Section 363 sale is whether a 'good business reason' has been articulated.").

42. In determining whether a debtor has articulated a good business reason for a proposed sale, courts consider "the proportionate value of the asset to the estate as a whole, the amount of elapsed time since the filing, the likelihood that a plan of reorganization will be proposed and confirmed in the near future, the effect of the proposed disposition on future plans of reorganization, the proceeds to be obtained from the disposition vis-a-vis any appraisals of the property, which of the alternatives of use, sale or lease the proposal envisions and, most importantly perhaps, whether the asset is increasing or decreasing in value." *Lionel*, 722 F.2d at 1071. Thus, the paradigmatic section 363 sale involves perishable commodities or other assets whose value is rapidly diminishing. *Id.* at 1066-67 (describing the "perishable" concept in sale of estate property) (citing *In re Pedlow*, 209 F. 841, 842 (2d Cir. 1913) (upholding sale of a bankrupt's stock of handkerchiefs because the sale price was above the appraised value and "Christmas sales had commenced and . . . the sale of handkerchiefs depreciates greatly after the holidays")). In such cases, a quick sale is necessary to preserve value for the estate's creditors. As Judge Chapman has put it, the ultimate question is whether the choice of a sale over a plan is supported by a legitimate business case. *In re Boston Generating, LLC*, 440 B.R. 302, 322 (Bankr. S.D.N.Y. 2010).

43. Courts have found good business reasons for sales of substantially all of an estate's assets in cases involving withering assets, the value of which would substantially decline or cease to exist within the time horizon of a reorganization. *See, e.g.*, *Equity Funding Corp. of*

Am. v. Fin. Assocs., 492 F.2d 793, 794 (9th Cir. 1974) ("In the instant case, there were findings of fact that the market value of [the asset] was likely to deteriorate in the near future, that it might be a very substantial decline and that the proposed sale would be in the best interest of the bankrupt estate"); *In re Del. & Hudson Ry. Co*., 124 B.R. 169, 179 (D. Del. 1991) (approving sale when business was losing money and customers due to uncertainty regarding its future and reorganization plan could not be developed for "extended period of time"); *In re Baldwin United Corp.*, 43 B.R. 888, 906 (Bankr. S.D. Ohio 1984) (approving sale when business was "highly susceptible to becoming a wasting asset, if it is not one already").

44. On the other hand, courts have denied sale motions where the debtors have not proffered a good business reason to prefer a sale to a plan of reorganization. Courts view with particular skepticism a transfer of assets to a secured creditor that amounts to a foreclosure disguised as a "sale" pursuant to section 363, particularly where there is no evidence presented that the assets are losing value and thus that the transfer must precede a Chapter 11 plan. *See, e.g.*, *In re Flour City Bagels LLC*, 557 B.R. 53, 84 (Bankr. W.D.N.Y. 2016) (secured creditor "seeks to achieve through a § 363(b) sale in bankruptcy, that which it could not achieve in an Article 9 sale under the [Uniform Commercial Code]" without presenting any evidence of the need for a sale due to a loss of value); *In re Gulf Coast Oil Corp*., 404 B.R. 407, 428 (Bankr. S.D. Tex. 2009) (no evidence that assets were perishable or that value would be lost through delay to permit plan confirmation; essence of proposed transaction was foreclosure, supplemented by a release, assignment of executory contracts, elimination of successor liability, and preservation of the debtor as a going concern). Indeed, in *Lionel* itself, the Second Circuit held that the appeasement of major creditors was not a sufficient business justification for a sale, as it ignored the equity interests required to be weighed and considered under Chapter 11. 722

F.2d at 1071; *see also In re Adelphia Commc'ns Corp.*, No. 02-41729 (REG), 2003 WL 22316543, at *29 (Bankr. S.D.N.Y. Mar. 4, 2003) (*Lionel* "teaches that the required 'good business reason' is not established when the only reason advanced is the creditors' committees' insistence on it." (some internal quotation marks omitted)).

45. While courts have considered a debtor's ability to confirm a plan, and the time it would take to do so, in determining whether there is a good business reason for a section 363 sale, "'the need for expedition . . . is not a justification for abandoning proper standards.'" *Lionel*, 722 F.2d at 1071 (quoting *Prot. Comm. for Indep. Stockholders v. Anderson*, 290 U.S. 414, 450 (1968)). Moreover, simply avoiding the administration expenses occasioned by proposing and confirming a plan cannot be a justification for a § 363 sale, because that would apply in the majority of large corporate chapter 11 liquidation cases. No debtors would use a plan (of liquidation at least) if they could just sell assets and save professional fees. Put another way, Congress mandated procedural protections in Chapter 11—such as disclosure and voting on a plan—that have costs in time and professional fees. Those costs cannot justify abandoning the procedures that Congress mandated.

46. Since the beginning of these cases, the Debtors have not been coy about the main reasons for the sale: to avoid paying a substantial tax claim to the IRS and to avoid the possibility that their liability associated with the Government's pending civil fraud investigation will be deemed nondischargeable. *See* Dkt. No. 1200, ¶¶ 76, 82 ("Sale would obviate" need to litigate and pay "potentially hundreds of millions of dollars of priority tax claims."); *id*. ¶ 82 ("The tax claims at issue only have priority in the context of a plan of reorganization."); Sale Motion ¶ 5 ("[T]he primary alternative to a sale—a plan of reorganization—likely involves potentially years of litigation with an uncertain conclusion . . . and serious risks to the Debtors' businesses.

Specifically, confirming and consummating a Chapter 11 plan of reorganization in lieu of a sale would require, at a minimum, two major litigations—(a) a fight over the dischargeability of alleged fraud claims held by governmental opioid plaintiffs; and (b) multiple complex litigations in connection with confirmation of a plan (e.g., valuation, feasibility, scope, and amount of priority tax claims."); *see also id*. ¶ 99 (avoidance of "potentially hundreds of millions of dollars of priority tax claims asserted by the IRS related to certain transfer pricing and other disputes with the Debtors" identified as business justification for the sale).

47. Debtors further argue that "[t]he assertion of potentially hundreds of millions of dollars of priority tax claims would be a major obstacle to confirming a Chapter 11 plan of reorganization," and that if the IRS prevails in litigation to value the claim, that could "wipe out any prospect of recovery to junior creditors." Dkt. No. 1200 at 35-36. In other words, the Debtors' justification for the proposed sale of their assets is that requiring them to pay their tax obligations (for which they have booked a reserve of more than $600 million, *see id*. at 35 n.32)—which are entitled to statutory priority and would have to be paid in full for a plan to be confirmed, *see* 11 U.S.C. § 1129(a)(9)(C)—could jeopardize their prepetition settlements with unsecured creditors who are entitled to lower priority. *Id*. at 35-37.

48. Avoiding substantial tax liabilities is not and cannot be a good business reason for a sale. Indeed, Congress has expressly declared that a court may *not* confirm a Chapter 11 plan whose principal purpose is tax avoidance. 11 U.S.C. § 1129(d). The concern that a debtor may attempt to use section 363 to evade critical Chapter 11 requirements is precisely what animates the *Lionel* test. *See* 722 F.2d at 1071. Thus, this Court should not permit Debtors to sidestep this firm statutory prohibition against tax avoidance through the Proposed Sale.

49. Although section 363 does not formally incorporate section 1129(d)'s prohibition on tax avoidance, the Supreme Court has repeatedly made clear that statutory silence in one provision of the Code cannot be used as a basis to accomplish what Congress has expressly forbidden in a Chapter 11 plan or to otherwise deviate from the Bankruptcy Code's explicit provisions. *See Czyzewski v. Jevic Holding Corp.*, 580 U.S. 451, 465 (2017); *Law v. Siegel*, 571 U.S. 415 (2014); *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639 (2012). This trilogy of cases make clear that bankruptcy courts cannot rely on general grants of authority to take actions inconsistent with the Code's text, structure, or purposes. For example, in *Law*, the court invalidated a bankruptcy order "surcharging" a debtor's homestead exemption as sanction on debtor for fraud, even though Bankruptcy Code did not expressly forbid it, because there was no discretion to do so in light of the Code's "carefully calibrated exceptions and limitations." 571 U.S. at 419-20, 424. Likewise, in *RadLAX*, the court invalidated a "cramdown" plan in which debtor's assets would be sold at an auction where main creditor could not credit-bid, though the Code's cramdown provisions "do[] not expressly foreclose the possibility of a sale without credit-bidding," because in a different cramdown provision Congress permitted an auction *with* credit-bidding. 566 U.S. at 641-45. The Court declined to interpret the Code to "permit[] precisely what" the Code elsewhere "proscribe[d]," because where "a general authorization and a more limited, specific authorization exist side-by-side," the "well established canon" that "the specific governs the general" avoids the problem of the specific provision being "swallowed by the general one." *Id*.

50. So too here. Congress has expressly forbidden plans whose primary purpose is tax avoidance, and has set specific rules for which debts may be discharged in Chapter 11 plans. 11 U.S.C. § 1141(d)(1)(A); *cf. id.* § 523(a). While section 363 does not literally repeat those

prohibitions, it would defy the structure and purpose of the Code to permit debtors to use section 363 to evade them by perverting the "good business reason" rule. This Court should not interpret section 363 to "permit[] precisely what" Congress has elsewhere "proscribe[d]." *RadLAX*, 566 U.S. at 645.

51. Indeed, it would be perverse to accept tax avoidance and the discharge of a non-dischargeable debt as a legitimate basis to allow the sale to proceed. A good "business" reason for selling assets outside a Chapter 11 plan means just that: a *business* reason, not evasion of Congressionally mandated Chapter 11 plan requirements. *See Gulf Coast Oil*, 404 B.R. at 423 ("A motion to sell all, or substantially all, of the property of the estate, a motion to sell the crown jewel, and a motion to sell that materially predetermine the structure and outcome of plan confirmation must (i) have business justification for the sale and sale process, and (ii) *must have a valid business justification for the process occurring separate from the plan confirmation process and being consummated without satisfaction of the plan confirmation procedures and requirements*." (emphasis added)); *In re Encore Healthcare Assoc.*, 312 B.R. 52, 57 (Bankr. E.D. Pa. 2004) (finding no business justification when "the proposed sale not only generates funds solely for the secured creditor which could realize the value of its collateral by foreclosing and selling the assets itself but more significantly advances no purpose of a Chapter 11 proceeding"); *In re Plabell Rubber Prod*., Inc., 149 B.R. 475, 480 (Bankr. N.D. Ohio 1992) (applying the *Lionel* test and holding that "a sale may not be employed to circumvent the creditor protections of chapter 11"); *In re Au Natural Restaurant, Inc*., 63 B.R. 575, 580 (Bankr. S.D.N.Y. 1986) (denying sale motion where debtor "has not explained why the transaction could not have been made a part of a liquidating chapter 11 plan, and has failed to convince this court that it should

allow the debtor to circumvent the safeguards of chapter 11 because of some overriding business justification").

B. The Proposed Sale Is an Impermissible *Sub Rosa* Plan

52. Even if the Debtors had an acceptable business reason for undertaking a sale of substantially all their assets, the specific transaction proposed here is a *sub rosa* plan of reorganization and thus cannot be approved. The proposed sale would effectively determine the distributions to the estate's creditors—and would make those distributions in violation of the Bankruptcy Code's priority scheme. As in many Chapter 11 restructuring plans, the Proposed Sale would effectively convert debt into equity in a new company,[12] which will carry on the same business with the same assets, the same customers, the same employees, and the same management. And the Proposed Order approving the sale contains several provisions—a broad injunction tantamount to a third-party release, approval of settlements, and a release of fraud claims that would be nondischargeable even under a plan—that are impermissible under section 363. This is a reorganization plan in all but name.

1. The Proposed Sale Would Dictate the Distribution of Estate Assets in Violation of the Code's Priority Principles

53. The Proposed Sale violates the Bankruptcy Code's priorities and fails to treat similarly situated creditors fairly. By picking certain favored unsecured creditors to receive payments while paying nothing to the United States for its tax, healthcare, and law enforcement claims—and nothing to other general unsecured creditors who are not part of the Committees' narrow constituencies, such as the Canadian Governments and the public school districts—the

[12] As one court has observed, "[c]onversion of debt to equity is, of course, not an unusual idea, as law professors and economists have argued for years that conversion of debt to equity is the cheapest and fastest way to reorganize a company." *In re Oneida Ltd.*, 351 B.R. 79, 85 n.11 (Bankr. S.D.N.Y. 2006) (citing academic authorities).

Proposed Sale defies the most basic rules of bankruptcy law. And it accomplishes these impermissible priority-skipping and discriminatory ends by forbidden means: it would shoehorn a complex plan's assortment of distributions, releases, and injunctions into an asset sale, where the Court has no authority to provide such wide-ranging relief. At the same time, it continues the same business with prior debtholders transmogrified into shareholders in an effort to recover their original debt investment—a classic restructuring. The transaction is a Chapter 11 plan masquerading as a sale—a *sub rosa* plan—and is impermissible. In short, the Proposed Sale abuses both the fundamental substantive creditor rights and procedural protections that Congress dictated in the Bankruptcy Code.

a. The Proposed Sale Improperly Distributes Compensation Only to Certain Creditors

54. Although the concerns animating the *Lionel* test and the prohibition on *sub rosa* plans are related, the requirements are distinct. Only if a debtor has good business reason for a sale should the particulars of the transaction be examined to determine whether its provisions violate the prohibition against *sub rosa* plans of reorganization. *See, e.g.*, *In re GSC, Inc.*, 453 B.R. 132, 155 (Bankr. S.D.N.Y. 2011) (analyzing requirements sequentially and separately); *In re Boston Generating*, 440 B.R. at 322 (same).

55. It has long been recognized that "[t]he debtor and the Bankruptcy Court should not be able to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan [including the absolute priority rule] by establishing the terms of the plan *sub rosa* in connection with a sale of assets." *PBGC v. Braniff Airways, Inc. (In re Braniff Airways, Inc.)*, 700 F.2d 935, 940 (5th Cir. 1983); *see also Motorola, Inc. v. Off. Comm. of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 466 (2d Cir. 2007) (sales that effectively distribute the debtor's assets "are prohibited" because of "a fear that a debtor-in-possession will enter into

transactions that will, in effect, 'short circuit the requirements of [C]hapter 11 for confirmation of a reorganization plan'" (quoting *Braniff*, 700 F.2d at 940)).

56. Yet that is precisely what Debtors propose here. They seek approval of a transaction where "the sale itself [would] allocate or dictate the distribution of sale proceeds among different classes of creditors." *In re General Motors Corp.*, 407 B.R. 463, 495 (Bankr. S.D.N.Y. 2009). The sale, and its associated settlements, which would provide to certain groups of general unsecured creditors hundreds of millions of dollars over time on account of their prepetition claims while providing no recovery on the Government's nearly $3.5 billion priority unsecured tax claim or its multi-hundred million dollar general unsecured claims stemming from federal law enforcement and federal healthcare liabilities, is a clear attempt to evade the dictates of the priority rules set by Congress. The motion to approve the sale should therefore be denied.

57. The Bankruptcy Code's priority system "constitutes a basic underpinning of business bankruptcy law," and "has long been considered fundamental to the Bankruptcy Code's operation." *Jevic*, 580 U.S. at 464-65. In a Chapter 11 plan, adherence to the priorities is partly codified at 11 U.S.C. § 1129(b)(2)(B), the "absolute priority rule," which provides that a bankruptcy plan "may not give 'property' to the holders of any junior claims or interests 'on account of' those claims or interests, unless all classes of senior claims either receive the full value of their claims or give their consent." *In re DBSD N. Am., Inc.*, 634 F.3d 79, 88 (2d Cir. 2011) (quoting 11 U.S.C. § 1129(b)(2)(B)). The statutory phrase "on account of" in 11 U.S.C. § 1129(b)(2)(B)(ii) means "because of," denoting a "causal relationship between holding the prior claim or interest and receiving or retaining property" under the bankruptcy plan. *Bank of Am. Nat'l Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 451 (1999).

58. Given their fundamental nature, the priority rules must be respected in all stages of a Chapter 11 proceeding, not merely at plan confirmation. *See Jevic*, 580 U.S. at 464-65; *United States v. AWECO, Inc.*, 725 F2d 293, 298 (5th Cir. 1984) ("As soon as a debtor files a petition for relief, fair and equitable settlement of creditors' claims becomes a goal of the proceedings."); *cf. Protective Comm. for Indep. S'holders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424, 441 (1968) (under predecessor bankruptcy statute, requirements "that plans of reorganization be both 'fair and equitable,' apply to compromises just as to other aspects of reorganizations," and this standard specifically incorporates the absolute priority rule).

59. Although a Chapter 11 distribution may depart from Congress's priorities with the consent of the affected creditors, *see In re DBSD*, 634 F.3d at 88, as the Supreme Court and Second Circuit have repeatedly held, debtors may not disregard the priority system to reward favored creditors over the objection of other senior creditors.

60. Most recently, in *Jevic*, the Supreme Court squarely rejected a "structured dismissal" that evaded the requirements of a Chapter 11 plan by "g[iving] money to high-priority secured creditors and to low-priority general unsecured creditors" while "skipp[ing] certain dissenting mid-priority creditors." 580 U.S. at 454. Specifically, to effectuate a settlement, the bankruptcy court had dismissed a case on the condition that the estate distribute its assets in a manner that prioritized secured creditors and general unsecured creditors over creditors who held an unsecured claim for unpaid wages that was entitled to priority under 11 U.S.C. § 507(a)(4). 580 U.S. at 461-62. Those mid-priority creditors would have been entitled to payment ahead of the general unsecured creditors had the bankruptcy court approved a plan of reorganization or liquidation. *Id*.

61. The *Jevic* debtors defended the dismissal order by arguing that the Code gives bankruptcy courts broad implicit authority to condition dismissal orders on particular distribution mechanisms. *Id*. at 457 (citing 11 U.S.C. § 349(b)). They emphasized that the Code "does not explicitly state what priority rules—if any—apply to a distribution" upon dismissal. *Id.* Over a dissent, the Third Circuit adopted these arguments, observing that no Code provision explicitly applied the absolute priority rule or any other standard to structured dismissals or settlements. *In re Jevic Holding Corp.*, 787 F.3d 173, 183 (3d Cir. 2015). The Third Circuit majority also perceived no economic alternative to the structured dismissal, deeming it the "least bad alternative," and affirmed the dismissal. *Id*. at 185.

62. But the Supreme Court rejected all of the debtors' arguments. The Court acknowledged that, by its terms, the Bankruptcy Code's priority system applies only to Chapter 7 liquidations and Chapter 11 plans. *Jevic*, 580 U.S. at 465. But it noted that the priority system "has long been considered fundamental to the Bankruptcy Code's operation." *Id*. The Court thus held that "some affirmative indication of intent" was necessary before a court could conclude that "Congress actually meant to make structured dismissals a backdoor means to achieve the exact kind of nonconsensual priority-violating final distributions" that are not permissible in liquidations and reorganizations. *Id*. *Jevic*'s holding that the priority rules may not be avoided through section 349 in a "structured dismissal" logically applies if the end run is perpetrated through section 363.

63. The Second Circuit, too, has consistently rejected debtors' attempts to circumvent the absolute priority rule by devising various means to transfer value to junior creditors on account of their prepetition claims. For example, in *DBSD North America*, 634 F.3d at 93-94, the court of appeals held that framing a transfer of value to junior creditors as a "gift" from senior

creditors was an impermissible abrogation of the absolute priority rule. Similar to the facts of this case, in *DBSD*, a set of lienholders purported to voluntarily "gift" old shareholders of the debtor with a portion of their new equity shares in the reorganized debtor, even though general unsecured creditors had only received distributions worth a fraction of their claims. *Id.* at 86-87. The debtors and lienholders argued that this arrangement in the Chapter 11 plan did not violate the absolute priority rule, as the shares were provided by the lienholders, who "voluntarily offer[ed] a portion of their recovered property to junior stakeholders." *Id.* The Second Circuit rejected this reasoning, holding that the shareholders were to receive equity shares "'on account of' [their] junior interest" within the meaning of section 1129(b)(2)(B). *Id.* at 95.

64. Similarly, reviewing a pre-plan settlement that incorporated both sale terms and distribution terms, the Second Circuit held in *Iridium* that "whether a particular settlement's distribution scheme complies with the Code's priority scheme must be the most important factor for the bankruptcy court to consider when determining whether a settlement is 'fair and equitable' under Rule 9019." 478 F.3d at 464. The Second Circuit cautioned that "[t]he Court must be certain that parties to a settlement have not employed a settlement as a means to avoid the priority strictures of the Bankruptcy Code." *Id.* The Court therefore rejected a portion of a settlement agreement which dictated that the distribution of any residual amounts from a litigation trust would be made to general unsecured creditors, in violation of the absolute priority rule. *Id.* at 465-66 (leaving open the possibility that a settlement "that does not comply in some minor respects with the priority rule" might be justified if "the reviewing court clearly articulates the reasons for . . . deviat[ing] from the priority rule," but noting that "no reason has been offered to explain why any balance left in the litigation trust could not or should not be distributed pursuant to the rule of priorities").

65. The absolute priority rule has similarly been applied when evaluating motions for debtor-in-possession (DIP) financing. For example, this Court has rejected the argument that the absolute priority rule was "irrelevant" to a motion to approve DIP financing "because section 1129 only applies in a plan confirmation process." *In re LATAM Airlines Group, S.A.*, 620 B.R. 722, 798 (Bankr. S.D.N.Y. 2020). It further reasoned that DIP financing arrangements can trigger *sub rosa* plan concerns and that "a bankruptcy court cannot, under the guise of 11 U.S.C. § 364, approve financing arrangements that amount to a plan of reorganization but evade confirmation requirements." *Id*. at 815-16 (citing *In re Def. Drug Stores, Inc.*, 145 B.R. 312, 317 (9th Cir. B.A.P. 1992)); *see also In re Chevy Devco*, 78 B.R. 585, 589 (Bankr. C.D. Cal. 1987) (denying motion to obtain secured financing that called for DIP loan to subordinate existing secured debt where debtor "admitted . . . that the proposal that was brought to [the] Court [was] equivalent to its plan of reorganization[,]" and stipulated "that if this subordination proposal had been put forward in a plan of reorganization, the plan could not be confirmed over [objector's] rejection"). Indeed, in assessing a DIP financing agreement with a debtor's equity holders, this Court held that "[t]he touchstone consideration . . . is whether the proposed terms would prejudice the powers and rights that the Code confers for the benefit of all creditors and leverage the Chapter 11 process by granting the lender excessive control over the debtor or its assets as to unduly prejudice the rights of other parties in interest." *LATAM*, 620 B.R. at 816 (internal quotation marks omitted). This Court ultimately denied the DIP financing arrangement as it would "violate[] the absolute priority rule." *Id*. at 820.

66. These principles apply equally to bar the Proposed Sale. In substance, the Proposed Sale would provide the Debtors' business to a group of secured lenders who rank near the top of the priority scheme, while providing hundreds of millions of dollars in compensation

to several groups of general unsecured creditors with low priority. But it would provide no compensation to the substantial IRS priority tax claim, which ranks above the claims of general unsecured creditors. *See* 11 U.S.C. § 507(a)(8)(A). Thus, the Proposed Sale, like the structured dismissal in *Jevic*, must be rejected because it "g[ives] money to high-priority secured creditors and to low-priority general unsecured creditors" while "skipp[ing] certain dissenting mid-priority creditors." 580 U.S. at 454.

67. The Proposed Sale would also violate basic bankruptcy policy by promising payments to many groups of general unsecured creditors while providing nothing for the Government's general unsecured claims (on account of DOJ's civil and criminal investigations of Debtors, the healthcare agency claims, and portions of the tax claims). *See supra* ¶¶ 2, 17-23, 29-31, 33, 53. The Proposed Sale similarly discriminates against the general unsecured claims of the Canadian Governments and public school districts. Such "horizontal discrimination" among similarly situated creditors is expressly forbidden in a Chapter 11 plan. *See, e.g.*, *In re SunEdison, Inc.*, 575 B.R. 220, 226 (Bankr. S.D.N.Y. 2017) (citing 11 U.S.C. § 1129(b)).

b. No Case Law Supports the Proposed Distribution to Creditors

68. Debtors' reliance upon cases that predate *Jevic* and from circuits that do not follow the absolute priority rule as strictly as the Second Circuit does, Dkt. No. 1200, ¶ 103, including the Third Circuit's decision in *In re ICL Holding Co.*, 802 F.3d 547, 558 (3d Cir. 2015), is misplaced. The *ICL Holding* court concluded that secured lenders could pay off general unsecured creditors who objected to a section 363 sale—while not paying an administrative tax claim—because the payments came directly from the lenders, and were therefore not property of the estate subject to the priority rules. *Id*. at 555-56. This elevation of form over substance ignores the economic reality of the sale: the lenders paid the unsecured creditors only so they could proceed with the sale, rendering the payments a part of the purchase price for the assets.

Under this logic, purchasers could make side-deals with any number of objecting creditors and entirely ignore the priority scheme. Thus, the *ICL Holding* court permitted the sort of priority-evasion that the Second Circuit and Supreme Court have rejected. Indeed, the continuing validity of *ICL Holding* is doubtful even within the Third Circuit, following the Supreme Court's reversal of the Third Circuit's jurisprudence in *Jevic*.

69. Debtors, selectively citing passages from the decisions approving sales of assets in *In re Chrysler* and *In re General Motors*, also argue that these cases stand for the proposition that "payments made by section 363 purchasers directly to creditors from such purchasers' own funds and pursuant to arrangements with such creditors are permissible." Dkt. No. 1200, ¶ 104. That is incorrect. *Chrysler* and *General Motors* stand for the relatively straightforward proposition that payments by section 363 purchasers to third parties *as consideration for separate transactions between the third parties and the purchaser for the purpose of generating value to the new enterprise, and not for the purpose of satisfying prepetition claims*, do not contravene the absolute priority rule. *General Motors Corp.*, 407 B.R. at 474-75 ("[a]rrangements made by the Purchaser" to "create a new GM that will be lean and healthy enough to survive" are not a *sub rosa* plan); *In re Chrysler LLC*, 405 B.R. 84, 99 (Bankr. S.D.N.Y. 2009) (finding that "New Chrysler negotiated with various constituencies that are contributing and essential to the new venture"). Nothing in those cases gives purchasers *carte blanche* to pay junior creditors on account of their prepetition claims in violation of the absolute priority rule.

70. In *Chrysler*, for example, the bankruptcy court was presented with a motion to approve the sale of substantially all of Chrysler's operating assets to a new entity, New Chrysler. *Id.* at 92. Equity shares in New Chrysler would be held by the United States Treasury

("Treasury"), a Canadian government agency, Fiat, and the International Union, United Automobile Aerospace and Agricultural Implement Workers of America (the "UAW")'s voluntary employees' beneficiary association ("VEBA"), a trust that funded healthcare benefits for retired Chrysler employees. *Id.* at 92. Certain first-lien lenders objected to the sale as a *sub rosa* plan, arguing that the New Chrysler's equity structure permitted certain prepetition creditors to receive more favorable treatment in contravention of the absolute priority rule. *Id.* at 97-98.

71. But as the bankruptcy court emphasized in concluding that this transaction was not a *sub rosa* plan, while Treasury and the UAW may have been prepetition creditors, they were not "receiving distributions on account of their prepetition claims." 405 B.R. at 99. Instead, they received compensation for separate value they provided directly to New Chrysler: Treasury received an equity share in New Chrysler "not based upon [its] prepetition claims against Old Chrysler" but as part of "an unrelated transaction" pursuant to which Treasury and the Canadian agency provided more than $6 billion in financing to New Chrysler. *Id.* at 100. Treasury's prepetition claims relating to its pre-bankruptcy funding of Chrysler and its DIP lending remained unaffected by the sale transaction, and were instead paid as part of the winddown of the debtors' estate through a Chapter 11 plan. *See In re Chrysler, LLC*, No. 09-50002-mg (Bankr. S.D.N.Y.), Dkt. No. 6875, Second Amended Plan of Liquidation art. X.A.82 (DIP Lender Winddown Order) (Apr. 23, 2010); *id*. Dkt. No. 8439 (Sept. 22, 2015).

72. The VEBA similarly received equity shares in New Chrysler as a result of negotiations between the UAW and New Chrysler on a new collective bargaining agreement. The bankruptcy court found that "New Chrysler [viewed] the skilled workforce as essential to its future operations," but the UAW refused to "ratify the amended collective bargaining agreement unless New Chrysler agreed to fund the VEBA." *Id.* at 99. The court further found that "[t]he

consideration provided to New Chrysler by the UAW in exchange for New Chrysler's agreement to take over obligations under VEBA are unprecedented modifications to the collective bargaining agreement, including a six-year no-strike clause." *Id.* at 100. The bankruptcy court therefore held that, because none of the value transferred from New Chrysler to the UAW was on account of the UAW's prepetition claims, it did not implicate the prohibition on *sub rosa* plans.

73. The bankruptcy court in *General Motors* similarly found that "arrangements made by the Purchaser" of General Motor's assets to "create a new GM that will be lean and healthy enough to survive" were not a *sub rosa* plan. *In re General Motors Corp.*, 407 B.R. 463, 474-75 (Bankr. S.D.N.Y. 2009). In that case, bondholders challenged the terms of New GM's collective bargaining agreement with the UAW, which provided the VEBA with an equity interest in New GM, as an impermissible attempt to dictate the allocation of sale proceeds. *Id.* at 496. Relying largely on the *Chrysler* decision, the bankruptcy court rejected this argument, agreeing with that court's reasoning that "in negotiating with groups essential to [the new company's] viability (such as its workforce) the purchaser was free to provide ownership interests in the new entity as it saw fit." *Id.* at 497. The *General Motors* court agreed with *Chrysler* that "what the UAW, the VEBA, and the U.S. Treasury would be getting . . . was not on account of any entitlements any of them might have" in the bankruptcy case on account of their prepetition claims. *Id*.

74. Unlike in *Chrysler* and *General Motors*, the proposed voluntary trusts for the benefit of the state and local governments, members of the UCC, and opioid creditors are not to be given in consideration for any services or value that these creditors will be providing to the new post-sale company. The Committees and other unsecured creditors are not providing financing to the new company, nor are they providing a workforce, valuable technology, or essential services to it. Rather, the value being provided to these favored groups of unsecured

creditors is purely and solely in satisfaction of, and on account of, their prepetition claims. Indeed, the key conduct that created the liabilities now being paid to the states and other opioid claimants is the sale and marketing of a drug—Opana ER—that was withdrawn from the market in 2017, *five years before* these cases were commenced.[13] The post-sale business cannot possibly anticipate any forward-looking business relationship with creditors whose claims arise from the sale of a long-discontinued product. Accordingly, there is nothing "on account of" which the trusts are being paid, or could possibly be paid, other than these favored creditors' prepetition claims against Debtors. *See* 11 U.S.C. § 1129(b)(2)(B)(ii).

75. Indeed, the principal consideration that these creditors are providing in exchange for these payments is an agreement to release their prepetition claims against the Debtors, Dkt. No. 2384, Ex. 2-A, which crystallizes the payments' impermissible nature. In addition, as discussed below, the Committees further agreed, in exchange for these payments, to abandon the estate's potential challenges to the First Lienholders' Liens and its potential claims to recover the prepaid compensation to executives—which are not theirs to relinquish. Accordingly, *Chrysler* and *General Motors* provide no support for the Debtors' attempt to circumvent the absolute priority rule in this case.

* * *

76. Accordingly, the proposed sale, which determines the distributions to the estate's creditors and favors general unsecured claims over the IRS's priority tax claim, violates the Bankruptcy Code's priority scheme, and should not be approved.

[13] *See, e.g.*, U.S. Food & Drug Admin., *Oxymorphone (marketed as Opana ER) Information*, https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/oxymorphone-marketed-opana-er-information (last visited July 13, 2023).

2. The Proposed Sale Order Contains Provisions that Would Dictate the Terms of a Chapter 11 Plan and Exceed What is Authorized Under Section 363

77. Apart from determining distributional rights outside a plan—in a manner contrary to the Code—the Proposed Order contains several provisions that cannot be authorized under section 363, including broad injunctions and third-party releases, the release of estate claims, and an effective discharge of claims against the Debtors in exchange for a trust distribution. These are exactly the type of provisions that courts have held indicate that a sale transaction is an impermissible *sub rosa* plan. *See Braniff*, 700 F.2d at 940 (holding that sale transaction that "provided for the release of claims by all parties against *Braniff*, its secured creditors and its officers and directors" was *sub rosa* plan as such releases are not authorized by section 363(b)); *In re Gulf Coast Oil Corp*., 404 B.R. at 415 ("When the court order approving the sale expands to affect creditors and other parties in interest in a significant way, when it effectively 'short circuits the requirements of Chapter 11 . . . by establishing the terms of the plan *sub rosa* . . .', or when it includes unauthorized releases, the transactions cannot be authorized under § 363(b)." (quoting *Braniff*, 700 F.2d at 940)); *cf. In re Continental Air Lines, Inc*., 780 F.2d 1223, 1227 (5th Cir. 1986) ("[A] debtor in Chapter 11 cannot use § 363(b) to sidestep the protection creditors have when it comes time to confirm a plan of reorganization.").

a. The Proposed Order Includes Impermissible Injunctions and Third-Party Releases

78. The Debtors improperly seek through the Proposed Sale Order to preclude and enjoin the Government from bringing any number of claims arising under non-bankruptcy law that it may have against non-debtors. Although the Second Circuit has held that third-party releases may sometimes be authorized in a confirmed Chapter 11 plan pursuant to 11 U.S.C. § 1123(b)(6), *see In re Purdue Pharma L.P.*, 69 F.4th 45, 73 (2d Cir. 2023), *motion to stay the*

mandate pending cert. petition filed, No. 22-110, Dkt. No. 1012 (July 7, 2023),[14] there is no authority for granting such relief in the context of a section 363 sale. Indeed, the injunctions and third-party releases sought in the Sale Motion are broader than Debtors could obtain in a Chapter 11 plan.

79. The Proposed Sale Order provides:

> all persons and entities . . . including, but not limited to . . . ***governmental, tax, and regulatory authorities*** . . . holding Encumbrances[15] or other ***interests or claims of any kind or nature whatsoever*** against or in all or any portion of the Acquired Assets or against the Debtors (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinate) ***arising prior to or on the Closing Date, the operation of the Debtors' businesses prior to the Closing Date, or the transfer of the Acquired Assets to the Buyer in accordance with the PSA, the Direction Letter, the Reconstruction Steps, and this Sale Order***, and their respective successors and assigns, ***are hereby forever barred, estopped, and permanently enjoined from asserting against the Buyer, the First Lien Collateral Trustee, and each of their affiliates, successors or assigns, and property (including, without limitation, the Acquired Assets) such persons' or entities' Encumbrances in, on, or to the Acquired Assets***,….

[14] As the Government's motion to stay issuance of the mandate notes, the Solicitor General has authorized the United States Trustee to file a petition for a writ of certiorari in *Purdue*, and the United States Trustee intends to file such a petition on or before August 28, 2023. *See id*. at 1.

[15] The proposed order defines Encumbrances as broadly including all claims (per 11 U.S.C. § 101(5)) and interests (per 11 U.S.C. § 363(f)) "in, on, or related to the Acquired Assets, including, without limitation, . . . assignments, preferences, debts, . . . suits, . . . rights of recovery, judgments, orders and decrees of any court or foreign or domestic governmental entity, taxes (including foreign, state, and local taxes), . . . causes of action, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature in, on, or related to the Acquired Assets, whether known or unknown, prepetition or postpetition, secured or unsecured, direct or indirect, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, absolute, contingent, fixed or non-contingent, material or non-material, disputed or undisputed, statutory or non-statutory, matured or unmatured, arising or imposed by agreement, understanding, law, equity, statute, or otherwise, including any and all such liabilities, causes of action, contract rights and claims arising out of the Debtors' continued operations prior to the Closing Date." Proposed Finding O.

> (a) ***commencing, continuing, promoting, or facilitating in any manner any action or other proceeding***, in any judicial, administrative, arbitral or other forum, whether in law or equity, ***against the Buyer, its affiliates, or its and their successors and assigns*** (including the Voluntary GUC Creditor Trustand any sub-trusts established thereunder, and PPOC Trust and any sub-trusts established thereunder), or its and their respective assets or properties (including, without limitation, the Acquired Assets ;
>
> (b) ***enforcing, attaching, collecting, or recovering, in any manner, any judgment, award, decree, or order***, or from or against the proceeds of any judgment, award, decree or order, ***against the Buyer, its affiliates, or its and their successors and assigns*** (including the Voluntary GUC Creditor Trust and any sub-trusts established thereunder and PPOC Trust and any sub-trusts established thereunder), or its and their respective assets or properties (including, without limitation, the Acquired Assets ;
>
> (c) ***creating, perfecting, or enforcing any Encumbrance, lien, claim, or interest against the Buyer, its affiliates, or its and their successors and assigns*** (including the Voluntary GUC Creditor Trust and any sub-trusts established thereunder and PPOC Trust and any sub-trusts established thereunder), or its and their respective assets or properties (including, without limitation, the Acquired Assets;
>
> (d) ***asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Buyer, its affiliates, or its and their successors and assigns*** (including the Voluntary GUC Creditor Trust and any sub-trusts established thereunder, and PPOC Trust and any sub-trusts established thereunder);
>
> (e) ***commencing, continuing, promoting or facilitating in any manner, any action or other proceeding, pending or threatened, in any judicial, administrative, arbitral or other forum, that does not comply with, seeks to challenge, or is otherwise inconsistent with the provisions of this Sale Order*** or other orders of the Court, or the agreements or actions contemplated or taken in respect thereof . . . .

Proposed Sale Order ¶ 16 (emphases added); *see also* Proposed Finding Q (stating that such an injunction "is necessary and appropriate to carry out the provisions of the Bankruptcy Code and preserve the value of the Debtors' estates and the rights of the Debtors and their creditors and other parties-in-interest, and such relief does not conflict with the provisions of the Bankruptcy

Code" and that "[t]he Debtors' estates will be irreparably harmed if any holders of Encumbrances that have been or at any time could be asserted against any Debtor or its assets are permitted to assert such Encumbrances against the Buyer.").

80. Although section 363(f) permits a sale "free and clear" of interests in the property, the proposed injunction goes far beyond what is permitted under that provision. While section 363(f) permits a sale that is free and clear of *in rem* interests and certain types of derivative successor liability claims that "flow from the debtor's ownership of transferred assets," *In re Motors Liquidation Co.*, 829 F.3d 135, 155 (2d Cir. 2016), the proposed injunctions would bar the Government from pursuing a variety of potential claims it may already have *arising under non-bankruptcy substantive law* against various *third-party participants* in the relevant transactions, including Debtors' transferees (the Debtors' executives who received prepetition prepaid compensation packages and the First Lienholders), and the Debtors' and their transferees' directors, managers, and any others who may have aided and abetted potentially fraudulent transfers, that could be brought *outside this Court and after any sale is closed.* Such claims are not assets of the estate, exist independently of the bankruptcy case, and survive the bankruptcy discharge, though they may be stayed by the pendency of the bankruptcy case. *See In re Colonial Realty Co.*, 980 F.2d 125, 130-131 (2d Cir. 1992) (holding that a creditor's fraudulent transfer claim is not property of the estate and survives the debtor's bankruptcy, but is stayed during the bankruptcy proceedings); *see also* Collier on Bankruptcy, ¶ 524.05 at 524-37 (15th ed. rev. 2000) ("[A] creditor of the debtor may proceed after discharge against the recipient of a fraudulent transfer from the debtor.") (citing *Kathy B. Enterprises, Inc. v. United States*, 779 F.2d 1413, 1414-1415 (9th Cir. 1986))); *Klingman v. Levinson*, 114 F.3d 620, 629 (7th Cir. 1997) ("The filing of the bankruptcy petition did nothing to pretermit the fraudulent conveyance

action; although it had the temporary effect of staying that action."); *Hatchett v. United States*, 330 F.3d 875, 886 (6th Cir. 2003) ("Though the trustee has the exclusive right to bring an action for fraudulent conveyance during the pendency of the bankruptcy proceedings, the Bankruptcy Code does not extinguish the right of the Government to bring a state law action for fraudulent conveyance after the debtor receives a discharge in bankruptcy.").

81. There are several types of potential claims that the Government could bring against these persons and entities outside of this bankruptcy case. For example, the IRS may pursue the Debtors' unpaid tax liabilities against any of Debtors' transferees within the meaning of 26 U.S.C. § 6901, by assessing them with transferee liability. Such an assertion of transferee liability may be based on a fraudulent transfer from the debtor-taxpayer to the transferee under relevant state law. *See generally Diebold Foundation, Inc. v. Comm'r*, 736 F.3d 172, 183-85 (2d Cir. 2013) (describing the operation of this provision with respect to corporate transactions under New York law). And a fraudulent transfer for these purposes includes a transaction in which the debtor-taxpayer transferred value to a third party, "received no reasonably equivalent value[,] . . . and was [thus] left unable to satisfy its tax obligation." *Slone v. Comm'r*, 896 F.3d 1083, 1085-88 (9th Cir. 2018) (concluding that shareholders of closely held corporation were transferees within meaning of § 6901 and were thus individually liable for transferor's taxes because they benefitted from such a transaction); *accord Feldman v. Comm'r*, 779 F.3d 448, 460 (7th Cir. 2015).

82. Here, the IRS may determine that the lienholders of the Prepetition Secured Indebtedness were overcompensated when they exchanged partly unsecured debt for fully secured debt in the prepetition transactions discussed in the proposed Secured Debt Complaint attached to the Standing Motion, thus ensuring that the Debtors would no longer have sufficient

unencumbered assets to pay their tax liabilities. Depending on the relevant circumstances of the transfer and the scienter of the parties, the IRS may assess transferee liability against the relevant lienholders for the relevant part of the Debtors' tax obligations under 26 U.S.C. § 6901. Similarly, to the extent the Debtors transferred assets in the form of prepaid compensation to certain of their executives shortly before filing for bankruptcy (as described in the Prepaid Compensation Complaint), at a time when they were not able to satisfy their pending tax obligations, the IRS may also assess transferee liability against those executives.

83. In addition to assessing transferee liability, the Government could bring lawsuits against various transferees under non-bankruptcy substantive law for actual or constructive fraudulent transfer, depending on whether the Debtors and/or lienholders participating in the prepetition transactions discussed in the proposed Secured Debt Complaint knew or were on notice of ongoing tax audits or federal criminal or civil investigations. Such claims would not be derivative claims based upon successor liability theories, but direct claims premised upon either constructive fraud or the transferees' own misconduct. The United States could pursue such fraudulent transfer claims on its own behalf under the Federal Debt Collection Procedures Act ("FDCPA"), 28 U.S.C. § 3304. *See generally SEC v. Haligiannis*, 608 F. Supp. 2d 444, 450-51 (S.D.N.Y. 2009) (reviewing FDCPA standard and concluding that debtor was liable after granting mortgage to insider at a time he knew he was insolvent and was being investigated for fraud). The IRS may also bring such claims directly under applicable state fraudulent transfer law, such as N.Y. Debtor & Creditor Law § 273 *et seq.*, because of 28 U.S.C. § 3003(b)(1).[16] *Cf. e.g.*, *In re Le Cafe Creme, Ltd.*, 244 B.R. 221, 237-243 (Bankr. S.D.N.Y. 2000) (debtor engaged

[16] *See United States v. Halpern*, No. 15 Civ. 0025, 2015 WL 5821620, at *4-5 (E.D.N.Y. Oct. 5, 2015) (United States can collect taxes using state-law creditor remedies); *United States v. Bushlow*, 832 F. Supp. 574, 580-81 (E.D.N.Y. 1993) (same).

in fraudulent transfer, under § 273, by converting the equity interests of former shareholders into secured debt at a time when the debtor was insolvent and generally not paying its debts). Similar fraudulent transfer claims under the FDCPA or state law could be brought against Debtors' executives with respect to their prepetition prepaid compensation. *Cf., e.g.*, *Camofi Master LDC v. Riptide Worldwide, Inc.*, No. 10 Civ. 4020 (CM), 2011 WL 1197659, at *12 (S.D.N.Y. Mar. 25, 2011) (holding plaintiffs stated claim under § 273 where defendants allowed transfer of money for bonus and salaries to be paid at a time they were indebted to plaintiffs).

84. Other non-derivative potential claims against third parties may include tort liability for aiding and abetting an effort, or participating in a conspiracy, to defraud the United States, *cf., e.g.*, *Lumbard v. Maglia*, 621 F. Supp. 1529, 1536-37 (S.D.N.Y. 1985) (liability for aiding and abetting a scheme to defraud an entity's creditors through a tortious fraud of creating an entity to carry on the debtor corporation's business, free of its debts, with its assets and employees and merely under a new name). Or it may include improper expansion of the lienholders' security interests while the Debtors' owed money to the Government under 31 U.S.C. § 3713(b), as an "act[] of bankruptcy" that improperly, within the meaning of § 3713(a), transferred a portion of the debtor's property to its creditors while insolvent, "with intent to prefer such creditors over his other creditors." *Wilson Bros. v. Nelson*, 183 U.S. 191, 194-195 (1901), and with potential fiduciary liability for Debtors' managers and directors as *de facto* fiduciaries to the creditors.

85. The point of this recitation is not to say that the Government will necessarily bring all such claims or prevail if it did, but to indicate the breadth of potential claims that the Proposed Sale Order seeks to release and enjoin the Government from bringing against persons and entities other than the Debtors, for prepetition transactions, that arise wholly under non-

bankruptcy substantive law and could be brought outside this Court after the proposed sale was consummated.

86. The Proposed Sale Order's broad injunctive provisions are therefore involuntary third-party releases. They would bar many non-derivative claims by various nondebtors (creditors of Debtors' estates), including the Government, against various other nondebtors (most prominently, the Buyer, as well as the trusts created under the transaction). Proposed Order ¶¶ 16-19. As they would "restructure[] the rights of creditors," these injunctions further illustrate the *sub rosa* nature of the Proposed Sale Order. *LATAM Airlines*, 620 B.R. at 813.

87. The Second Circuit's recent decision in *Purdue* makes clear that the Sale Order attempts to obtain relief that is only available, if at all, in a Chapter 11 plan.[17] In holding that a Chapter 11 plan may, in certain limited circumstances, contain an involuntary third-party release of direct claims, *Purdue* relied on a reading of 11 U.S.C. § 1123(b)(6), which governs the contents of Chapter 11 plans. *Purdue*, 69 F.4th at 77. The court expressly "reject[ed]" the argument "that [11 U.S.C.] § 105(a) alone" could authorize an involuntary third-party release. *Id.* at 73. And nothing in section 363 contains language parallel to section 1123(b)(6). Thus, Debtors are seeking to obtain releases and injunctions through this section 363 motion that could only be obtained, if at all, in a Chapter 11 plan. The very inclusion of these injunctive provisions demonstrates that the Proposed Sale is a plan by another name.[18]

[17] Moreover, the *Purdue* decision did not hold—and there is no authority—that such involuntary releases could be applied to the Government given the absence of an applicable waiver of sovereign immunity. To be sure, section 363 is referenced in 11 U.S.C. § 106(a)(1), but as discussed below, nothing in section 363 remotely suggests authority to enjoin the Government from suing third parties not based on the sale itself but based on pre-petition events.

[18] The Government further notes that, even if such third-party releases could be granted in a section 363 sale, which they cannot, the *Purdue* court's seven-factor test for when granting such releases is appropriate has not been satisfied. Most obviously, the Government's released claims are not being compensated at all, which fails the seventh factor ("whether the plan provides for

88. Indeed, the fact that the Proposed Order seeks injunctive relief without a separate motion under Federal Rule of Bankruptcy Procedure 7001 further illustrates this point. While a bankruptcy plan can, in certain limited circumstances, contain injunctive terms, *see In re Live Primary, LLC*, 626 B.R. 171, 190 (Bankr. S.D.N.Y. 2021) (citing Fed. R. Bankr. P. 7001(7)), a debtor may not seek injunctive relief through a proposed section 363 sale; an adversary proceeding is required under Fed. R. Bankr. P. 7001(7). *See In re Saint Vincent's Catholic Med. Ctrs.*, 445 B.R. 264, 270 (Bankr. S.D.N.Y. 2011) ("A proceeding to obtain an injunction . . . must be brought as an adversary proceeding pursuant to . . . Rule . . . 7001(7) and a showing of irreparable harm must be made. Courts have been near universal in reversing injunctions which have been issued without compliance with Rule 7001." (citation and internal quotation marks omitted)), *aff'd*, 581 F. App'x 41 (2d Cir. 2014). Debtors have filed no adversary proceeding here, and their proposed injunction must be separately rejected on this ground. *See In re On-Site Sourcing, Inc.*, 412 B.R. 817, 825 n.6 (Bankr. E.D. Va. 2009) ("There is no provision for issuing injunctions in § 363. Injunctions may be available in the context of a § 363 sale, but must be obtained by commencing an adversary proceeding." (citing Fed. R. Bankr. P. 7001(7)).

89. Finally, the proposed sale also achieves the equivalent of a bankruptcy discharge for the Debtors from claimants who accept trust distributions. As discussed above, *see supra* ¶¶ 29-30, creditors who accept payments through the trusts must release their claims against the Debtors (and others). Discharging a debtor's prepetition debts is the exclusive province of a bankruptcy plan, and not available in a corporate chapter 7 proceeding. *Compare* 11 U.S.C.

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the fair payment of enjoined claims," *id*. at 79). Similarly, while there has been no vote here, with respect to the sixth factor (which requires "overwhelming" support via vote, *id*. at 78), the Government—which has a substantial priority tax claim that would presumably be placed in its own class—has objected to the sale. Nor have Debtors even sought to demonstrate the other factors.

§ 1141(d)(1) *with id*. § 727(a)(1). There is no authority in section 363 for a discharge, and the Proposed Sale's attempt to achieve the same result under another name must fail.

b. The Proposed Order Purports to Resolve Estate Claims Outside of a Rule 9019 Motion or a Plan

90. The Proposed Sale Order also seeks to accomplish what can only be done through either a Rule 9019 motion or the plan confirmation process: resolve claims belonging to the estate. *See* 11 U.S.C. § 1123(b)(3)(A) (authorizing settlement of any claim or interest belonging to the estate in a Chapter 11 plan). Specifically, the Proposed Sale Order purports to resolve the estate's challenges to the Prepetition Secured Indebtedness, but to funnel the proceeds of this settlement to the Committees' preferred constituencies. Yet money paid to settle claims belonging to the estate should be paid to the estate. This attempt to settle estate claims for the benefit of only certain creditors is another blatant attempt to evade the procedural protections of the Chapter 11 plan process.

91. The resolution of estate claims in either a Rule 9019 motion or in a Chapter 11 plan are evaluated under the same standard: whether the settlement is "fair and equitable." *In re NII Holdings, Inc.*, 536 B.R. 61, 98 (Bankr. S.D.N.Y. 2015). And as discussed below, "whether a particular settlement's distribution scheme complies with the Code's priority scheme must be the most important factor for the bankruptcy court to consider when determining whether a settlement is 'fair and equitable.'" *Iridium*, 478 F.3d at 464.

92. The parties to these settlements seek this Court's imprimatur on their resolution of these estate claims outside the Rule 9019 or plan confirmation context because these settlements do not satisfy the absolute priority rule. To the contrary, they divert value properly belonging to the estate to certain general unsecured creditors, while paying nothing to the estate as a whole or

any other unsecured creditors, including the United States. These settlements therefore could not be approved if they were sought through the proper procedural mechanisms.

* * *

93. In sum, the Proposed Sale Order must be rejected because it contains provisions that could only, if at all, be approved as part of a Chapter 11 plan—and in some instances, provisions that could not be approved in a plan either.

C. The Court Lacks Jurisdiction to Enter the Injunctive Provisions and Third-Party Releases in the Proposed Sale Order

94. The injunctive provisions of the Proposed Sale Order are separately problematic, as the Court lacks jurisdiction to enter the broad injunctions requested here, especially as against the Government.

1. Sovereign Immunity and the Anti-Injunction Act

95. First, the doctrine of sovereign immunity and the Anti-Injunction Act preclude applying any injunctive bar to claims of the United States and the IRS in particular. The Anti-Injunction Act, which "codifie[s]" the government's sovereign immunity in the "context of tax assessment and collections," *Randell v. United States*, 64 F.3d 101, 106 (2d Cir. 1995), limits federal courts' authority to enter orders barring the United States from asserting causes of action directed at the collection of federal tax. 26 U.S.C. § 7421 ("no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person"); *see In re LaSalle Rolling Mills, Inc.*, 832 F.2d 390 (7th Cir. 1987) (Anti-Injunction Act applies in bankruptcy); *accord A to Z Welding & Mfg. Co. v. United States*, 803 F.2d 932, 933 (8th Cir. 1986) (per curiam); *Am. Bicycle Ass'n v. United States (In re Am. Bicycle Ass'n)*, 895 F.2d 1277, 1279-80 (9th Cir. 1990); *see also In re Scott Cable Commc'ns, Inc.*, 227 B.R. 596, 601-02

(Bankr. D. Conn. 1998) (Anti-Injunction Act precludes Chapter 11 plan provision enjoining IRS from collecting taxes from third parties).[19]

96. Moreover, each of the potential non-bankruptcy claims that the Government might bring against third parties have their own statutes of limitations prescribed by Congress or state law. No court may shorten those periods, especially not with respect to the IRS.[20]

97. For example, to impose transferee liability on recipients of fraudulent transfers under 26 U.S.C. § 6901, the IRS does not need to commence a lawsuit; it may simply issue a notice of a proposed transferee liability assessment—and may do so at any time until one year after the tax at issue is assessed against the transferor. *Id*. § 6901(c). Here, the IRS has not yet assessed the Debtors' tax liabilities, as the audits are still ongoing, IRS Claim at 4 n.1, and thus this one-year limitations period has not yet begun to run. Similarly, the statute of limitations for fraudulent transfer claims under the FDCPA is six years. *See* 28 U.S.C. § 3306(b); *see also In re Tronox Inc.*, 503 B.R. 239, 273-74 (Bankr. S.D.N.Y. 2013). And the IRS may bring fraudulent transfer claims under state law within the ordinary ten-year period for collecting taxes after assessment (without regard to when the transfer occurred). *See Halpern*, 2015 WL 5821620, at *4-5 (applying 26 U.S.C. § 6502). None of the relevant limitations periods have thus expired yet.

[19] Likewise, the Declaratory Judgment Act, 28 U.S.C. § 2201(a), specifically bars declaratory judgments affecting the assessment *or collection* of federal tax.

[20] In other contexts, courts have recognized that it is the role of Congress, not parties to a commercial dispute, to set the timeframe in which the IRS must act. For example, a district court's attempt to impose a deadline for the IRS to complete its audit of a receivership estate's tax returns has been held to be beyond that court's authority, as a violation of the Anti-Injunction Act. *See Sterling Consulting Corp. v. United States*, 245 F.3d 1161, 1167 (10th Cir. 2001). And courts have rejected debtors' attempts to declare taxes discharged when the IRS has not investigated and is not actively claiming that an exception in 11 U.S.C. § 523(a)(1) applies. *E.g.*, *Hinton v. United States*, No. 09 C 6920, 2011 WL 1838724 (N.D. Ill. 2011); *Erikson v. U.S. Dep't of Treasury*, No. 12-05546, 2013 WL 2035875 (Bankr. E.D. Mich. 2013). Similarly here, the IRS has not yet decided whether to assert transferee liability.

98. Additionally, Congress has not waived the Government's sovereign immunity to permit bankruptcy courts to bar them from pursuing fraudulent transfer claims under non-bankruptcy substantive law. While the statutory waiver of sovereign immunity for bankruptcy cases in 11 U.S.C. § 106(a)(1) encompasses section 363, nothing in that provision remotely suggests that Congress has consented to the Government being enjoined from asserting in post-bankruptcy litigation that it was the victim of a fraudulent transfer or the like before the bankruptcy petition. This is especially the case with respect to the IRS, given the Anti-Injunction Act.[21]

2. Specific Non-Tax Government Claims Cannot Be Released or Enjoined for Independent Reasons

99. Next, specifically with respect to CMS's MSP claims against non-debtors, this Court lacks subject-matter jurisdiction to enjoin them. When the trusts receive payments to fund settlement of personal injury claims against Endo, they will become "primary plans" obligated to reimburse the United States under the MSP statute, 42 U.S.C. § 1395y(b)(2)(B)(ii). *See Taransky v. Sec'y of Health and Human Servs.*, 760 F.3d 307, 309-10 (3d Cir. 2014) (noting that the

[21] The Government's potential post-sale claims based on pre-petition causes of action are not affected by the Cash Collateral Order, which addressed only claims that could be brought in this case by a party granted derivative standing by this Court to do so—and thus does not include the claims at issue that require no derivative standing and would not be brought in bankruptcy court. *See* Cash Collateral Order ¶ 19(a) (providing that stipulations as to the validity of liens are binding "unless and to the extent that a *party in interest with proper standing granted by order of the Court* (or other court of competent jurisdiction) has timely and properly filed an adversary proceeding or contested matter" (emphasis added)); *id.* ¶ 19(b) (First Lienholder claims "not subject to counterclaim, setoff, recoupment, reduction, subordination, recharacterization (other than as set forth in this Final Order), defense, or avoidance *for all purposes in the Debtors' Cases and any Successor Cases*" [defined in ¶ 6(e) as "successor cases under any chapter of the Bankruptcy Code"] (emphasis added)). Moreover, for many of the same reasons explained herein with regard to the Proposed Sale Order, the Cash Collateral Order could not properly be interpreted to bar such claims: it would run afoul of the Government's sovereign immunity and the Anti-Injunction Act, and other legal limitations, including Rule 7001.

"December 2003 amendments to the MSP Act [] explicitly broadened the definition of 'primary plan' to include tortfeasors"). CMS is not bound by any allocation of settlement funds to nonmedical losses unless there is a court order on the merits of the case, *see id.* at 319-20, and the trusts must report any settlement payments made to Medicare beneficiaries, *see* 42 U.S.C. § 1395y(b)(7)-(8). CMS also has a right to pursue the costs (and potential damages) it incurs against any party that has received settlement funds. *Id.* § 1395y(b)(2)(B)(iii); *see, e.g.*, *Humana, Inc. v. Shrader & Assocs., LLP*, 584 B.R. 658, 680-81 (Bankr. S.D. Tex. 2018) ("[P]ursuant to the 2003 amendments to the MSP provisions, asbestos trusts can constitute primary plans under the MSP, and the settlements paid by asbestos trusts to [the] Shrader [law firm] on behalf of Shrader's clients can be a source of reimbursement under the MSP.").

100. This Court lacks jurisdiction to preemptively bar CMS's MSP rights. The relevant jurisdictional statute "demands the channeling" of all claims arising under the Medicare Act through the special review procedures provided by the Medicare Act, and "plainly bars" jurisdiction over such claims under 28 U.S.C. § 1331. *Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 10, 13 (2000) (discussing 42 U.S.C. § 405(g), incorporated into the Medicare Act by 42 U.S.C. 1395ff(b)); *see also Heckler v. Ringer*, 466 U.S. 602, 615 (1984) (section 405(h) makes the review provisions provided by the Medicare Act, "to the exclusion of 28 U.SC. § 1331," the "sole avenue for judicial review for all 'claim[s] arising under' the Medicare Act"). Thus, when a matter "arises under" the Medicare statute and is "inextricably intertwined" with Medicare benefits, Congress has provided subject matter jurisdiction only for courts to review a final agency decision. *See, e.g.*, *Heckler*, 466 U.S. at 614. This basic jurisdictional principle applies to MSP claims, which "arise under" the Medicare statute and are "inextricably intertwined" with Medicare payments. *Fanning v. United States*, 346 F.3d 386, 402

(3d Cir. 2003). Because CMS has not yet asserted any claims under the MSP, and there is no final agency determination, this Court lacks subject matter jurisdiction to review them—much less enjoin them.

101. Likewise, this Court lacks the authority to terminate CERCLA liability or other liabilities (whether under environmental law or otherwise) that arise based on the status of ownership or control of property. *See generally In re Old Carco LLC*, 551 B.R. 124, 128-31 (Bankr. S.D.N.Y. 2016). For example, if a building is purchased in a bankruptcy sale, and the Americans with Disabilities Act requires the installation of a ramp, the new owner cannot be exempted from that requirement merely because the sale was conducted pursuant to section 363. *See id*. at 128. In other words, "a buyer of property under a 'free and clear' sale order cannot escape the responsibility to remediate a condition that violates safety or similar laws even if the condition pre-existed the sale." *Id*. at 130.

3. The Requested Releases and Injunctive Relief Are Non-Core and Cannot Be Approved by This Court in a Final Order

102. And finally, to the extent jurisdiction is not barred by sovereign immunity, this Court lacks the constitutional authority to enter a final order releasing and enjoining direct claims arising under non-bankruptcy law by one non-debtor against another. *Purdue*, 69 F.4th at 68-69 (citing *Stern v. Marshall*, 564 U.S. 462, 499 (2011)). The Government has not consented to the bankruptcy court's adjudication of any potential non-bankruptcy claims it might hold against third parties. Yet the Proposed Sale Order would bar these claims permanently and enjoin the Government from ever bringing them. In this respect, the Proposed Sale Order would finally adjudicate these claims and deny them without any consideration of their merits or possibility of further review. *Cf. In re Purdue Pharma, L.P.*, 635 B.R. 26, 82 (S.D.N.Y. 2021) ("A bankruptcy court's order extinguishing a non-core claim and enjoining its prosecution without an

adjudication on the merits 'finally determines' that claim. It is equivalent to entering a judgment dismissing the claim."), *aff'd in relevant part*, 69 F.4th at 68-69.

103. But the relevant claims would be between non-debtor entities (claims by the Government against various lienholders, Debtor executives, and other third parties) and would have arisen under non-bankruptcy substantive law. Thus, this Court lacks the constitutional adjudicatory authority to enter a final order enjoining such claims, as these claims are "non-core" and at most the Court has "only 'related to' jurisdiction" over them. *See* 635 B.R. at 79-80 (quoting 28 U.S.C. § 157(c)(1)). That is because "bankruptcy courts have the power to enter a final judgment only in proceedings that 'stem[] from the bankruptcy itself or would necessarily be resolved in the claims allowance process.'" *Id.* at 81 (quoting *Stern*, 564 U.S. at 499). This principle holds even though the proposed injunction is included in a Proposed Sale Order under 11 U.S.C. § 363, which is itself otherwise part of a bankruptcy court's core jurisdiction. *See id.* at 80 (explaining that a bankruptcy court has only "related to" jurisdiction over a provision finally disposing of third-party claims by creditors against nondebtors, even if included in a plan of reorganization that is itself subject to the bankruptcy court's core jurisdiction).

104. Thus, even if this Court were inclined to agree with the Debtors and the First Lienholders that enjoining the Government's claims in this regard were appropriate—and it is not, for the many reasons explained herein—it "d[oes] not have the power to enter an order finally approving them." *Id.* at 82. Instead, it may only "submit proposed findings of fact and conclusions of law to the district court," which that court would review de novo. *Purdue*, 69 F.4th at 68 (citing *Stern*, 564 U.S. at 475 (internal quotation marks omitted)). This Court thus may not enter a final order approving at least those aspects of the Proposed Sale that would enjoin or otherwise preclude the Government from bringing claims against any non-debtors.

II. ALTERNATIVELY, THE COURT SHOULD REJECT THE IMPROPER RESOLUTION OF ESTATE CLAIMS AND APPOINT A CHAPTER 11 TRUSTEE TO PROSECUTE CHALLENGES TO THE PREPETITION LIENS

105. As discussed, a critical component of the Proposed Sale is the associated settlements between the First Lienholders and various groups of general unsecured creditors and the creation of so-called voluntary trusts for those creditors' benefit. Those settlements include improper resolutions of the Committees' potential challenges to the Debtors' Prepetition Secured Indebtedness that were supposed to be brought "on behalf of the Debtors' estates." Cash Collateral Order ¶ 19(a); *accord* Standing Motion at 1. If this Court does not reject the proposed sale outright for the reasons explained above, it should defer decision on approval of the sale at this juncture, and appoint an independent trustee to investigate potential challenges to the liens at issue (now that the Committees have improperly abandoned their potential challenges on the estate's behalf in exchange for compensation for their narrow constituencies), or permit the Government to seek equitable subordination of the secured claims to its claims.

A. The Proposed Sale Impermissibly Assigns the Settlement Value of Estate Claims to Only Certain Groups of Unsecured Creditors

106. Since the earliest days of this case, the Committees have noted serious concerns about the scope and coverage of the Debtors' Prepetition Secured Indebtedness, and indicated that a credit-bid-based sale to the First Lienholders could not be completed without first ascertaining the proper scope of these liens. *See Statement and Reservation of Rights of the Official Committee of Unsecured Creditors to the Debtors' First Day Motions*, Dkt. No. 252, at 2-3 (Sept. 22, 2022) ("[T]he Debtors have completely capitulated to their first lien lenders on nearly every front, agreeing, among other things, that those creditors have liens on over $1.0 billion of cash that would otherwise benefit unsecured creditors . . . ."); Hearing Transcript, Dkt. No. 336, at 55-56 (Sept. 28, 2022) (UCC counsel: "We have reason to believe that there are

substantial other unencumbered assets, both foreign and domestic. And one of the responsibilities of the creditors' committee is to ensure that we have an adequate opportunity to review and investigate the extent of unencumbered assets. And one of the priorities that we see, in connection with the cash collateral order, is to make sure that the rights of the creditors' committee to fulfill its fiduciary responsibilities and conduct an independent review of the debtors' assets, and to the extent to which those assets are or are not encumbered, can be performed by the committee so that we can incorporate that into what ultimately is an appropriate resolution of this case. . . . The committee, as a fiduciary for billions of dollars of unsecured creditors, who are threatened to be left behind, intends to fulfill its fiduciary responsibilities as contemplated by Section 1102 of the Bankruptcy Code, and as I indicated, Your Honor, seeks to ensure that its rights are not improperly hamstrung or constrained at the outset of this case."); *Limited Objection of the Official Committee of Unsecured Creditors to the Debtors Cash Collateral Motion*, Dkt. No. 337, ¶ 5 (Oct. 6, 2022) ("[T]he Debtors' broad stipulations have left the Committee with no choice but to undertake a careful review of the scope and validity of the secured creditors' liens and claims, including their liens on cash, the extent to which they have perfected liens on foreign assets, and whether liens granted in connection with prepetition transactions can be avoided. Whether the Committee's investigation will uncover value for unsecured creditors will be determined at a later time, but the Final Order must not prejudice the Committee's right to investigate these matters and others, nor preclude its ability to obtain meaningful relief if warranted."); *see also* Standing Motion ¶ 24.

107. The Cash Collateral Order thus offered the Committees an opportunity to investigate the coverage and validity of relevant liens "on behalf of the Debtors' estates." Cash Collateral Order ¶ 19(a). The Committees proceeded to take substantial discovery regarding the

liens, *see* Standing Motion ¶ 24, and ultimately filed (as required by the Cash Collateral Order) a motion seeking their derivative standing to bring four specific Challenges to the liens "*on behalf of the Debtors' estates*." *Id.* at 1 (emphasis added).

108. In their Standing Motion, the Committees emphasized that their investigation had "uncovered numerous valuable estate claims," and that they should be given derivative standing to prosecute those claims as "the independent fiduciaries best-situated to act for *the Debtors' estates*." *Id.* ¶ 3 (emphasis added). They chided the Debtors for not pursuing these claims on their own, noting that the Debtors had "entered into stipulations that prevent them from bringing claims against the Prepetition Secured Parties," and arguing that the Debtors had "conflicts of interest" that "prevent them from bringing claims against their own insiders," such as the corporate executives who had received large prepetition prepaid compensation packages and had agreed with the lienholders on the plan to sell the company. *Id.* ¶ 118. Indeed, the Committees justified their proposed derivative standing on the view that they should be appointed to bring these claims on behalf of the estate since the Debtors were unwilling or unable to do so. *See id.* ¶¶ 118-19 (citing *Official Comm. of Asbestos Claimants v. Bank of N.Y. (In re G-I Holdings, Inc.*), No. 04-3423, 2005 WL 2899139, at n.12 (D.N.J. Sept. 9, 2005) (a debtor "would be hard-pressed to voluntarily initiate an adversary proceeding . . . [seeking] to unwind a transaction implemented by the very same executives who still remain in control" (internal quotations and citations omitted)).

109. During the mediation that followed, the Committees negotiated proposed agreements with the lienholders about the treatment of their specific constituencies' claims. As summarized in a set of term sheets filed with the Court, the Committees agreed to support the proposed sale and discontinue their effort to seek derivative standing to litigate the Challenges,

in exchange for payments and equity awards in the new company for their specific constituencies. Settlement Stipulation ¶ 6; UCC Term Sheet at 5-7; OCC Term Sheet at 3. These resolutions did not designate any recovery for the estate itself, or for any other unsecured creditors besides the specific entities represented by the Committees.

110. The lienholders and the Committees thus have proposed to resolve the Challenges that were intended to be brought "on behalf of the estate"—and that logically belong to the estate as a whole—by compensating only certain groups of unsecured creditors. This proposal would leave other unsecured creditors, including the United States (which has a priority unsecured claim of more than $3 billion, as well as billions of dollars of general unsecured claims stemming from DOJ investigations and federal healthcare claims), the Canadian Governments, certain public school districts, and others, with no recovery based on the resolution of these claims. While this would undoubtedly inure to the benefit of the particular creditors that are represented by the Committees (including the Debtors' unsecured bondholders and personal-injury plaintiffs), it would do so improperly, to the detriment of all other unsecured creditors, including in particular the Government.

111. In proposing a resolution in this manner, the Committees have violated the fiduciary duty they owe to *all* unsecured creditors, including the United States, and replicated the same conflict of interest they accused the Debtors of holding when they initially sought to bring the Challenges. Unsecured creditors' committees "owe[] a fiduciary duty to advance and protect the interests of *all* unsecured creditors." *In re LATAM Airlines Grp. S.A.*, No. 20-11254 (JLG), 2022 WL 1295928, at *15 (Bankr. S.D.N.Y. Apr. 29, 2022) (emphasis added); *accord In re Refco Inc.*, 336 B.R. 187, 195 (Bankr. S.D.N.Y. 2006) ("[T]he members of an official committee owe a fiduciary duty to their constituents—in the case of an official creditors' committee, to all

of the debtor's unsecured creditors."); *In re Residential Cap., LLC*, 480 B.R. 550, 559 (Bankr. S.D.N.Y. 2012) ("[S]tatutory unsecured creditors committees owe a fiduciary duty to the entire class of creditors represented by such committee and are required to place the collective interest of the class they represent above their own personal stake in the bankruptcy case."). Even if the Committees are not generally required to represent the interests of the Government, or of a Government priority claimant such as the IRS, they specifically undertook an obligation on behalf of the estate as a whole in seeking to investigate and moving for derivative standing to bring the proposed Challenges.

112. Accordingly, it is improper for the First Lienholders and Committees to resolve potential challenges that were to be brought "on behalf of the estate" in a way that benefits only certain groups of general unsecured creditors, rather than to the estate itself for distribution in accordance with the priority rules of the Bankruptcy Code. By seeking to abandon the Challenges in exchange for compensation given to select unsecured creditors, the Committees violated their stated reason of taking on the Challenges to benefit the estate, including *all* general unsecured claims (such as the Government's). Moreover, since the IRS has a higher-priority claim to assets in the estate than any general unsecured creditor, designating the recoveries from settling the potential Challenges in any way other than to the estate as a whole violates the Bankruptcy Code's fundamental priority rules.

B. The Court Should Appoint a Trustee to Investigate and Challenge the Debtors' Prepetition Secured Indebtedness

113. The appointment of a trustee, pursuant to 11 U.S.C. § 1104, is the best mechanism to investigate and pursue any and all Challenges to the Debtors' Prepetition Secured Indebtedness. These challenges undoubtedly belong to the estate, but as the Committees explained in their Standing Motion, the Debtors have an irreconcilable conflict of interest that

prevents them from pursuing the challenges. Indeed, the Debtors entered these bankruptcy proceedings with the predetermined plan to sell their assets to the First Lienholders pursuant to a credit bid, and have pursued this goal to the exclusion of all others since the beginning of these cases. *See supra* at 2-3, 24-33. The Committees strenuously objected to this course of action at the outset of this case, leading up to the Standing Motion, in which they justified their proposed exclusive derivative standing to bring and resolve these claims on behalf of the estate as follows: "[t]he Debtors' unwillingness to pursue the Proposed Claims . . . makes them unable to effectively manage or settle any resulting litigation. Indeed, the Debtors have shown, repeatedly, throughout these Bankruptcy Cases, that they are willing to waive and/or sell the Proposed Claims for little or no consideration. Moreover, it is indisputable that any decision to settle any of the Proposed Claims, and at what level, will have a disproportionate economic impact on the Debtors' unsecured creditors and opioid claimants, whose interests the . . . Committees represent in these cases." Standing Motion ¶ 122.

114. But the Committees, now that the First Lienholders have agreed to pay their individual constituencies to drop the Challenges that would have been brought on behalf of the estate, suffer from a similar conflict of interest. Only a court-appointed Chapter 11 trustee, acting scrupulously on behalf of the estate as a whole, can properly investigate and litigate any challenges to the Debtors' Prepetition Secured Indebtedness, and assess whether the First Lienholders should be permitted to credit-bid for the Debtors' assets or whether their liens should be avoided or subordinated in whole or in part.[22]

[22] The Cash Collateral Order specifically contemplated the possibility of that a Chapter 11 trustee may be appointed and indicated that the Court could extend the challenge deadline for claims brought by such a trustee. Cash Collateral Order ¶ 19(a)(y).

115. This Court "may order the appointment of a chapter 11 trustee for 'cause' under [11 U.S.C. §] 1104(a)(1) or 'in the interests of creditors' under [11 U.S.C. §] 1104(a)(2), which constitute two distinct and independent provisions." *In re Klaynberg*, 643 B.R. 309, 317 (Bankr. S.D.N.Y. 2022). "[C]ourts have wide discretion in considering the relevant facts" and are "not required to conduct a full evidentiary hearing in considering a motion for the appointment of a chapter 11 trustee." *Id.* (internal quotation marks omitted).

116. Among the factors relevant to an appointment for cause are "conflicts of interest . . . and lack of credibility and creditor confidence. A court may consider both . . . pre- and post-petition misconduct when making the determination that 'cause' exists for the appointment of a trustee." *Id.* at 318 (some internal quotation marks omitted). Even in the absence of "cause," the statute permits "appointing a trustee when it is in the interests of creditors"; this determination "necessarily involves a great deal of judicial discretion," and includes consideration of factors such as: "(i) the trustworthiness of the debtor; (ii) the debtor in possession's past and present performance and prospects of the debtor's rehabilitation; (iii) the confidence—or lack thereof—of the business community and of the creditors in present management; and (iv) the benefits derived by the appointment of a trustee, balanced against the cost of appointment." *Id.* (internal quotation marks omitted).

117. Here, the appointment of a trustee is warranted both for cause and in the interests of creditors. As alleged in the Prepaid Compensation Complaint, Debtors' senior management improperly received $95 million in prepaid compensation shortly before Debtors commenced these cases, but the First Lienholders propose to acquire the estate's right to pursue avoidance claims, including those against these corporate officers, and to abandon those claims thereafter (and presumably to retain those employees to work for the acquired company). *See* Standing

Motion ¶¶ 70-84, 121. Similarly, the First Lienholders have offered, and the Committees have accepted, hundreds of millions of dollars and substantial equity interests in the new company in exchange for dropping all of their proposed challenges to the Debtor's Prepetition Secured Indebtedness. *See* Dkt. No. 2384; UCC Term Sheet at 5-7; OCC Term Sheet at 3. There is thus no disinterested actor other than a court-appointed trustee who can act on behalf of the estate to pursue its rights against the lienholders.

118. "Conflict of interest necessitating the appoint[ment] of a trustee has . . . been found where the Debtor will not fulfill its fiduciary duty to pursue potential causes of action on behalf of the estate, or otherwise puts its own self-interest above that of its creditors." *In re Sillerman*, 605 B.R. 631, 647 (Bankr. S.D.N.Y. 2019) (citation omitted) (appointing trustee in part due to debtor's refusal to pursue avoidance actions because of close relationship with potential defendant). That is precisely what has happened here, where the Debtors are unable or unwilling to pursue avoidance actions against their own senior executives and against the First Lienholders with whom they devised their bankruptcy strategy before filing this case.

119. And the appointment of a trustee is also clearly in the interests of creditors—at least those creditors who are not slated to be the beneficiaries of the First Lienholders' "voluntary trusts." Debtors' wholehearted support for the First Lienholders' plan to offer post-sale supposedly voluntary compensation to certain categories of their creditors, but none to others—explicitly avoiding the payment of billions of dollars of priority tax claims (in addition to a potential administrative tax claim) and of other Government claims and other general unsecured claims—are clearly not in the interests of creditors (or the estate) as a whole. To be sure, a Chapter 11 trustee will engender additional expenses, but the costs to the estate from the appointment could well be offset by significant recoveries for the estate from successful

challenges to the liens. It may also be appropriate in such a scenario to disallow professional fees associated with bringing and resolving the proposed Challenges.

120. If the Court is not inclined to appoint a trustee, it should alternatively permit the Government to bring its own challenges to the liens (after a reasonable discovery period). This may include a complaint to equitably subordinate the prepetition liens to its claims pursuant to 11 U.S.C. § 510(c), to the extent that, similar to what is alleged in the Secured Debt Complaint, certain liens on Debtors' assets were improperly upgraded from unsecured to secured at a time when the parties to the transaction knew the Debtors had substantial potential tax liabilities and liabilities to the Government (including potential criminal and False Claims Act liability) in connection with their sale of certain opioid drugs. *See, e.g.*, *United States v. State Street Bank & Trust Co.*, 520 B.R. 29, 86 (Bankr. D. Del. 2014) (equitably subordinating debt based on creditor's having traded unsecured bonds for secured bonds pursuant to prior Chapter 11 bankruptcy plan in order to gain priority over anticipated tax liability from future sale of all of the debtor's assets). Moreover, the IRS may suffer a further injury if the proposed sale results in a liability for capital gains taxes that the estate cannot pay in full, *cf. In re Scott Cable Commc'ns*, 227 B.R. at 599-600, and which would only share pro rata in the wind-down budget with other administrative claimants such as the Chapter 11 professionals in this case.[23]

[23] The Court should reject any argument that the Cash Collateral Order would bar this alternative relief given the Committees' stated intent to pursue Challenges on behalf of the estate as a whole, the fact that the Government had not filed any of its proofs of claim at the time of the Cash Collateral Order, and the lack of an adversary proceeding required under Fed. R. Bankr. P. 7001(2), (9) as part of the cash collateral proceedings, *see, e.g.*, *In re Broadway City, LLC*, 358 B.R. 628, 635 (Bankr. S.D.N.Y. 2007) (distinguishing between cash collateral motion and adjudication of "extent, validity or priority of any interest in property," which must be accomplished by adversary proceeding). Moreover, as the IRS has a potential administrative claim for capital gains taxes from the proposed sale, it would be improper to bar it from later seeking to invalidate a lien that prevented the collection of that tax liability. In any event, this Court can extend the Cash Collateral Order's Challenge Period, to the extent it applies, under

III. THIS COURT SHOULD NOT ELIMINATE THE STAY PERIOD IF IT APPROVES THE SALE

121. Finally, Debtors ask this Court not to stay any order approving the proposed sale for the fourteen days required by Federal Rule of Bankruptcy Procedure 6004(h) because they assert (without providing evidence) that "[t]ime is of the essence in closing the [relevant] transactions." Proposed Sale Order ¶ 44. But removing this 14-day stay could make it very difficult for the Government to appeal any order approving the sale to a higher court in light of 11 U.S.C. § 363(m), which "states that an appellate court order cannot invalidate a sale that the bankruptcy court authorized 'unless such authorization and such sale . . . were stayed pending appeal.'" *In re Steffen*, 552 F. App'x 946, 949 (11th Cir. 2014) (quoting 11 U.S.C. § 363(m)) (denying an appeal in an unstayed case as moot).

122. Given the numerous serious legal and equitable challenges the Government has asserted herein to the proposed sale—including as to whether this Court has the authority to approve it at all, and thus whether section 363(m) is applicable—the Government would likely appeal any order that approves the sale. After all, "Bankruptcy Rule 6004(h) is intended to provide sufficient time for an objecting party to seek a stay pending appeal before an order can be implemented, and protect the objector's appellate rights." *In re Dana Corp.*, 358 B.R. 567, 584 (Bankr. S.D.N.Y. 2006). To grant the Debtors' request in this regard would thus improperly interfere with the Government's ability to seek review from an Article III court of a potentially illegal order approving the sale, which would compound the potential injury to the Government's rights discussed herein, it should be denied.

Federal Rule of Bankruptcy Procedure 9006(b)(1), or, alternatively under Federal Rule of Bankruptcy Procedure 9024, which incorporates Federal Rule of Civil Procedure 60(b), if necessary.

123. Thus, if this Court approves the proposed sale, it should stay the effect of its order for at least the fourteen days required by the rule—if not longer, given the number and complexity of the issues—to afford the District Court sufficient time to determine whether a stay pending appeal should be entered.

CONCLUSION

For the foregoing reasons, this Court should deny the Sale Motion and appoint a Chapter 11 trustee to pursue the estate's potential challenges to the liens encumbering the Debtors' assets.

Dated: July 18, 2023
New York, New York

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
Attorney for the United States of America

By: /s/ Jean-David Barnea
JEAN-DAVID BARNEA
PETER ARONOFF
TARA SCHWARTZ
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2679/2697/2633
E-mail: jean-david.barnea@usdoj.gov
peter.aronoff@usdoj.gov
tara.schwartz@usdoj.gov

Hearing Date and Time: November 16, 2023 at 11:00 a.m. (prevailing Eastern Time)
Deadline for Objections: November 9, 2023 at 4:00 p.m. (prevailing Eastern Time)

Exhibit F

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

Counsel to Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**Chapter 11**
ENDO INTERNATIONAL plc*, et al.*,	**Case No. 22-22549 (JLG)**
Debtors.[1]	**(Jointly Administered)**

THIRD MOTION OF DEBTORS FOR AN ORDER PURSUANT TO BANKRUPTCY CODE SECTION 1121(d) EXTENDING THE DEBTORS' EXCLUSIVE PERIODS TO FILE A CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES THEREOF

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

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Endo International plc and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors" and, together with their non-Debtor affiliates, the "Company")[1] in the above-captioned chapter 11 cases (the "Chapter 11 Cases") respectfully submit this motion (the "Motion") seeking entry of an order under section 1121(d) of title 11 of the United States Code (the "Bankruptcy Code") further extending by an additional ninety (90) days the exclusive periods during which only the Debtors may file a chapter 11 plan and solicit acceptances thereof. In support of this Motion, the Debtors rely upon the *Declaration of Ray Dombrowski in Support of Third Motion of Debtors for an Order Pursuant to Bankruptcy Code Section 1121(d) Extending the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof* (the "Dombrowski Declaration") filed contemporaneously herewith and incorporated herein by reference. In further support of the Motion, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. During the Second Extension Period,[2] the Debtors took substantial additional steps toward the consensual resolution of their Chapter 11 Cases. The Debtors continued active participation in the mediation process led by the Honorable Shelley Chapman (Ret.) (the "Mediation"), which, during the Initial Extension Period (as defined below), produced significant resolutions among several of the Debtors' key stakeholder groups, including the UCC, the OCC, the Ad Hoc First Lien Group, the Ad Hoc Cross-Holder Group, and the ad hoc group of first lien creditors that were not party to the original RSA (the "Non-RSA 1Ls"). These resolutions resolved numerous case objections to and disputes with respect to the Bidding Procedures and Sale Motion,

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration or the Bidding Procedures and Sale Motion (each as defined below).

[2] The Second Exclusivity Order (as defined below) extended the Debtors' exclusive right to file a plan through October 10, 2023 and attendant right to solicit acceptances thereof through December 9, 2023 (such extended periods, together, the "Second Extension Period").

the First Exclusivity Motion (as defined below), and the UCC and OCC's standing motion, among other issues, and saved untold millions of dollars of estate resources that would have otherwise been spent litigating the disputes absent resolution.

2. The Debtors entered the Second Extension Period hoping to achieve similar resolutions with remaining key stakeholders, including the FCR, the United States Department of Justice ("DOJ") (acting on behalf of various federal government agencies and interests), the U.S. Trustee, the Public School District Creditors, the Canadian Governments, the DMPs, many commercial counterparties, and various insurers, and to receive the Court's approval of the sale of its assets following the conclusion of the sales process outlined in the Bidding Procedures. Certain of these goals were reached: the Mediation produced a resolution with the FCR, and the successful completion of the sale and marketing process saw the selection of the Stalking Horse Bidder as the Successful Bidder.

3. However, as the first planned sale hearing date of July 28, 2023 approached, the Debtors, in consultation with the Ad Hoc First Lien Group, determined that, in light of, among other things, the objections of the DOJ and U.S. Trustee to the sale, the hearing should be adjourned to allow time for further negotiations. Those further negotiations produced resolutions between or among the Ad Hoc First Lien Group, the Public School District Creditors, the Canadian Governments, the Debtors, the DMPs, and several commercial counterparties, and substantial progress has been made with the Debtors' insurers, as well as the DOJ and U.S. Trustee. The Debtors are particularly optimistic that additional time to engage in the Mediation with the DOJ and U.S. Trustee will allow the Debtors and their key stakeholders to further align and make progress toward a consensual resolution of the Chapter 11 Cases.

4. Since the Petition Date on August 16, 2022, the Debtors have remained staunch in their focus on successfully resolving the Chapter 11 Cases, while remaining agnostic on the particular mechanism to achieve that goal. As such, the Debtors continue to consider all available options for emergence and will continue to use the strong working relationships they have built with key stakeholders to push these Chapter 11 Cases towards a value-maximizing conclusion in as consensual a manner as possible.

5. Ultimately, notwithstanding the substantial amount of progress the Debtors have made to date, the Debtors need additional time to prosecute a value-maximizing resolution of these Chapter 11 Cases. Allowing the Exclusive Periods to expire now would jeopardize the substantial progress made to date, including the aforementioned critical resolutions reached among key stakeholders, and undercut the Debtors' ability to emerge from these cases. Conversely, extending the Exclusive Periods will allow the Debtors to continue to build upon the significant consensus achieved thus far, preserve the momentum of the ongoing Mediation, and drive these Chapter 11 Cases forward to a value-maximizing resolution. Accordingly, ample cause exists to extend the Debtors' Exclusive Periods by ninety (90) days to January 8, 2024, and March 8, 2024, respectively.

RELIEF REQUESTED

6. By this Motion, and pursuant to section 1121(d) of the Bankruptcy Code, the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), further extending the Debtors' exclusive periods to (a) file a chapter 11 plan (the "Exclusive Filing Period") by ninety (90) days through and including January 8, 2024 and (b) solicit votes thereon (the "Exclusive Solicitation Period" and, together with the Exclusive Filing

Period, the "Exclusive Periods") by ninety (90) days through and including March 8, 2024.[3] The requested extensions are without prejudice to the rights of the Debtors to seek further extensions of the Exclusive Periods.

JURISDICTION AND VENUE

7. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b).

8. Venue of the Chapter 11 Cases and this Motion is proper in this District under 28 U.S.C. §§ 1408 and 1409.

9. The legal predicates for the relief requested herein are section 1121(d) of the Bankruptcy Code and Rule 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

BACKGROUND

10. On August 16, 2022 (the "Petition Date"), Endo International plc and seventy-five of its affiliated Debtors each commenced chapter 11 cases by filing a petition for relief under chapter 11 of the Bankruptcy Code. On May 25, 2023 and May 31, 2023, certain additional Debtors also commenced chapter 11 cases by filing petitions for relief under chapter 11 of the Bankruptcy Code. The Chapter 11 Cases are being jointly administered.

[3] Pursuant to the *Order Authorizing the Establishment of Certain Notice, Case Management, and Administrative Procedures* [Docket No. 374] (the "Case Management Order"), the Exclusive Periods are automatically extended until the Court acts on this Motion, without the necessity for the entry of a bridge order. *See* Case Management Order ¶ 28 ("[I]f a motion to extend the time to take any action is filed consistent with this Order before the expiration of the period prescribed by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or the provisions of any order entered by this Court, the time shall automatically be extended until the Court acts on such motion, without the necessity for the entry of a bridge order.").

11. The Debtors are authorized to continue to operate their business and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

12. On September 2, 2022, the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed an Official Committee of Unsecured Creditors (the "UCC") and an Official Committee of Opioid Claimants (the "OCC") in the Chapter 11 Cases. *See* Docket Nos. 161 and 163. On September 30, 2022, the Court appointed Roger Frankel as the future claimants' representative (the "FCR") in these Chapter 11 Cases. *See* Docket No. 318. No trustee or examiner has been appointed in the Chapter 11 Cases.

13. Additional information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the commencement of the Chapter 11 Cases is set forth in the *Declaration of Mark Bradley in Support of Chapter 11 Petitions and First Day Papers* [Docket No. 38] (the "First Day Declaration").

14. On November 23, 2022, the Debtors filed the *Debtors' Motion for an Order (I) Establishing Bidding, Noticing, and Assumption Procedures, (II) Approving Certain Transaction Steps, (III) Approving the Sale of Substantially All of the Debtors' Assets and (IV) Granting Related Relief* [Docket No. 728] (the "Bidding Procedures and Sale Motion"). On April 3, 2023, this Court entered an order granting the relief sought in the Bidding Procedures and Sale Motion [Docket No. 1765] (the "Bidding Procedures Order").

15. On December 14, 2022, the Debtors filed the *Motion of Debtors for an Order Pursuant to Bankruptcy Code Section 1121(d) Extending the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof* [Docket No. 979] (the "First Exclusivity Motion"). On April 3, 2023, this Court entered an order granting the First Exclusivity Motion

[Docket No. 1766] (the "First Exclusivity Order"). The First Exclusivity Order extended the Debtors' Exclusive Filing Period through and including June 12, 2023 and the Exclusive Solicitation Period through and including August 11, 2023 (such extended periods, together, the "Initial Extension Period"). On June 12, 2023, the Debtors filed the *Second Motion of Debtors for an Order Pursuant to Bankruptcy Code Section 1121(d) Extending the Debtors' Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances Thereof* [Docket No. 2168] (the "Second Exclusivity Motion"). On July 31, 2023, this Court entered an order granting the Second Exclusivity Motion [Docket No. 2560] (the "Second Exclusivity Order"). The Second Exclusivity Order extended the Exclusive Filing Period through and including October 10, 2023 and the Exclusive Solicitation Period through and including December 9, 2023.

BASIS FOR RELIEF

I. The Court Can Extend the Exclusive Periods for Cause Shown.

16. Under section 1121(d) of the Bankruptcy Code, the Court may extend the Exclusive Periods "for cause." *See* 11 U.S.C. § 1121(d). Courts within the Second Circuit and in other jurisdictions have held that the decision to extend the exclusivity periods is left to the sound discretion of a bankruptcy court and should be based on the totality of circumstances. *See, e.g.*, *In re Excel Mar. Carriers Ltd.*, No. 13-23060 (RDD), 2013 WL 5155040, at *2 (Bankr. S.D.N.Y. Sept. 13, 2013). In general, as long as debtors give the court "no reason to believe that they are abusing their exclusivity rights . . . [a] requested extension of exclusivity . . . should be granted." *In re Global Crossing Ltd.*, 295 B.R. 726, 730 (Bankr. S.D.N.Y. 2003).

17. Courts in this District have identified a number of non-exhaustive factors relevant to whether cause exists under section 1121(d) of the Bankruptcy Code. *See, e.g.*, *In re Borders Grp., Inc.*, 460 B.R. 818, 822 (Bankr. S.D.N.Y. 2011); *In re Adelphia Commc'ns Corp.*, 336 B.R.

610, 674 (Bankr. S.D.N.Y. 2006), *aff'd*, 342 B.R. 122 (S.D.N.Y. 2006). These factors include the following:

(a) the size and complexity of the case;

(b) the necessity for sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information;

(c) the existence of good-faith progress toward reorganization;

(d) the fact that the debtor is paying its bills as they become due;

(e) whether the debtor has demonstrated reasonable prospects for filing a viable plan;

(f) whether the debtor has made progress in negotiations with its creditors;

(g) the amount of time which has elapsed in the case;

(h) whether the debtor is seeking an extension of exclusivity in order to pressure creditors to submit to the debtor's reorganization demands; and

(i) whether an unresolved contingency exists.

In re Adelphia Commc'ns, 336 B.R. at 674 (hereinafter, the "Adelphia Factors"); *see also In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409 (E.D.N.Y. 1989); *In re McLean Indus., Inc.*, 87 B.R. 830, 834 (Bankr. S.D.N.Y. 1987); *In re Dow Corning Corp.*, 208 B.R. 661, 664-65 (Bankr. E.D. Mich. 1997); *In re Express One Int'l, Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996). "[N]ot all of [these factors] are relevant in every case," and "[i]t is within the discretion of the bankruptcy court to decide which factors are relevant and give the appropriate weight to each." *In re Hoffinger Indus., Inc.*, 292 B.R. 639, 644 (B.A.P. 8th Cir. 2003).

18. In evaluating whether an extension under section 1121(d) of the Bankruptcy Code is warranted, courts are given maximum flexibility to review the particular facts and circumstances of each case. *See In re Adelphia Commc'ns Corp.*, 352 B.R. 578, 586 (S.D.N.Y. 2006) ("A decision to extend or terminate exclusivity for cause is within the discretion of the bankruptcy

court, and is fact-specific."); *In re Borders*, 460 B.R. at 822 ("[T]he court has broad discretion in extending or terminating exclusivity").

19. As set forth below, all of the Adelphia Factors weigh decidedly in the Debtors' favor. Therefore, the requested extension of the Exclusive Periods should be approved.

II. Cause Exists to Extend the Exclusive Periods.

A. The Chapter 11 Cases are Large and Complex and Justify Additional Time: Adelphia Factors (a), (b), and (g).

20. It is well-established that the size and complexity of a debtor's chapter 11 case alone can constitute cause to extend the exclusivity periods. *See In re Express One*, 194 B.R. at 100 ("The traditional ground for cause is the large size of the debtor and the concomitant difficulty in formulating a plan of reorganization."); *In re Texaco Inc.*, 76 B.R. 322, 326 (Bankr. S.D.N.Y. 1987) ("The large size of the debtor and the consequent difficulty in formulating a plan of reorganization for a huge debtor with a complex financial structure are important factors which generally constitute cause for extending the exclusivity periods."); *see also In re Hoffinger*, 292 B.R. at 644 (affirming extension of exclusivity period to over eighteen months because of "the complexity of the debtor's case"); H.R. Rep. No. 95-595, at 232 (1978) ("[I]f an unusually large company were to seek reorganization under chapter 11, the court would probably need to extend the time in order to allow the debtor to reach an agreement."), *as reprinted in* 1978 U.S.C.C.A.N. 5963, 6191.

21. These Chapter 11 Cases are unquestionably large and complex. The Debtors are one of the country's leading specialty pharmaceutical companies with approximately $2 billion in annual revenue. The Debtors consist of 80 legal entities and employ approximately 1,400 individuals at Debtor entities. Their businesses are international, with business units operating in, among other places, the United States, Ireland, and Canada. *See* Dombrowski Decl. ¶ 9. The

Debtors have a complicated capital structure with myriad parties in interest. *See* Dombrowski Decl. ¶ 10. As of the Petition Date, the Debtors had over $8 billion of funded debt, consisting of several tranches, including (a) one credit agreement (comprised of a revolving credit facility and a term loan facility), (b) four series of secured notes (including both first lien and second lien notes), and (c) four series of unsecured notes. *See* First Day Decl. ¶ 23.

22. The complexity of these Chapter 11 Cases is further compounded by the numerous parties involved, including the UCC, the OCC, the FCR, various federal governmental units (each with its own priorities) acting through the DOJ, and private opioid, mesh, and other plaintiffs, among others. The interests of these parties and the Debtors' other stakeholders often do not align, making negotiations in the course of these Chapter 11 Cases challenging. *See* Dombrowski Decl. ¶ 10. The Debtors and key stakeholders continue to consider the best path forward to formalize settlements and bring these Chapter 11 Cases to a successful close, whether that means completing the sale to the Stalking Horse Bidder or pursuing a value-maximizing alternative.

23. The Debtors also received hundreds of thousands of claims filed by the applicable bar dates. *See* Dombrowski Decl. ¶ 16. The large number of claims filed and the importance of understanding them warrants additional time for the Debtors to complete their analysis. *See In re Borders*, 460 B.R. at 826 ("The June 1, 2001 bar date is important so that the Debtors can understand the number, nature and amount of valid claims against the estate. The Debtors need a reasonable amount of time to review and evaluate these claims.").

24. While approximately fourteen months have elapsed in these Chapter 11 Cases, such a period is not long for cases of this size and complexity. *See, e.g., In re LATAM Airlines Group S.A.*, No. 20-11254 (JLG) (Bankr. S.D.N.Y. May 26, 2020) (plan confirmed 25 months after petition date); *In re Purdue Pharma L.P.*, No. 19-23649 (RDD) (Bankr. S.D.N.Y. Sept. 15, 2019)

(plan confirmed 24 months after petition date). The Debtors need additional time to continue the Mediation to aid in reaching key resolutions with the remaining objecting parties, thereby further clearing the path to a successful and value-maximizing conclusion to these Chapter 11 Cases. The Sale Hearing has been adjourned thus far with the agreement and support of key stakeholders. Such adjournments are not an indication that progress has stopped but the opposite. The Debtors continue to push toward consensus, and are confident more progress can be made.

25. In light of the size and complexity of the Chapter 11 Cases and the additional time needed to allow the Debtors to continue the Mediation and push the Chapter 11 Cases to a value-maximizing conclusion, the Debtors submit that the Exclusive Periods should be extended.

B. The Debtors Have Made Substantial Progress in These Chapter 11 Cases: Adelphia Factors (c), (e) and (f).

26. During the Second Extension Period, the Debtors added to the considerable progress made during the Initial Extension Period, and continued to advance these Chapter 11 Cases toward a value-maximizing outcome. This progress is reflective of the Debtors' extensive, good faith negotiations and strong working relationships with key stakeholders and creditor groups, and comes despite the myriad demands and pressures expected with operating a large, international company in the chapter 11 context. *See* Dombrowski Decl. ¶ 11. While not exhaustive, the material developments since the Debtors' second extension request include the following:

- **Resolutions with Key Stakeholders**
    - Major Mediation Resolutions: In addition to the consensual resolutions previously reached with and amongst the Ad Hoc First Lien Group, the UCC, the OCC, the Non-RSA 1Ls and the Ad Hoc Cross-Holder Group pursuant to which such parties agreed to, among other things, support the Debtors' sale process, settlements were reached with the FCR, Public School District Creditors, and Canadian Governments, leading to the filing of the (i) *Declaration of the Future Claimants' Representative in Support of Debtors' Motion for an Order (A) Approving the Purchase and Sale Agreement, (B) Authorizing the Sale of Assets, (C) Authorizing the Assumption and Assignment of Contracts and Leases, and (D) Granting Related Relief* [Docket No. 2496]; (ii) *Voluntary Public School District Creditors*

Resolution Term Sheet [Docket No. 2632]; and (iii) *Voluntary Canadian Governments Resolution Term Sheet* [Docket No. 2988].

- Ongoing Mediation Efforts: The Debtors continue to participate in the Mediation with the goal of fostering resolutions with the DOJ and U.S. Trustee.

- Resolutions with Contract Counterparties: The Debtors reached agreements with numerous contract counterparties during the Second Extension Period, resulting in the withdrawal of certain sale objections and the Court's entry on August 2, 2023, of the *Order Granting Debtors' Motion for an Order Approving the Amended Stipulation Among the Debtors and the DMPs Resolving the DMPs' Objection to the Bidding Procedures and Sale Motion* [Docket No. 2574].

- **Sale Process Progress**

  - Sale Process. Upon review of all IoIs received by the Indication of Interest Deadline, the Debtors, together with the Consultation Parties, determined that no IoIs, viewed individually or together with other IoIs, were reasonably likely to result in the submission of a Qualified Bid. Accordingly, the Debtors named the Stalking Horse Bidder as the successful bidder, and elected to terminate the sale process and accelerate the sale hearing to July 28, 2023. *See Notice of (I) Debtors' Termination of the Sale and Marketing Process, (II) Naming the Stalking Horse Bidder as the Successful Bidder, and (III) Scheduling of the Accelerated Sale Hearing* [Docket No. 2240].

- **Claims Analysis**

  - Bar Dates: The Debtors' obtained approval of their motion to establish bar dates. *See* Docket No. 1767. The bar date for governmental claims was May 31, 2023, and the bar date for prepetition claims was July 7, 2023. *Id.*

  - Claims: The Debtors' expansive Supplemental Notice Plan resulted in the filing of over 900,000 claims by the applicable bar dates. The Debtors and their advisors continue to analyze these claims.

In addition, during the Second Extension Period, the Debtors sought approval of the *Debtors' Motion (I) To Assume or Reject Certain Unexpired Leases and Subleases of Nonresidential Real Property and (II) For Entry of an Order Establishing Procedures for the Assumption and Rejection of Executory Contracts and Unexpired Leases and the Abandonment of Property in Connection Therewith* [Docket No. 2161], which the Court approved on August 7, 2023 [Docket No. 2587].

27. As the foregoing demonstrates, the Debtors continue to make substantial progress in their Chapter 11 Cases, building on the progress made during the Initial Extension Period. Extending the Exclusive Periods to allow the Debtors to reach the resolutions necessary to allow for a largely consensual sale hearing is exactly what an extension under section 1121(d) of the Bankruptcy Code is designed to achieve. *See In re Borders*, 460 B.R. at 824 ("The sale process is likely to proceed most efficiently if the Debtors retain exclusivity and can manage the sale process.").

28. Until the Debtors bring the Chapter 11 Cases to a value-maximizing close, which they hope to do with the highest degree of consensus and as promptly and cost-efficiently as possible, the Debtors should be afforded an opportunity to proceed without the distraction, cost, and delay of a competing plan process. *See In re Energy Conversion Devices, Inc.*, 474 B.R. 503, 507 (Bankr. E.D. Mich. 2012) ("In enacting 11 U.S.C. § 1121, Congress intended to allow the debtor a reasonable time to obtain confirmation of a plan without the threat of a competing plan. It was intended that . . . a debtor should be given the unqualified opportunity to negotiate a settlement and propose a plan of reorganization without interference from creditors and other interests." (citation and internal quotation marks omitted)). Accordingly, ample cause exists to extend the Exclusive Periods under Adelphia Factors (c), (e) and (f).

C. The Debtors Are Meeting Their Postpetition Obligations: Adelphia Factor (d).

29. As of the filing date of this Motion, the Debtors generally continue to make timely payments on account of their undisputed post-petition obligations. *See* Dombrowski Decl. ¶ 14. Thus, Adelphia Factor (d) weighs in favor of extending the Exclusive Periods.

D. The Extension Will Not Harm Any Party and Will Benefit the Debtors' Stakeholders: Adelphia Factors (h) and (i).

30. Finally, extending the Exclusive Periods will benefit—and certainly not harm—the Debtors' estates. The Debtors are focused on the resolution to these Chapter 11 Cases and currently have the support of the UCC, the OCC, the Ad Hoc First Lien Group, the Ad Hoc Cross-Holder Group, the Non-RSA 1Ls, and various major contract counterparties, among other key stakeholders. Competing plans at this pivotal juncture would risk distracting the Debtors' leadership, key employees, and their advisors, not to mention potentially upending the resolutions already reached among various stakeholders and unnecessarily distracting the parties that are continuing to negotiate in the Mediation. *See* Dombrowski Decl. ¶ 17. The requested extension would minimize unnecessary uncertainty and reduce the chance of the estates getting mired in wasteful and distracting litigation, and is in the best interest of all the Debtors' stakeholders. *See id.*

III. Extending the Exclusive Periods Will Best Move These Chapter 11 Cases Forward.

31. As this Court observed, "the ultimate consideration for the Court is what will best move the case forward in the best interest of all parties." Hr'g Tr. at 16:23-17:2, *In re Latam Airlines Group Grp. S.A., et al.*, No. 20-11254 (JLG) (Bankr. S.D.N.Y. Feb. 9, 2022), ECF No. 4347 (quoting *In re Excel Mar. Carriers*, 2013 WL 5155040, at *2). Terminating exclusivity now when the Mediation could produce the agreements necessary to clear the way for a successful resolution to these Chapter 11 Cases would only stymie progress, not hasten it. *See In re Adelphia,*

352 B.R. at 590. Indeed, terminating exclusivity now might in fact "jeopardize current fragile agreements between various stakeholders, re-ignite intercreditor disputes, and push this process back to square one." *Id.* For instance, the Prepetition Secured Parties could contend that the failure of the Debtors to extend the Exclusive Periods is a default under the Final Cash Collateral Order. *See* Final Cash Collateral Order ¶ 8(o) (providing that the Debtors' right to use Cash Collateral ceases if an order "is entered granting, any termination and/or shortening, reduction of the Debtors' exclusive periods"); *see also In re Borders*, 460 B.R. at 827 (observing the importance of considering whether the debtor's financing facility would default by terminating exclusivity, which "would lead to disastrous consequences for the Debtors and their creditors").

32. At this critical juncture, it is imperative that the Debtors are able to continue to prosecute their value-maximizing strategy for these Chapter 11 Cases unimpeded and undistracted. Extending the Exclusive Periods will prevent parties in interest from having to negotiate the terms of competing chapter 11 plans, a situation that would produce substantial uncertainty and could prove particularly value-destructive given that the Debtors and key stakeholders are, in many senses, in the home stretch. Accordingly, extending the Exclusive Periods is critical to move these Chapter 11 Cases forward.

33. Furthermore, courts in this District have repeatedly granted relief similar to that requested herein. *See, e.g.*, *In re LATAM Airlines Group S.A.*, Case No. 20-11254 (JLG) (Bankr. S.D.N.Y. February 14, 2022), Docket No. 4355 (granting debtors' sixth motion for extension of exclusive periods); *In re Grupo Aeromexico, S.A.B.*, Case No. 20-11563 (SCC) (Bankr. S.D.N.Y. December 13, 2021), Docket No. 2307 (sixth); *In re Purdue Pharma L.P.*, No. 19-23649 (RDD) (Bankr. S.D.N.Y. December 16, 2020), Docket No. 2143 (third); *In re Windstream Holdings, Inc.*, Case No. 19-22312 (RDD) (Bankr. S.D.N.Y. June 22, 2020), Docket No. 2186 (fourth); *In re Sears*

Holding Co., Case No. 18-23538 (RDD) (Bankr. S.D.N.Y. August 21, 2019), Docket No. 4936 (fourth).

RESERVATION OF RIGHTS

34. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, or (f) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

NOTICE

35. Notice of this Motion will be provided in accordance with the procedures set forth in the *Order Granting Debtors' Motion for Order Authorizing the Establishment of Certain Notice, Case Management, and Administrative Procedures* [Docket No. 374] (the "Case Management Order"). The Debtors submit that no other or further notice need be provided.

NO PRIOR REQUEST

36. No previous request for the relief sought herein has been made to this Court or any other court.

Exhibit F

CONCLUSION

WHEREFORE the Debtors respectfully request that the Court (a) enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, and (b) grant such other and further relief as may be just and proper.

Dated: October 10, 2023
New York, New York

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: */s/ Paul D. Leake*

Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

Counsel to Debtors
and Debtors in Possession

Exhibit F

Exhibit A

Proposed Order

Exhibit F

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**Chapter 11**
ENDO INTERNATIONAL plc, *et al.*,	**Case No. 22-22549 (JLG)**
Debtors.[1]	**(Jointly Administered)**
	Related Docket No. [●]

THIRD ORDER PURSUANT TO BANKRUPTCY CODE SECTION 1121(d) EXTENDING THE DEBTORS' EXCLUSIVE PERIODS TO FILE A CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES THEREOF

Upon the motion (the "Motion")[2] of the debtors in possession (collectively, the "Debtors") in the above-captioned cases for entry of an order (this "Order") under section 1121(d) of title 11 of the United States Code (the "Bankruptcy Code") extending by one hundred twenty (120) days the exclusive periods during which only the Debtors may file a chapter 11 plan and solicit acceptances thereof, all as more fully set forth in the Motion; and the Court having reviewed the Motion and the Dombrowski Declaration and having heard the statements of counsel regarding the relief requested in the Motion at a hearing before the Court; and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. §§ 157 (b) and 1334(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) notice of the Motion and

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

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

the hearing on the Motion was sufficient under the circumstances, and no other or further notice is necessary; 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 that such relief is in the best interests of the Debtors, their estates, creditors, and all parties in interest; now, therefore,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED and approved to the extent set forth herein.

2. The Exclusive Filing Period is hereby extended by ninety (90) days through and including January 8, 2024.

3. The Exclusive Solicitation Period is hereby extended by ninety (90) days through and including March 8, 2024.

4. The entry of this Order is without prejudice to the Debtors' right to request further extensions of the Exclusive Periods.

5. The contents of the Motion and the notice procedures set forth therein are good and sufficient notice and satisfy the Bankruptcy Rules and the Local Rules, and no other or further notice of the Motion or the entry of this Order shall be required.

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

7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2023
New York, New York

HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

Exhibit G

COOLEY LLP
Cullen D. Speckhart
Michael Klein
Evan Lazerowitz
55 Hudson Yards
New York, NY 10001
Telephone: (212) 479-6000

Proposed Lead Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

AKIN GUMP STRAUSS HAUER & FELD LLP
Arik Preis
Mitchell P. Hurley
Kate Doorley
Theodore James Salwen
One Bryant Park
New York, New York 10036
Telephone: (212) 872-1000

Proposed Special Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
ENDO INTERNATIONAL PLC, *et al.*,	)	Case No. 22-22549 (JLG)
Debtors.[1]	)	(Jointly Administered)

STATEMENT OF THE OFFICIAL COMMITTEE OF OPIOID CLAIMANTS REGARDING MOTION OF THE DEBTORS TO APPOINT FUTURE CLAIMANTS' REPRESENTATIVE

The Official Committee of Opioid Claimants (the "OCC") appointed in the chapter 11 cases (the "Chapter 11 Cases") of the above-captioned debtors and debtors in possession (the "Debtors"), by and through its proposed undersigned counsel, hereby submits this statement (the "Statement") in respect of the *Motion of the Debtors for Entry of an Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting*

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

Related Relief, dated August 17, 2022 [ECF No. 21] (the "FCR Motion").[2] In support of this Statement, the OCC respectfully states as follows.

STATEMENT

1. The OCC was appointed on September 2, 2022 by the Office of the United States Trustee for Region 2 (the "U.S. Trustee") as the fiduciary for all holders of claims arising from harm suffered due to the Debtors' opioid products and practices (collectively, "Opioid Claims," and the holders of such claims, "Opioid Claimants")[3] in recognition of the outsized role that the Debtors' opioid liabilities played in the Debtors' determination to commence the Chapter 11 Cases, and the importance of providing thousands of Opioid Claimants with the ability to participate in the Chapter 11 Cases by and through an official committee.[4]

2. In recent decades, the opioid crisis—the worst man-made epidemic of our lifetime—has ravaged communities throughout the United States, claimed the lives of more than half a million Americans and ruined the lives of countless more, causing irreparable personal and financial harm to their families and communities. Millions of people became addicted to opioids contained in pharmaceutical products—such as the Debtors' Opana® and Opana® ER, among others—and suffered serious health consequences, including struggling with opioid use disorder, overdose and death. Their families, co-workers and communities have endured injury as well, in

[2] Capitalized terms used but not otherwise defined in the Statement shall have the meanings ascribed to such terms in the FCR Motion.

[3] The Opioid Claimants include at least 11 separate groups of creditors: (i) the federal government; (ii) the 50 States and other political subdivisions of the United States; (iii) political subdivisions of the States; (iv) Native American tribes; (v) personal injury victims; (vi) children born with neonatal abstinence syndrome; (vii) hospitals; (viii) third party payors, including health insurance companies; (ix) purchasers of private insurance; (x) independent emergency room physicians; and (xi) independent school districts. Romanettes (v) through (x) are commonly referred to as "Private Claimants."

[4] The OCC currently comprises the following entities and persons: (i) Robert Asbury as Guardian Ad Litem for certain infants diagnosed with neonatal abstinence syndrome; (ii) Sabrina Barry; (iii) Blue Cross and Blue Shield Association; (iv) Erie County Medical Center Corporation; (v) Sean Higginbotham; (vi) Alan MacDonald; and (vii) Michael Masiowski, M.D.

being forced to reckon with the circumstances of loved ones and left to confront the aftermath. With each passing day, more people are using opioids, developing opioid use disorder, falling victim to the disease of addiction and dying from opioid overdoses—at the rate of over 220 deaths each day, according to a recent count.[5] While the OCC understands that no amount of money will ever compensate victims for the losses that they and their loved ones, friends, relatives, colleagues and communities have suffered, the OCC is focused on maximizing the value available for Opioid Claimants' recoveries, which will provide money to fund critical abatement efforts and give individual victims the aid they so desperately need to begin rebuilding their lives.

3. By the FCR Motion and the proposed form of order attached thereto (the "Proposed Order"), the Debtors seek appointment of Roger Frankel as a future claimants' representative (an "FCR") to serve as a fiduciary for "any individual . . . (a) who asserts one or more personal injury claims against a Debtor or a successor of the Debtors' businesses based on a Debtor's conduct either (i) before the Effective Date (as it relates to opioid products), or (ii) before the Petition Date (as it relates to transvaginal mesh and ranitidine products); (b) whose claims relate to opioid products, transvaginal mesh products, ranitidine products; and (c) who could not assert such claims in the Chapter 11 Cases because, among other reasons, the claimant (i) was unaware of the injury as of the Effective Date; (ii) has a latent manifestation of the injury after the Effective Date; or (iii) as of the Effective Date, was otherwise unable or incapable of asserting the claims based on the injury."[6] The OCC claims no specialized knowledge and takes no position on the proposed appointment of an FCR with regard to future claims arising from the Debtors' transvaginal mesh products and ranitidine products; the subject of this Statement is accordingly confined to the

[5] National Center for Health Statistics, *U.S. Overdose Deaths in 2021 Increased Half as Much as in 2020 – But Are Still Up* 15% (May 11, 2022), https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm.

[6] Proposed Order ¶ 4.

appointment of an FCR for future claims (if any) arising from the use of the Debtors' opioid products. Further, the OCC is aware that (as of this filing) certain parties—the U.S. Trustee and the Multi-State Endo Executive Committee—have filed objections to the appointment of Mr. Frankel as the FCR, and have sought to open up the process to other candidates.[7] The OCC would note that the time and expense incurred by the Debtors' estates to run a process to identify, interview, consult, select, engage and thereafter file new retention papers (as well as the concomitant loss of value already paid to Mr. Frankel and the cost and expense of bringing a new FCR up to speed on what Mr. Frankel and his advisors already know based on their two months of work) could be better used providing compensation to opioid victims and abating the opioid epidemic.[8]

4. In general, FCRs are appointed to serve a specific function—namely, to provide certainty and a "fresh start" to reorganized debtors in connection with "long tail" liability for past conduct that will cause injury in the future. Accordingly, an FCR's constituency should comprise a group of potential holders of future claims that: (i) are reasonably certain to arise, based on a scientific basis for determining that claimants will not know of their prepetition exposure and future injury until some period of time after the effective date; and (ii) for plan and other purposes, can and must be estimated with some level of precision (either with regard to aggregate claims or specific damages per claimant). The most commonly employed—and only statutorily[9]

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[7] *See United States Trustee's Objection to Debtors' Motion for Entry of an Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date, and (II) Granting Related Relief*, dated September 8, 2022 [ECF No. 186]; *Joinder by the Multi-State Endo Executive Committee to the United States Trustee's Objection to Debtors' Motion for Entry of an Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date, and (II) Granting Related Relief*, dated September 12, 2022 [ECF No. 205].

[8] As an example, in the Purdue Chapter 11 Cases, individual victims are proposed to receive anywhere from $3,500 to $48,000 based on the extent and severity of their injury—and many thousands will likely choose just to receive $3,500 rather than wait years for their compensation.

[9] *See* 11 U.S.C. § 524(g)(4)(B)(i).

recognized—reason to appoint an FCR is asbestos liability, which can continue to accrue as a result of disease developed decades after a victim's exposure to the carcinogen. In such cases involving latent disease due to asbestos exposure, populations of future creditors may hold interests that require separate representation to be bound to the terms of a plan.

5. The OCC is not aware that opioid use disorder or the Debtors' opioid liabilities have the type of "long tail" present in other cases where an FCR has been appointed to represent personal injury claims relating to asbestos, talc or child sex abuse.[10] Neither is it clear to the OCC that the Debtors' opioid liabilities present similar circumstances to those existing in cases where an FCR has been appointed (*i.e.*, that there will be a significant number or amount of claims arising after the effective date of a plan based on prepetition or pre-Effective Date exposure to the Debtors' products).[11]

6. The FCR Motion likewise sheds little light on the circumstances that might give rise to the need for an FCR in the Chapter 11 Cases. Nor does it provide any definition of the characteristics attributable to the "Future Claimant" population the FCR is intended to serve from which a rationale might be inferred. Instead, the FCR Motion gives three ***examples*** of what the

[10] The Official Committee of Opioid Related Claimants appointed in the chapter 11 cases of Mallinckrodt plc and its affiliated debtors objected to the appointment of Mr. Frankel as an FCR therein on these grounds, but agreed not to pursue its objection in connection with a broader partial settlement regarding case procedures. *See In re Mallinckrodt plc,* et al., Case No. 20-12522 (Bankr. D. Del. 2020), *The Official Committee of Opioid Related Claimants' (I) Request for Adjournment of or, in the Alternative, Objection to Motion of Debtors To Appoint Future Claimants Representative and (II) Cross-Motion To Compel Debtors To Establish Bar Date and Noticing Program for Opioid Claimants* [ECF No. 658]; *Debtors' Motion for Entry of an Order (A) Appointing a Mediator and (B) Establishing Mediation Procedures as Set Forth in the Proposed Order* [ECF No. 1276] ¶ 4 (describing settlement of committee's objection and motion); *see also In re Mallinckrodt plc,* et al., Case No. 20-12522 (Bankr. D. Del. 2020), *Order Appointing Roger Frankel, as Legal Representative for Future Opioid Personal Injury Claimants, Effective as of the Petition Date* [ECF No. 2813] ¶ 4 (providing that the terms "Future Opioid PI Claim," "Future Opioid PI Claim" and "PI Opioid Demand" were to have the meaning ascribed to such terms under the debtors' plan of reorganization, once confirmed).

[11] Neither the Debtors nor the FCR have offered any indication of the number of individuals whose interests are expected to be represented by the FCR, as it relates to opioid product claimants. Nor has there been any indication to date that the work the FCR performed prepetition involved any effort to determine this specific population.

Debtors might consider opioid-related "Future Claimants."[12] But none of these examples involves a "long tail" of liability; rather, they describe discrete populations over relatively short periods. The first example[13] likely will have a very limited population due to the extreme speed at which opioid addiction can develop. The second example[14] is not actually a future claimant at all, but instead a justification for a late filed claim. The last example—children born with neonatal abstinence syndrome after the Effective Date, but exposed to opioids in utero prior to the Effective Date—is a very limited category and can be specifically accounted for[15].

7. In light of these concerns, the OCC negotiated and reached agreement with the Debtors, the Official Committee of Unsecured Creditors, and the Ad Hoc Group of First Lien Lenders for certain modifications to the Proposed Order. These modifications are intended to, among other things, constrain the definition of a Future Claimant and give the OCC (and other parties) the right to come back to this Court to seek further modifications to such definition, as circumstances warrant. The revised proposed form of order (the "Revised Proposed Order")[16] also contains various other modifications to ensure that parties will not be able to use such order (or the appointment of an FCR) for various other purposes in the Chapter 11 Cases.

8. Separately, given the course the Debtors have charted for the Chapter 11 Cases, it is questionable at best whether an FCR will serve a useful purpose here for holders of Opioid

[12] *See* FCR Motion ¶ 18.

[13] "Future Claimants using opioids pursuant to a valid prescription as of the Effective Date who have not been recognized as having, or diagnosed with, an opioid abuse disorder, but such disorder develops or becomes realized after the Effective Date." *Id*.

[14] "Future Claimants suffering from an opioid abuse disorder as of the Effective Date, but who, as a result of such disorder, are unable to reasonably understand a bankruptcy court notice or their rights as a claimant." *Id*.

[15] The OCC is aware that certain parties believe that children who are exposed to opioids in utero may not manifest their injury immediately at birth.

[16] The Debtors will be seeking approval of the Revised Proposed Order at the hearing with regard to the Motion.

Claims. The Voluntary Opioid Trust Term Sheet incorporated into the Restructuring Support Agreement[17] contemplates that all private Opioid Claimants, including tens if not hundreds of thousands of personal injury victims, will have the right to participate[18] in a trust that provides up to $85 million[19] that is not to be paid until ten years after the Closing Date (as defined in the RSA), and which, therefore, has a present value far below that nominal amount—likely in the $30–35 million range, depending on the discount rate used.[20] One of the OCC's objectives in the Chapter 11 Cases will be to analyze this proposal to determine whether the OCC should support it. That being said, in light of the OCC's lack of a basis for believing that future Opioid Claims are either (i) reasonably certain to arise or (ii) of the type that have a long "tail" period, the OCC will have grave concerns if ***any*** of the limited money allocated for distribution to Opioid Claimants is pulled from the hands of present claimants to be reserved for future claimants who may or may not exist, or the costs of administering a trust for their ambiguous benefit.[21]

9. Despite these concerns, the OCC recognizes the importance of an FCR in certain chapter 11 cases, and understands that the FCR Motion does not seek to pre-resolve any of the foregoing allocation issues or the existence of Future Claimants. While reserving its rights to address these and other issues, if and when they become live, given the changes reflected in the

[17] *Restructuring Support Agreement*, dated August 17, 2022 [ECF No. 20, Ex. 1] (the "RSA").

[18] This right to participate is only granted under certain circumstances, and is not given on the same terms as the amounts to be provided to the States under the trust to be established for their benefit. *See Voluntary Opioid Trust Term Sheet*, dated August 17, 2022 (the "Voluntary Opioid Term Sheet"), Ex. E to *Restructuring Term Sheet* [RSA Ex. A].

[19] Voluntary Opioid Term Sheet at 5 [ECF No. 20 at 184].

[20] Setting aside the nominal amount offered, providing victims with compensation (and private non-individual claimants with abatement dollars) more than a decade from now deprives victims (whose lives have been shattered by the Debtors' products) who need money now of a meaningful opportunity to receive their recovery.

[21] The protection proposed to be offered to the Debtors and/or their new owners through negotiations with the FCR also remains unclear—to the extent that the terms of a sale order or plan were to seek to use present Opioid Claimants' already-limited recoveries to indemnify the reorganized or sold Debtors for their own future misconduct, this would be obviously unacceptable to the OCC.

Revised Proposed Order (as of this filing), the OCC does not oppose the appointment of Mr. Frankel as FCR and, therefore, does not object to the FCR Motion.

RESERVATION OF RIGHTS

10. The OCC reserves all rights with respect to the FCR Motion and any objections and replies filed in respect thereof, including the right to amend or supplement this Statement, submit additional briefing (including a sur-reply should the Debtors produce additional evidence in support of the FCR Motion or alter the terms of the Revised Proposed Order agreed to by the OCC as of this filing) and participate in any discovery and be heard at any hearing related to the FCR Motion.

Dated: September 19, 2022

Respectfully submitted,

COOLEY LLP

/s/ *Cullen D. Speckhart*

Cullen D. Speckhart
Michael Klein
Evan Lazerowitz
55 Hudson Yards
New York, NY 10001
Telephone: (212) 479-6000
Facsimile: (212) 479-6275
cspeckhart@cooley.com
mklein@cooley.com
elazerowitz@cooley.com

Proposed Lead Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

-and-

AKIN GUMP STRAUSS HAUER & FELD LLP
Arik Preis
Mitchell P. Hurley
Theodore James Salwen
One Bryant Park
New York, NY 10036-6745

Telephone: (212) 872-1000
Facsimile: (212) 872-1002
apreis@akingump.com
mhurley@akingump.com
jsalwen@akingump.com

-and-

Kate Doorley
2001 K Street NW
Washington, DC 20006
Telephone: (202) 887-4000
Facsimile: (202) 887-4288
kdoorley@akingump.com

Proposed Special Counsel to the Official Committee of Opioid Claimants of Endo International plc, et al.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2020

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to
Commission file number 001-36326

Endo International plc

(Exact name of registrant as specified in its charter)

Ireland	**68-0683755**
State or other jurisdiction of incorporation or organization	(I.R.S. Employer Identification No.)
First Floor, Minerva House, Simmonscourt Road **Ballsbridge, Dublin 4, Ireland**	**Not Applicable**
(Address of principal executive offices)	(Zip Code)

011-353-1-268-2000
Registrant's telephone number, including area code

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Ordinary shares, nominal value $0.0001 per share	ENDP	The NASDAQ Global Select Market

Securities registered pursuant to section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.	Yes ☒	No ☐	
Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.	Yes ☐	No ☒	
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.	Yes ☒	No ☐	
Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).	Yes ☒	No ☐	

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐		
Non-accelerated filer	☐	Smaller reporting company	☐	Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.	☐
Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.	☒
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒	

The aggregate market value of the voting common equity (ordinary shares) held by non-affiliates as of June 30, 2020 (the last business day of the registrant's most recently completed second fiscal quarter) was $778,542,515 based on a closing sale price of $3.43 per share as reported on The NASDAQ Global Select Market on that date. Ordinary shares held by each officer and director have been excluded since such persons and beneficial owners may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes. The registrant has no non-voting ordinary shares authorized or outstanding.

The number of ordinary shares, nominal value $0.0001 per share outstanding as of February 18, 2021 was 230,500,639.

Documents Incorporated by Reference

Portions of the registrant's proxy statement pursuant to Regulation 14A relating to its 2021 Annual General Meeting, to be filed with the Securities and Exchange Commission subsequent to the date hereof, are incorporated by reference into Part III of this Form 10-K. Such proxy statement will be filed with the Securities and Exchange Commission no later than 120 days after the conclusion of the registrant's fiscal year ended December 31, 2020.

As of December 31, 2020, our accrual for loss contingencies totaled $372.1 million, the most significant components of which relate to product liability and related matters associated with transvaginal surgical mesh products, which we have not sold since March 2016. Although we believe there is a possibility that a loss in excess of the amount recognized exists, we are unable to estimate the possible loss or range of loss in excess of the amount recognized at this time. While the timing of the resolution of certain of the matters accrued for as loss contingencies remains uncertain and could extend beyond 12 months, as of December 31, 2020, the entire liability accrual amount is classified in the Current portion of legal settlement accrual in the Consolidated Balance Sheets.

Vaginal Mesh Matters

Since 2008, we and certain of our subsidiaries, including AMS (subsequently converted to Astora Women's Health Holding LLC and merged into Astora Women's Health LLC and referred to herein as AMS and/or Astora), have been named as defendants in multiple lawsuits in various state and federal courts in the U.S., Canada, Australia and other countries, alleging personal injury resulting from the use of transvaginal surgical mesh products designed to treat POP and SUI. We have not sold such products since March 2016. Plaintiffs claim a variety of personal injuries, including chronic pain, incontinence, inability to control bowel function and permanent deformities, and seek compensatory and punitive damages, where available.

Various Master Settlement Agreements (MSAs) and other agreements have resolved approximately 71,000 filed and unfiled U.S. mesh claims as of December 31, 2020. These MSAs and other agreements were entered into at various times between June 2013 and the present, were solely by way of compromise and settlement and were not an admission of liability or fault by us or any of our subsidiaries. All MSAs are subject to a process that includes guidelines and procedures for administering the settlements and the release of funds. In certain cases, the MSAs provide for the creation of QSFs into which the settlement funds will be deposited, establish participation requirements and allow for a reduction of the total settlement payment in the event participation thresholds are not met. Funds deposited in QSFs are considered restricted cash and/or restricted cash equivalents. Distribution of funds to any individual claimant is conditioned upon the receipt of documentation substantiating product use, the dismissal of any lawsuit and the release of the claim as to us and all affiliates. Prior to receiving funds, an individual claimant must represent and warrant that liens, assignment rights or other claims identified in the claims administration process have been or will be satisfied by the individual claimant. Confidentiality provisions apply to the settlement funds, amounts allocated to individual claimants and other terms of the agreements.

In October 2019, the Ontario Superior Court of Justice approved a class action settlement covering unresolved claims by Canadian women implanted with an AMS vaginal mesh device. Astora funded the settlement in February 2020.

The following table presents the changes in the QSFs and mesh liability accrual balances during the year ended December 31, 2020 (in thousands):

	Qualified Settlement Funds	Mesh Liability Accrual
Balance as of December 31, 2019	$ 242,842	$ 454,031
Additional charges	—	43,093
Cash contributions to Qualified Settlement Funds	7,215	—
Cash distributions to settle disputes from Qualified Settlement Funds	(123,803)	(123,803)
Cash distributions to settle disputes	—	(44,471)
Other (1)	744	2,071
Balance as of December 31, 2020	$ 126,998	$ 330,921

(1) Amounts deposited in the QSFs may earn interest, which is generally used to pay administrative costs of the fund and is reflected in the table above as an increase to the QSF and Mesh Liability Accrual balances. Any interest remaining after all claims have been paid will generally be distributed to the claimants who participated in that settlement. Also included within this line are foreign currency adjustments for settlements not denominated in U.S. dollars.

Charges related to vaginal mesh liability and associated legal fees and other expenses for all periods presented are reported in Discontinued operations, net of tax in our Consolidated Statements of Operations.

As of December 31, 2020, the Company has made total cumulative mesh liability payments of approximately $3.6 billion, $127.0 million of which remains in the QSFs as of December 31, 2020. We currently expect to fund all of the remaining payments under all previously executed settlement agreements during 2021. As funds are disbursed out of the QSFs from time to time, the liability accrual will be reduced accordingly with a corresponding reduction to restricted cash and cash equivalents. In addition, we may pay cash distributions to settle disputes separate from the QSFs, which will also decrease the liability accrual and decrease cash and cash equivalents.

We were contacted in October 2012 regarding a civil investigation initiated by various U.S. state attorneys general into mesh products, including transvaginal surgical mesh products designed to treat POP and SUI. In November 2013, we received a subpoena relating to this investigation from the state of California, and we subsequently received additional subpoenas from California and other states. We are cooperating with the investigations.

We will continue to vigorously defend any unresolved claims and to explore other options as appropriate in our best interests. The earliest trial is currently scheduled for May 2021; however, the timing of trials is uncertain due to the impact of COVID-19 and other factors.

Similar matters may be brought by others or the foregoing matters may be expanded. We are unable to predict the outcome of these matters or to estimate the possible range of any additional losses that could be incurred.

Although the Company believes it has appropriately estimated the probable total amount of loss associated with all mesh-related matters as of the date of this report, litigation is ongoing in certain cases that have not settled, and it is reasonably possible that further claims may be filed or asserted and that adjustments to our overall liability accrual may be required. This could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Opioid-Related Matters

Since 2014, multiple U.S. states as well as other governmental persons or entities and private plaintiffs in the U.S. and Canada have filed suit against us and/or certain of our subsidiaries, including EHSI, EPI, PPI, PPCI, Endo Generics Holdings, Inc. (EGHI), Vintage Pharmaceuticals, LLC, Generics Bidco I, LLC, DAVA Pharmaceuticals, LLC, PSP LLC and in Canada, Paladin, as well as various other manufacturers, distributors, pharmacies and/or others, asserting claims relating to defendants' alleged sales, marketing and/or distribution practices with respect to prescription opioid medications, including certain of our products. As of February 18, 2021, filed cases in the U.S. of which we were aware include, but are not limited to, approximately 20 cases filed by or on behalf of states; approximately 2,890 cases filed by counties, cities, Native American tribes and/or other government-related persons or entities; approximately 300 cases filed by hospitals, health systems, unions, health and welfare funds or other third-party payers and approximately 185 cases filed by individuals. Certain of the cases have been filed as putative class actions. The Canadian cases include an action filed by British Columbia on behalf of a proposed class of all federal, provincial and territorial governments and agencies in Canada that paid healthcare, pharmaceutical and treatment costs related to opioids, an action filed by the City of Grand Prairie, Alberta on behalf of a proposed class of all local or municipal governments in Canada, as well as three additional putative class actions, filed in Ontario, Quebec and British Columbia, seeking relief on behalf of Canadian residents who were prescribed and/or consumed opioid medications.

The complaints in the cases assert a variety of claims, including but not limited to statutory claims asserting violations of public nuisance, consumer protection, unfair trade practices, racketeering, Medicaid fraud and/or drug dealer liability laws and/or common law claims for public nuisance, fraud/misrepresentation, strict liability, negligence and/or unjust enrichment. The claims are generally based on alleged misrepresentations and/or omissions in connection with the sale and marketing of prescription opioid medications and/or alleged failures to take adequate steps to identify and report suspicious orders and to prevent abuse and diversion. Plaintiffs generally seek various remedies including, without limitation, declaratory and/or injunctive relief; compensatory, punitive and/or treble damages; restitution, disgorgement, civil penalties, abatement, attorneys' fees, costs and/or other relief.

Many of the U.S. cases have been coordinated in a federal multidistrict litigation (MDL) pending in the U.S. District Court for the Northern District of Ohio. Other cases are pending in various federal or state courts. The cases are at various stages in the litigation process. The first MDL trial, relating to the claims of two Ohio counties (Track One plaintiffs), was set for October 2019 but did not go forward after most defendants settled. EPI, EHSI, PPI and PPCI executed a settlement agreement with the Track One plaintiffs in September 2019 which provided for payments totaling $10 million and up to $1 million of VASOSTRICT® and/or ADRENALIN®. Under the settlement agreement, the Track One plaintiffs may be entitled to additional payments in the event of a comprehensive resolution of government-related opioid claims. The settlement agreement was solely by way of compromise and settlement and was not in any way an admission of liability or fault by us or any of our subsidiaries. The earliest trial is currently scheduled for April 2021; however, trials may occur earlier or later as timing remains uncertain due to the impact of COVID-19 and other factors. Most cases remain at the pleading and/or discovery stage. In February 2021, the MDL court declined to certify a proposed class of legal guardians of children born with neonatal abstinence syndrome; plaintiffs have filed a motion for reconsideration.

In September 2019, EPI, EHSI, PPI and PPCI received subpoenas from the New York State Department of Financial Services (DFS) seeking documents and information regarding the marketing, sale and distribution of opioid medications in New York. In June 2020, DFS commenced an administrative action against the Company, EPI, EHSI, PPI and PPCI alleging violations of the New York Insurance Law and New York Financial Services Law. The statement of charges alleges that fraudulent or otherwise wrongful conduct in the marketing, sale and/or distribution of opioid medications caused false claims to be submitted to insurers and seeks civil penalties for each allegedly fraudulent prescription as well as injunctive relief. The action is currently set for hearing in June 2021.

We will continue to vigorously defend the foregoing matters and to explore other options as appropriate in our best interests. Similar matters may be brought by others or the foregoing matters may be expanded. We are unable to predict the outcome of these matters or to estimate the possible range of any losses that could be incurred. Adjustments to our overall liability accrual may be required in the future, which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

In addition to the lawsuits and administrative matters described above, the Company and/or its subsidiaries have received certain subpoenas, civil investigative demands (CIDs) and informal requests for information concerning the sale, marketing and/or distribution of prescription opioid medications, including the following:

Various state attorneys general have served subpoenas and/or CIDs on EHSI and/or EPI. We are cooperating with the investigations.

In January 2018, EPI received a federal grand jury subpoena from the U.S. District Court for the Southern District of Florida seeking documents and information related to OPANA® ER, other oxymorphone products and marketing of opioid medications. We are cooperating with the investigation.

In December 2020, the Company received an administrative subpoena issued by the U.S. Attorney's Office for the Western District of Virginia seeking documents related to McKinsey & Company. We are cooperating with the investigation.

Similar investigations may be brought by others or the foregoing matters may be expanded or result in litigation. We are unable to predict the outcome of these matters or to estimate the possible range of any losses that could be incurred. Adjustments to our overall liability accrual may be required in the future, which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

In January 2020, EPI and PPI executed a settlement agreement with the state of Oklahoma providing for a payment of approximately $8.75 million in resolution of potential opioid-related claims. The settlement agreement was solely by way of compromise and settlement and was not in any way an admission of liability or fault by us or any of our subsidiaries.

Ranitidine Matters

In June 2020, an MDL pending in the U.S. District Court for the Southern District of Florida, *In re Zantac (Ranitidine) Products Liability Litigation*, was expanded to add PPI and numerous other manufacturers and distributors of generic ranitidine as defendants. The claims are generally based on allegations that under certain conditions the active ingredient in Zantac® and generic ranitidine medications can break down to form an alleged carcinogen known as N-Nitrosodimethylamine (NDMA). PPI and its subsidiaries have not manufactured or sold ranitidine since 2016.

The MDL includes individual plaintiffs as well as putative classes of consumers and third-party payers. The complaints assert a variety of claims, including but not limited to various product liability, breach of warranty, fraud, negligence, statutory and unjust enrichment claims. Plaintiffs generally seek various remedies including, without limitation, compensatory, punitive and/or treble damages; restitution, disgorgement, civil penalties, abatement, attorneys' fees and costs as well as injunctive and/or other relief.

The MDL court has issued various case management orders, including orders directing the filing of "master" and short-form complaints, establishing a census registry process for potential claimants and addressing various discovery issues. In December 2020, the court dismissed the master complaints as to PPI and several other defendants with leave to amend certain claims. Third party payers have appealed the dismissal of their master class action complaint to the U.S. Court of Appeals for the Eleventh Circuit. Other plaintiffs have filed amended master complaints or sought leave to do so. In particular, in February 2021, various plaintiffs filed an amended master personal injury complaint, a consolidated amended consumer economic loss class action complaint and a motion for leave to file a consolidated medical monitoring class action complaint. PPI is not named as a defendant in the consumer economic loss complaint or the proposed medical monitoring complaint.

We will continue to vigorously defend the foregoing matters and to explore other options as appropriate in our best interests. Similar matters may be brought by others or the foregoing matters may be expanded. We are unable to predict the outcome of these matters or to estimate the possible range of any losses that could be incurred. Adjustments to our overall liability accrual may be required in the future, which could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Generic Drug Pricing Matters

Since March 2016, various private plaintiffs, state attorneys general and other governmental entities have filed cases against our subsidiary PPI and/or, in some instances, the Company, Generics Bidco I, LLC, DAVA Pharmaceuticals, LLC, EPI, EHSI and/or PPCI, as well as other pharmaceutical manufacturers and, in some instances, other corporate and/or individual defendants, alleging price-fixing and other anticompetitive conduct with respect to generic pharmaceutical products. These cases, which include proposed class actions filed on behalf of direct purchasers, end-payers and indirect purchaser resellers, as well as non-class action suits, have generally been consolidated and/or coordinated for pretrial proceedings in a federal MDL pending in the U.S. District Court for the Eastern District of Pennsylvania. There is also a proposed class action filed in the Federal Court of Canada on behalf of a proposed class of Canadian purchasers.

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David Novak MSc | 416.777.7029 | david.novak@raymondjames.ca

Pharmaceuticals

July 12, 2018 | 5:17 am EDT
Company Report - Initiation of Coverage

Reintroducing a Dose of Foresight, Discipline, and Sustainability to Canadian Spec Pharma

Recommendation

We are initiating coverage on Knight Therapeutics Inc. with an Outperform rating and a C$10.25 target price. Knight is an early-stage specialty pharmaceutical company which was spun out from Paladin Labs as a result of its acquisition by Endo International. Through Paladin, Knight's CEO, Jonathan Ross Goodman has developed a consistent track record of delivering ROIC. With a war chest of cash at its disposal, we believe that in time, Knight will outperform the accomplishments of Paladin by uncovering value through patience, opportunism, and calculated foresight.

Analysis

- **Undeniably the Strongest Management Team in Canadian Spec Pharma.** This is not Knight's executive team's first rodeo: Mr. Jonathan Goodman, Ms. Samira Sakhia, and Ms. Amal Khouri are well known in Canada for delivering a spectacular exit with Paladin Labs' acquisition by Endo International. Furthermore, through Paladin's history, management proved time after time, its steadfast commitment to delivering shareholder value through responsible and disciplined capital deployment aimed at generating future growth and bottom line profitability.
- **Ample Cash for Strategic Deployment.** Currently exiting 1Q18 with $802.4 mln in cash and marketable securities ($658.1 mln in uncommitted capital) Knight is in possession of the largest cash war chest amongst its Canadian Specialty Pharmaceutical peers. As such, we believe Knight is the best-positioned company to rapidly close on unique transactional opportunities without the caveat of conditional financing.
- **Always Focused On The Bottom Line.** While still in the early days of amassing a robust pipeline of commercial therapeutic and diagnostic assets, Knight has nonetheless generated approximately $203 mln in Net Income since inception through its unique lending and investment strategies in conjunction with its early commercial activities.

Valuation

While we would typically value a specialty pharmaceutical company by utilizing either a DCF valuation methodology or a forward EBITDA multiple, we believe neither approach accurately captures the inherent value in Knight's early-stage operational strategy nor growing cash balance. This is particularly true as at present, the majority of Knight's earnings are to date generated from interest income on loans receivable, as well as other unique investment tactics. As such, we have opted to utilize a price-to-book value per share multiple valuation methodology which we believe more precisely represents the current value in in Knight's growing asset base. Specifically, we value Knight at 1.5x P/BVPS which represents a 25% discount to its North American Specialty Pharmaceutical comps which currently trade at an average of 2.0x. Our 1.5x multiple results in a value of $10.35 per share which we round down to $10.25. See our Valuation section.

GAAP EPS	1Q Mar	2Q Jun	3Q Sep	4Q Dec	Full Year	Revenues (mln)	EBITDA (mln)
2017A	C$0.04	C$0.00	C$0.03	C$0.05	C$0.12	C$8,634	NM
2018E	0.05A	0.02	0.02	0.02	0.11	9,638	NM
2019E	0.02	0.02	0.02	0.02	0.09	9,716	NM

Source: Raymond James Ltd., Thomson One

Outperform 2
C$10.25 target price

Current Price (Jul-10-18)	C$8.46
Total Return to Target	25%
52-Week Range	C$10.29 - C$7.38
Suitability	Medium Risk/Growth

Market Data

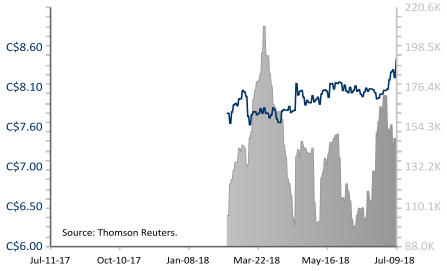
Market Capitalization (mln)	C$1,174
Current Net Debt (mln)	C$0
Enterprise Value (mln)	C$372
Shares Outstanding (mln, f.d.)	146.7
10 Day Avg Daily Volume (000s)	137
Dividend/Yield	C$0.00/0.0%

Key Financial Metrics

	2017A	2018E	2019E
P/E (GAAP)	NM	78.9x	94.0x
EV/EBITDA	NM	NM	NM
EV/Revenue	NM	38.5x	38.2x
Revenue y/y chg	45.0%	12.0%	1.0%
EPS y/y chg	-21.0%	-5.0%	-23.0%
BVPS	C$6.76	C$6.90	C$7.00

Company Description

Knight Therapeutics Inc. is a specialty pharmaceutical company ultimately focused on acquiring, in-licensing, selling, and marketing prescription and over-the-counter pharmaceutical products. Knight was born out of Paladin Labs as a result of its acquisition by Endo International.



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Investment Overview

A Seasoned Knight Dead Set On Victory

Mr. Goodman founded Paladin Labs in 1995 and led the company through 19 years of record growth, achieving revenues of greater than $270 mln and EBITDA in excess of $90 mln, when it sold to Endo International for $77.00 per share or $1.6 bln. Having had the foresight to negotiate equity in Endo as part of the sale, upon closing of the transaction, the deal had effectively appreciated in value to $3.1 bln. The Goodman family owned 34% of Paladin and thus, it is our view that Mr. Goodman's motivation with Knight is not monetarily focused; rather, we believe he is sincerely driven to demonstrate his ability to succeed again. We think it is this unique and unwavering drive that will ensure Knight's victory.

Leading The Battle From The Frontlines

Knight's Management (specifically, Mr. Goodman, Ms. Sakhia, and Ms. Khouri), while at Paladin, developed a reputation for fighting shoulder-to-shoulder with investors and looking out for their financial interests. That dedication to shareholders transferred over to Knight on Day 1 when it was negotiated that every shareholder of Paladin would receive one common share of Knight as part of the transaction. Furthermore, to date, Knight has raised $685 mln in equity capital in five separate financing rounds, each at increasing valuation and with significant participation from Knight's CEO, who is currently the largest shareholder at greater than 15%. With $802.4 mln in cash and marketable securities ($658.1 mln in uncommitted capital), we think Knight is undeniably the best-positioned specialty pharmaceutical company in Canada to rapidly transact on unique market opportunities without additional contingent financing.

Strategic Foresight That Rewards Patience

Paladin produced a staggering 4,600%+ return over 19 years (at $77.00 per share) easily outperforming the TSX Composite Index at 219% for the same period. Plan B, an unapproved post-coital contraceptive acquired by Paladin in 1999, became one of Paladin's top-selling products in 2012. Impavido, acquired by Paladin in 2008, resulted in a greater than 13x ROI to Knight in 2014 when it sold a Priority Review Voucher (PRV) issued in connection with its FDA approval. Endo ascribed no value to the PRV in previous negotiations. These are the type of transactions we have come to expect from Knight's management and it is this track record that leads us to believe that Knight will deploy its capital over time in a disciplined and creative manner. Knight essentially has a tabula rasa; there are no at-risk cash flows and no recent opaque acquisitions that need to be concealed by subsequent transactions. What Knight has is an extremely well-capitalized balance sheet with no debt (management has guided that it is unlikely to ever take on debt), and we believe it has begun to set the foundation for a rich pipeline of potentially novel, high-growth assets.

Company Overview

"Specialty Pharmaceuticals" Has Become a Dirty Phrase in Canada

Any investor that has followed the Canadian specialty pharmaceutical industry over the past 5-10 years has likely picked up on a consistent theme. Specifically, Canadian specialty pharmaceuticals went through a period where the majority of companies subscribed to the "multiple accretion/financial arbitrage" model of acquiring legacy assets and performing life cycle management. It is our view that this model, which we define as the **"Roll Up" Pharma Model**, in reality, very frequently, fails to result in sustainability. While this model can be lucrative in a pharmaceutical bull market, it is a strategy that rapidly comes under pressure when the cycle turns, cost of capital rises, transaction cadence slows, and company valuations compress. When the cycle turns, investors are exposed to significant downside risk.

It is our opinion that the successful specialty pharmaceutical model, which we define as the **"Full Cycle" Pharma Model**, is one that requires: i) the ability to generate volume-driven growth; ii) responsible use of leverage; iii) strong management; and, iv) disciplined use of capital. Typically, in the full-cycle pharma model, companies will focus on specialty therapeutic niches where the large majority of prescribing physicians can be called upon by a small specialized sales force who detail products at the beginning of their life cycle. In this model, companies benefit from organic volume- driven growth and further benefit from significant operating leverage, as they continue to build out their product portfolio. In our view, Mr. Jonathan Goodman, Knights CEO and founder, wrote the book on the full-cycle pharma model, as demonstrated with his success at Paladin Labs. This model, with a few exceptions, has rarely been replicated in Canada subsequent to Paladin. We believe Mr. Goodman, along with his ex-Paladin team including Ms. Sakhia and Ms. Khouri, are well on their way to once again replicating this model with Knight Therapeutics.

A Pharmaceutical Squire With Noble Pedigree

Knight Therapeutics founder and CEO Jonathan Ross Goodman is well known for his success at Paladin Labs. However, Mr. Goodman's pharmaceutical exposure precedes Paladin, and in fact emanates from a long-standing pedigree of Canadian pharmaceutical talent.

Mr. Goodman is the son of pharmacist Morris Goodman, who began his career with the establishment of Winley-Morris, a company focused on seeking out distribution rights from several international pharmaceutical companies in order to bring their products to Canada. Subsequent to becoming the Canadian distributor of L-Dopa for International Chemical & Nuclear Corporation (ICN), ICN purchased Winley-Morris and established Morris Goodman as President of ICN Canada.

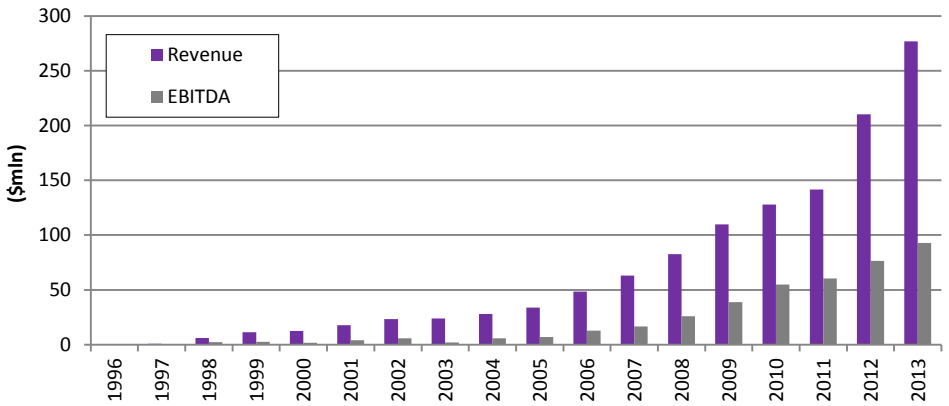
In 1983, Mr. Morris Goodman co-founded Pharmascience with colleague Ted Wise. Pharmascience was established in 1983 and has grown into Canada's third-largest generic drug company with annual sales in excess of $700 mln. Mr. Jonathan Goodman's brother, Dr. David Goodman, is current CEO of Pharmascience. Mr. Jonathan Goodman joined Pharmascience in 2004 as Vice President of Business Development, a career juncture which would ultimately catalyze his own pharmaceutical legacy.

The Path to Knighthood Began With Paladin

Paladin Labs went public via an RTO by GeriatRx in 1995. Mr. Goodman, President and CEO, was Paladin's first employee.

From its inception, Paladin differentiated itself from the typical Canadian pharmaceutical company by focusing on free cash flow and growth in a disciplined and conservative manner. Throughout the 19 years that Paladin operated independently, its revenues grew to greater than $270 mln, EBITDA exceeded $90 mln and EPS went from a loss of $0.50 per share to a gain of $2.45 per share (Exhibit 1). On November 5, 2013, it was announced that Endo had entered into an agreement to acquire Paladin Labs for $77.00 per share or $1.6 bln (1.6331 shares of new ENDO, $1.16 cash and one share of Knight Therapeutics). Upon closing of the deal on February 28, 2014, Endo's equity value had significantly increased in response to the news (in particular, the tax implications) effectively revaluing the transaction at $3.1 bln or $142.06 per share ($1.14 US$/C$).

Exhibit 1: Paladin Labs' Historical Financials



Source: Capital IQ, Raymond James Ltd.

Paladin's success was a direct result of its creative, insightful, and disciplined use of capital which generally can be distilled down as follows: i) capital deployed in order to acquire or license product rights, ii) high interest secured lending; and, iii) equity investments. It is this strategy that enabled Paladin to establish a reputation for generating an industry-leading ROI.

Throughout its history, Paladin grew from a niche-focused specialty pharmaceutical company into a full-blown diversified pharmaceutical company with limited exposure to any single product. At the time of its exit to Endo, Paladin had amassed a portfolio consisting of greater than 60 actively marketed products, the Top 5 as per 2012 sales being Dexedrine, Tridural, Metadol, Pennsaid and Plan B (Exhibit 2). Retrospectively, each of these products had significant growth potential when acquired by Paladin, a key differentiating strategic aspect relative to many acquisitions observed in recent Canadian Specialty Pharmaceutical history, which has largely been dominated by a "multiple accretion" strategy where buyers acquire to support their multiple, and in many cases acquire diminishing cash flows at astronomical multiples. In our view, these five products clearly punctuate Mr. Goodman's foresight when considering how and when to deploy capital, a strategy which rewards patience – a fundamental theme of this report. In addition to marketed products, Paladin had assembled a growth pipeline, consisting of more than 15 development-stage therapeutics.

To our knowledge, at Paladin, the longest pharmaceutical amortization period was six years, implying that management had been reluctant to pay more than 6x EBITDA for a product. While Big Pharma remains active in its divestiture of non-core assets, we note that the competitive landscape of potential buyers has become substantially more crowded. Therefore, we do not discount the possibility that Knight may be required to extend beyond this historical upper range.

Exhibit 2: Paladin Labs' Top Five Assets by Sales

Product	Date Acquired/ Licensed	Vendor/Target	Historical Sales ($mln)	2012 Sales ($mln)	CAGR
Dexedrine	November 29, 2008	GlaxoSmithKline Inc	$14.0 (FY2007)	$18.8	6.1%
Metadol	November 10, 2006	Pharmascience	$3.6 (June 2006 TTM)	$11.3	19.2%
Tridural	December 07, 2007	Labopharm	Launched by PLB	$11.7	-
Pennsaid	August 16, 2005	Dimethaid Health Care Ltd.	$6.0 (FY2004)	$9.4	5.8%
Plan B	December 01, 1999	Women's Capital Corporation	Launched by PLB	$9.1	-

Source: Capital IQ, Raymond James Ltd.

In addition to its product acquisition strategy, Paladin uniquely created value for shareholders by acquiring, investing in, and negotiating secured loans to various healthcare companies. For example, in March 2010, Paladin purchased a 45% stake in Pharmaplan Ltd., which was subsequently acquired by Litha Healthcare Group in February 2012, with Paladin exiting its position at $72.9 mln or a 14% return. Similarly, in July 2011, Paladin purchased 14.9% of Afexa Life Sciences (total consideration of approximately $8.0 mln) with a view of acquiring outright, the developer of Cold-FX. However, as a result of a bidding war with Valeant Pharmaceuticals, Paladin walked away from its final offer of $0.81 per share, selling its position in the company for $13.1 mln in October 2011, a 63% return.

Beginning with the economic downturn of 2008, when constricting access to capital threatened the livelihood of many speculative healthcare companies, and in the subsequent aftermath, Paladin identified an opportunity to deploy capital in an opportunistic, low-risk manner with the potential for attractive returns. For example, in December 2010, Paladin had $81.4 mln of 10.5% debt assigned to it from distressed ProStrakan, along with various product rights. In April 2011, ProStrakan was acquired by Kyowa Hakko Kirin and Paladin was repaid in full. Furthermore, Paladin received a full year of interest, a $3.3 mln break fee, and it retained the aforementioned product rights. Paladin successfully replicated this creative strategy on numerous occasions throughout 2008-2013, lending at an average rate of 13% (Exhibit 3).

Exhibit 3: Paladin Labs' Strategic Lending

Date	Type	Lendee	Amount ($mln)	Interest Rate
Jul-08	Convertible	Nuvo Research	$2.0	8%
Feb-10	Convertible	SpecPharm	$5.8	15%
Oct-10	Loan	Labopharm	$10.0	16%
Jan-11	Loan	ProSrakan	$81.4	10.50%
Jun-13	Loan	Bioniche	US$30.0	13.25%
Jun-13	Loan	Nuvo Research	$4.0	15%
Jul-13	Loan	Undiscl. Pharma	$4.2	-

Source: Capital IQ, Raymond James Ltd.

We believe the above review is of significant value as Management has clearly articulated its intent to create Paladin Labs 2.0 with Knight Therapeutics and in doing so, will likely follow a similar formula to success.

On February 28, 2014: A Knight Was Born

Headquartered in Montreal, QC, Knight Therapeutics Inc. is a specialty pharmaceutical company born out of the business separation agreement between Knight and Paladin Labs. Knight began operations on February 28, 2014, the same day Paladin was sold to Endo. Importantly, in consideration of the Paladin transaction, every Paladin shareholder received one share of Knight for each Paladin common share. At inception, Knight's assets included $1.0 mln in cash and worldwide rights to the drug Impavido (partnered with Paladin ex-US), a therapeutic indicated in the treatment of leishmaniasis. Knight began trading on the TSXV on March 3, 2014, and subsequently graduated to the TSX on April 29, 2014.

To date, Knight has successfully raised $685 mln in equity capital in five separate financing rounds (Exhibit 4), each with significant participation from Mr. Goodman and each at increasing valuations. Mr. Goodman is currently the largest shareholder of Knight with an ownership position of 15.3%. As of March 30, 2018, Knight had 142,818,883 shares outstanding (146,665,882 FD).

Exhibit 4: Knight Therapeutics' Equity Financings

Date	Amount ($mln)	Shares Issued	Price	Comments	Broker Warrants
6-Mar-14	$75	21,428,580	$3.50	Bought deal. Full over-allotment exercised.	282,266 at 3.75
21-Mar-14	$180	34,300,000	$5.25	Bought deal. Upsized from $75 mln.	
3-Dec-14	$100	14,815,220	$6.75	Bought deal. Upsized from $75 mln. Full over-allotment exercised.	
11-May-16	$230	28,750,000	$8.00	Bought deal. Full over-allotment exercised.	
6-Dec-16	$100	10,005,000	$10.00	Bought deal. Upsized from $75 mln. Full over-allotment exercised.	

Source: Raymond James Ltd.

Management has been adamant that Knight's mission is to become Paladin 2.0. In order to accomplish this, its strategy is fourfold as it plans to: 1) license innovative pharmaceuticals; 2) acquire mature or "under-promoted" products from Big Pharma; 3) develop near-term, low-risk/low-expense products for the Canadian and global markets; and, 4) lend, on a fully secured basis, to life science companies in need, for interest and/or product rights.

Product Portfolio

Building a Foundation for Growth

Despite Knight's healthy balance sheet and thus, ability to execute on acquisitions, its product portfolio is currently in its infancy. We attribute this to the fact that the present environment is very much a "seller's market" with products fetching multiples exceeding historical highs. We note that similar market conditions developed during a period throughout Paladin's lifespan (early 2000s), and despite shareholder pressure on Paladin's management to continue with capital deployment, Paladin resisted, instead opting to remain disciplined. In retrospect, Paladin's discipline paid off, as when prices fell, Paladin was one of the few well-capitalized pharmaceutical companies able to execute opportunistically on significantly discounted assets.

Looking forward, we expect Knight to target three sources for new products. Specifically, non-core assets from multinational pharmaceutical companies, emerging specialty pharmaceutical companies that lack a Canadian presence, and biotechnology companies with products in late-stage clinical trials. From a clinical development/risk perspective, Knight will generally only consider products in Phase II or later. To date, Knight has curated a small assortment of such assets with varying degrees of potential (Exhibit 5). In the following text, we will provide a brief review of those assets that are at currently approved or are currently commercial.

Exhibit 5: Overview of Knight's Therapeutic Pipeline

Date	Product/Family	Licensor/Vendor	Indication	Regulatory Status	Territory Rights
			Pain/GI Rx Products		
15-Dec-16	Movantik	AstraZeneca	Opioid-induced constipation	Marketed	CAN, ISR
1-Feb-16	Probuphone	Braeburn	Opioid addiction	Approved	CAN
19-Mar-18	Tenapanor	Ardelyx	IBS-C and Hyperphosphatemia	Phase 3 - Pre-Registration	CAN
1-Jan-15	NeurAxon family	Owned	Migraine, pain and other CNS	Pre-Clinical - Phase 3	CAN, ISR, RUS, ZAF
16-Nov-15	Antibe family	Antibe	Chronic pain and inflammation	Pre-Clinical - Phase 2	CAN, ISR, RUS, ZAF
			Opthalmic Rx Products		
24-Jul-15	AzaSite	Akorn	Bacterial conjunctivitis	Approved	CAN
21-Jul-15	Iluvien	Alimera	Diabetic macular edema	NDS in Review	CAN
2-Aug-16	Netildex	SIFI	Ocular inflammation	NDS in Review	CAN
			Other Rx Products		
28-Feb-14	Impavido	Owned	Leishmaniasis	Marketed	Global
11-Dec-15	60P family	60P	Tropical diseases	Phase 2 - Pre-Registration	CAN, ISR, RUS
26-Aug-15	Advaxis family	Advaxis	HPV-associated oncology and others	Phase 1 - Phase 3	CAN
			Consumer Health Products		
4-Jun-15	Neuragen	Owned	Diabetic and peripheral neuropath associated pain	Marketed	Global (Ex. U.S.)
22-Jan-14	Synergy family	Synergy	Various consumer health	Marketed	CAN, ISR, ROM, RUS, ZAF
26-Jun-15	FLEXISEQ	Pro Bono Bio	Osteoarthritis associated pain/joint stiffness	Not Marketed	QC, ISR
14-Aug-17	Crecista family	Crescita	Dermo-cosmetic	Not Marketed	CAR, ISR, ROM, RUS, ZAF
			Medical Device/Diagnostic Products		
30-Apr-15	TULSA-PRO	Profound	Prostate ablation	Pivotal Trial - Pre-Registration	CAN
9-Sep-16	3D Signatures family	3D Signatures	Telomere imaging based prognostics/diagnostics	Development	CAN, CAR, ISR, ROM, RUS, ZAF

Legend: **CAN**: Canada, **CAR**: The Carribbean, **ISR**: Israel, **QC**: Quebec, **ROM**: Romania, **RUS**: Russia, **ZAF**: Sub-Saharan Africa

Source: Knight Therapeutics Inc., Raymond James Ltd.

Movantik: Knight's First Commercial Specialty Product in Canada

On December 15, 2016, Knight announced that it had in-licensed the Canadian and Israeli rights to Movantik from AstraZeneca. Movantik (naloxegol oxalate) is a therapeutic indicated for the treatment of opioid-induced constipation in adult patients with non-cancer pain who have had an inadequate response to laxatives. Opioid-induced constipation affects between 26%-79% of patients taking an oral opioid.

Movantik is currently approved in Canada and is covered by three patents with expiry dates ranging from 2022 to 2031. The therapeutic was launched in Canada by AstraZeneca in October 2015 and relaunched by Knight on March 13, 2017. In Israel, Movantik is currently under regulatory review and is expected to be launched through Medison Biotech in 2018. Movantik sales in Canada were $372,000 for the 10-month period ending October 2016. We are forecasting that Movantik will contribute approximately $1.4 mln in 2018 sales.

Probuphine: Builds Upon Existing Therapeutic Competency

On February 1, 2016, Knight announced that it had entered into a sublicense agreement with Braeburn Pharmaceuticals Inc., whereby Knight had received the rights to commercialize Probuphine in Canada. The product was approved by Health Canada in April 2018.

Probuphine is a subdermal (below the skin) implant designed to deliver the active compound buprenorphine continuously for six months following a single treatment. Buprenorphine is the active ingredient in Suboxone and Subutex, in addition to their generic equivalents, and is considered to be the most significant new development in the treatment of opioid addiction. Buprenorphine suppresses cravings and withdrawal symptoms enabling patients to make long-term behavioral changes resulting in sustained addiction remission. Current formulations of buprenorphine are plagued by issues such as treatment diversion, missed doses, abrupt termination by the patient, accidental exposure to non-patients, and accidental overdosing. Probuphine provides a solution to these issues, promoting compliance and retention in addition to preventing accidental exposure.

In Canada, Knight estimates that there are less than 300 addiction specialist prescribers of opioid dependence therapeutics. Furthermore, these prescribers overlap with the same call points as Knight's other opioid support products such as Movantik. In order to estimate peak annual revenues to Knight from the Canadian distribution of Probuphine, we take the mean reported prevalence of opioid dependence in Canada of 75,000 individuals (estimates range from 50,000 to 100,000). We assume a treatment cost of $1,053 per patient year, in line with the low range end of the average per patient year treatment cost of Suboxone (ranging from $1,053 to $5,520 pending on dosage). We assume Knight achieves a peak penetration of 7.5% five years post launch. We assume a 35% royalty to Braeburn. Our revenue model suggests that Probuphine could achieve peak annual revenues to Knight of approximately $4.5 mln (Exhibit 6).

We currently forecast a 4Q18 launch for Probuphine in Canada and assume the asset will contribute $0.1 mln in 2018 sales.

Exhibit 6: Probuphine Revenue Estimates

All Amounts in C$	2018E	2019E	2020E	2021E	2022E	2022E
Canadian Prevalence of Opioid Dependence	75,000	75,750	76,508	77,273	78,045	78,826
Market Penetration (%)	0.2%	0.6%	1.3%	2.5%	5.0%	7.5%
Total Number of Treated Patients	150	455	995	1,932	3,902	5,912
Avg. Cost Per Patient Year	$1,053	$1,075	$1,098	$1,121	$1,144	$1,168
Price Appreciation	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%
Knight Gross Sales	$157,950	$488,639	$1,091,760	$2,165,065	$4,465,274	$6,906,953
Less: Royalty to Braeburn	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Total Revenue to GUD	**$102,668**	**$317,615**	**$709,644**	**$1,407,292**	**$2,902,428**	**$4,489,519**

Source: Raymond James Ltd.

AzaSite: Health Canada Approved In March 2009

On July 25, 2015 Knight announced that it had signed an exclusive agreement with Akorn, Inc. for the Canadian distribution of AzaSite.

AzaSite(R) is a DuraSite formulation of azithromycin, a broad spectrum ocular antibiotic approved by the US FDA in April 2007 and by Health Canada in March 2009, indicated to treat bacterial conjunctivitis (pink eye). It was commercialized in the US by Inspire Pharmaceuticals, Inc. in August 2007. In May 2011, Merck & Co acquired Inspire. On November 15, 2013, Akorn Inc. acquired the rights to AzaSite(R) from Merck.

While the competitive landscape is considerably populated, key advantages of AzaSite are: i) reduced dosing frequency leading to better compliance and outcome; and ii) a lowered probability of bacterial resistance based on high tissue concentration. AzaSite(R) is currently protected by four patents expiring in 2020. We currently do not attribute any value to AzaSite in our model as we await guidance from Knight regarding launch timing. We believe impending generic entry may dissuade Knight from launching this asset until the company has established an ophthalmology-specialized sales force detailing Iluvian and Netildex. Should Azasite face generic competition by the time of commercial launch, we would estimate revenues from this asset to be immaterial (<$1 mln).

Impavido: Foresight Which Translated Into US$125+ mln

We believe management's strategy surrounding Impavido perfectly highlights our thesis that Knight employs a unique degree of foresight when considering potential product acquisitions. Impavido (miltefosine alkylphosphocholine) is an FDA-approved oral therapeutic indicated for the treatment of leishmaniasis. Leishmaniasis is a parasitic disease transmitted by certain types of sandflies and is endemic in 98 tropical countries with an annual worldwide incidence of approximately 2 mln cases. The disease can present as either cutaneous, mucocutaneous or visceral leishmaniasis.

Impavido was originally acquired by Paladin Labs from Aeterna Zentaris for $9.0 mln and a trailing and perpetual 1.5% royalty in 2008. At the time, Aeterna Zentaris was actively divesting assets for a much-needed injection of capital. Paladin subsequently invested approximately $10.0 mln in clinical development of the therapeutic with the intent of positioning it for FDA approval. US approval for the therapy was a strategic decision for Paladin as in 2007 the FDA implemented the Priority Review Voucher (PRV) program. The concept of the program is to incentivize drug development for indications in which there is no significant market (specifically rare pediatric and neglected tropical diseases). Upon approval of such a therapeutic, the FDA grants a transferable voucher which can be used to expedite the review time (among other marginal benefits) of a subsequent, potentially blockbuster therapeutic, where first-mover advantage could confer significant value.

During the negotiation process between Paladin and Endo, it became evident that Endo ascribed no value to the PRV that could be issued in conjunction with Impavido's US approval. Thus, Mr. Goodman negotiated the transfer of all Impavido IP rights to Paladin Labs' shareholders via the formation of Knight. The FDA approved Impavido in March 2014 granting Knight a PRV. On November 17, 2014, Knight created significant value for shareholders when it sold the voucher to Gilead for US$125 mln, a value double the US$67.5 mln that BioMarin received for its voucher, which arguably was a more valuable voucher, just months prior in its sale to Regeneron Pharmaceuticals. The fact that Management was able to build a company around an asset that had no precedent of value when it was spun out of Paladin, and then monetize that asset for twice the recently established precedent, speaks volumes of management's foresight and ability to execute, in our view. On September 28, 2015, Knight announced that it had entered into an exclusive distribution agreement with Profounda Inc. to commercialize Impavido in the US. Impavido was officially launched in the US on March 25, 2016.

Additionally, On March 15, 2016 Knight announced that it had reacquired the worldwide rights to Impavido upon termination of its agreement with Paladin Labs related to the sale and distribution of Impavido in Paladin's territories (global ex-US). As a result, Knight is now presently distributing Impavido globally through several international distribution partners and is fully recognizing Impavido revenues (as opposed to a 22.5% royalty under the original Paladin agreement).

Our model estimates cumulative annual revenues to Knight from Impavido sales of approximately $5.8-$6.1 mln annually (Exhibit 7). Specifically, for visceral leishmaniasis, we take the median of a 200,000-300,000 annual incidence with a 1% annual increase in incidence. We assume a median cost per patient of $107.50 for a 28-day cycle (WHO negotiated cost of $65-$150 per 28-day cycle). We assume an initial uptick in market penetration from 7% in 2017 to 9% in 2019 driven by Impavido's availability in the US. We assume 30% of gross visceral sales are derived from Profounda's US sales, of which Knight receives a 20% royalty.

For cutaneous leishmaniasis, we take the median of a 700,000-1,300,000 annual incidence with a 1% annual increase in incidence. We assume a median cost per patient of $26.35 per treatment cycle (WHO negotiated cost of $13.20-39.50 per cycle). We assume an initial uptick in market penetration from 15% in 2017 to 17% in 2019 driven by Impavido's availability in the US. We assume 30% of gross cutaneous sales are derived from Profounda's US sales, of which Knight receives a 20% royalty. Notably, we believe there is potential upside to our estimates from off-label usage in the US particularly in primary amebic meningoencephalitis (PAM) caused by Naegleria fowleri infection, Ancanthamoeba Keratitis, as well as companion pet usage. We currently do not value off-label Impavido use.

Exhibit 7: Historical and Forward Impavido Sales Estimates

Impavido Revenue Model (C$)	2015A	2016E	2017E	2018E	2019E	2020E	2021E	2022E	2023E
Visceral Leishmaniasis									
Annual WW Incidence of Visceral Leishmaniasis	303,000	306,030	309,090	312,181	315,303	318,456	321,641	324,857	328,106
Market Penetration (%)	5.0%	7.0%	8.5%	9.0%	9.0%	9.0%	9.0%	9.0%	9.0%
Total Number of Treated Patients	15,150	21,422	26,273	28,096	28,377	28,661	28,948	29,237	29,530
Cost per Treated Patient	$108	$108	$108	$108	$108	$108	$108	$108	$108
Price Appreciation	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%
Paladin Gross Sales	$1,628,625	$2,302,876	$2,824,313	$3,020,353	$3,050,557	$3,081,062	$3,111,873	$3,142,992	$3,174,422
Less US Revenue To Profounda	22.5%	$552,690	$677,835	$724,885	$732,134	$739,455	$746,849	$754,318	$761,861
Total Revenue to GUD	**$366,441**	**$1,750,186**	**$2,146,478**	**$2,295,468**	**$2,318,423**	**$2,341,607**	**$2,365,023**	**$2,388,674**	**$2,412,560**
Cutaneous Leishmaniasis									
Annual WW Incidence of Cutaneous Leishmaniasis	1,010,000	1,020,100	1,030,301	1,040,604	1,051,010	1,061,520	1,072,135	1,082,857	1,093,685
Market Penetration (%)	10.0%	15.0%	16.5%	17.0%	17.0%	17.0%	17.0%	17.0%	17.0%
Total Number of Treated Patients	101,000	153,015	170,000	176,903	178,672	180,458	182,263	184,086	185,926
Cost per Treated Patient	$26	$26	$26	$26	$26	$26	$26	$26	$26
Price Appreciation	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%	2.1%
Paladin Gross Sales	$2,661,350	$4,031,945	$4,479,491	$4,661,386	$4,708,000	$4,755,080	$4,802,630	$4,850,657	$4,899,163
Less US Revenue To Profounda	22.5%	$967,667	$1,075,078	$1,118,733	$1,129,920	$1,141,219	$1,152,631	$1,164,158	$1,175,799
Total Revenue to GUD	**$598,804**	**$3,064,278**	**$3,404,413**	**$3,542,653**	**$3,578,080**	**$3,613,860**	**$3,649,999**	**$3,686,499**	**$3,723,364**
Total Impavido Sales to GUD	**$965,244**	**$4,814,464**	**$5,550,891**	**$5,838,121**	**$5,896,503**	**$5,955,468**	**$6,015,022**	**$6,075,173**	**$6,135,924**

Source: Raymond James Ltd.

Neuragen: Generating Value in a Worst-Case Scenario

Neuragen is a homeopathic remedy marketed as topical oil for fast-acting relief of diabetic neuropathy. The product is a mixture of St. John's Wort, wolfbane, club moss, rye ergot, and a proprietary blend of geranium oil, bergamot oil, tea tree oil, and eucalyptus oil. One small, manufacturer-funded study has been published demonstrating efficacious pain reduction. The trial, in our view, does not meet the standards (nor is it required to) of a typical clinical program required of a registered prescription therapeutic. The Neuragen trial harbours a number of limitations which make us somewhat skeptical of the actual clinical effectiveness of the product. In fact in 2013, the FDA voiced concern over some of the medical claims Origin Biomed had been making over social media with respect to the product. Nonetheless, the product is licensed as a Natural Health product in Canada.

On June 24, 2015, Knight acquired the assets related to Neuragen pursuant to an order of The Supreme Court of Nova Scotia following a default by Origin under its secured loan agreement with Knight. The net assets acquired to settle the loan receivable of $925,000 (US$850,000) were assigned a fair value of $1.82 mln. In connection with the acquisition, Knight issued 185,000 warrants on June 30, 2015 to Origin stakeholders which are exercisable for a period of 10 years at an exercise price of $10.00 per share. Per the transaction, Knight recognized a gain on settlement of loan receivable of $382,000 net of $352,000 of related expenses.

Further to the above settlement, on June 26, 2015, Knight entered into a sale agreement with Synergy Strips related to the US rights to Neuragen where it would receive minimum aggregate consideration of $1.498 mln (US$1.2 mln), while maintaining rights to the asset in Canada and other ex-US jurisdictions. On April 26, 2016, Knight realized further value from this asset when it

entered into an exclusive distribution agreement with EMPA Healthcare LLC to commercialize Neuragen in the United Arab Emirates and Kuwait. Details of the EMPA transaction were not disclosed and we believe any upfront associated with the transaction were likely not material.

Our model assumes Nueragen contributes $250,000 per year in revenues for Knight. While we remain skeptical of the actual clinical utility of this asset and its commercial longevity (natural health products tend to be highly promotionally sensitive and are subjected to the "fad effect") we view the ownership of this asset and associated business development activities following its acquisition as a prime example of Knight's ability to generate shareholder value even in a "worst-case scenario" outcome. We believe this speaks to Knights diligent approach to capital deployment.

Synergy Family: Free "Kickers" To Secured Lending

In January 2015, Knight obtained the exclusive distribution rights to Synergy Strips Corporation's products in Canada and select international markets as part of its licensing agreement with Synergy, signed in conjunction with a secured loan. The Synergy family includes consumer products such as the dietary/weight loss supplement, Flat Tummy Tea and FOCUSFactor, a dietary supplement claimed to improve "brain health" which was approved by Health Canada as a natural health product in October 2015.

As mentioned above, we generally take the stance that Natural Health products and homeopathic medicines lack the rigorous clinical data typically associated with regulated Rx products. As such, we are typically highly skeptical of the claims associated with such products and their associated commercial longevity. Such products tend to be promotionally sensitive, relying on direct to consumer advertising through various outlets such as social media. Looking forward, we do not believe such products will materially contribute to Knights top line once it has evolved a robust commercial pipeline of Rx products. Rather, we urge investors to view such products as "free kickers" obtained in conjunction with its strategic lending activities. Our model currently assumes Knight generates approximately $1.1 mln in revenue from the Synergy family of products; however, we lack confidence in the longevity of this revenue line item.

Fully Secured Lending

Interest Income That Covers Your Cost of Capital

Unlike the majority of recent Canadian specialty pharmaceutical companies that subscribe to the "pharma roll-up" model of acquiring legacy assets and performing life cycle management, Knight is in a favourable position where it has not been pigeon-holed into a multiple accretion game. There is no impetus on Knight to consummate its next acquisition in order to obscure the underwhelming performance of a former acquisition, or to replace an at-risk source of cash flow.

In our view, this affords Knight the opportunity to bide its time in order to make well-researched, meaningful capital deployments, provided they protect their cost of capital. Knight has opted to exercise extreme discipline on the product-acquisition front, in a market that favours sellers over buyers. Knight has entered into a number of high-interest secured lending agreements generating a strong IRR, a strategy we expect it will continue to pursue until pricing realigns with its expectations. We suggest that this strategy will be viewed upon favourably by the investor community when the cycle turns, as Knight will be one of the most well-positioned companies to capitalize on the opportunity while exposing investors to relatively minimum downside risk.

To date, Knight has deployed over $145 mln under its lending strategy at an average interest rate of 13%. Furthermore, in many cases, Knight negotiates additional consideration including product rights or equity kickers. To date, Knight has secured the rights to greater than 15 products through its secured lending strategy. As at March 31, 2018, Knight had an outstanding loan balance of $28.9 mln. We review Knights lending transactions to date in Exhibits 8 and 9.

Exhibit 8: Overview of Knight's Strategic Loans

Date	Company	Amount (mln)	Maturity	Interest	Comments
25-Jun-14	Origin	$0.85	25-Jun-17	15%	●Issued warrants to acquire 0.7 mln pref shares at $0.0794 ●Origin defaulted and Knight took ownership of assets June 4, 2015 ●Knight subsequently divested US rights of Neuragen to Synergy Strips Corp for a minimum aggregate consideration of US$1.20 mln
3-Jul-14	Apicore	US$6.5	30-Jun-18	12%	●Issued warrants to acquire a beneficial interest of 8.125% of Apicore ●**Paid in full generating a 24.8% IRR**
2-Dec-14	CRH Medical	US$30	1-Dec-16	10%	●Issued 3.0 mln shares at $0.82 which it sold for gross proceeds of $9.9 mln ●**Paid in full generating an IRR in excess of 40%**
22-Jan-14	Synergy Strips	US$21.5	20-Jan-17	15%	●Decreases to 13% pending targets ●Issued 6.5% equity ●Received 10 year warrant (3.6 mln shares at $0.34) ●Rights (cost plus) to FOCUSfactor and all of Synergy's brands in GUD territories ●US$5.5 mln issued 16-Nov-15 at 15% (decreases to 13% and matures 11-Nov-17) ●Recieved 6.5% equity, 4.55 mln warrants at US$0.49, Flat Tummy Tea and UrgentRX rights ●US$10 mln issued 9-Aug-17 at 10.5% and matures 9-Aug-20
31-Mar-15	Pediapharm	$1.25	30-Mar-19	12%	●Debentures may be converted at anytime into common shares at $0.45 ●Received 757,000 4-year warrants at an exercise price of $0.33 per common share
30-Apr-15	Profound Medical	$4.00	30-Apr-19	15%	●Issued 4.0% equity ●Purchased $2.0 mln (of $24.0 mln offering). Sub receipts at $1.50 ●GUD will be exclusive distributor of TULSA-PRO system in Canada for an initial 10-year term
26-Jun-15	Pro Bono Bio	US$15.0	25-Jun-18	12%	●Decreases to 10% on targets ●Quebec and Israeli distribution rights to the range of Flexiseq and SEQuaderma products ●**Loan assigned generating a 14% IRR**
26-Jun-15	Extenway Solutions	$0.8	25-Jun-21	15%	●Decreases to 13.5% pending equity financing targets ●Secured against the projected 10-year revenue streams from touchscreen terminals ●Currently impaired
5-Aug-15	Ember Therapeutics	US$1.0	3-Aug-16	12.5%	●May provide $5 mln equity commitment ●Rights to BMP-7 pipeline in GUD territories
16-Nov-15	Antibe Therapeutics	$0.5	15-Oct-18	10%	●Debentures convertible at $0.22 per share ●Issued 1 mln warrants exercisable at $0.31 ●Anti-inflammatory and pain drug rights in GUD territories
11-Dec-15	60P Pharma	US$4.0	11-Dec-20	15%	●Rights and option to develop all products in GUD territories
25-Jan-16	INTEGA/Crescita	$10.5	25-Jan-22	13%	●Issued 8% equity ●Rights to current and future products in GUD territories (CDN subject to conditions) ●Acquired by Crescita. **$5.5 mln paid to date.**
17-Feb-16	Medimetriks	US$23.0	17-Feb-19	13%	●Issued 3.6% equity ●Rights to future products in GUD territories ●**Prepaid US$20 mln; IRR of 20% to date.**

Source: Knight Therapeutics Inc., Raymond James Ltd.

Exhibit 9: Knight's Currently Active Strategic Loans

Company	In Source Currency ($000s)	In Canadian ($000s)
Synergy	US$9,000	$11,650
60P	US$4,685	$6,041
Crescita	C$3,639	$3,639
Profound	C$3,143	$3,143
Medimetriks	US$2,000	$2,579
Pediapharm	C$1,250	$1,250
Ember	US$500	$654

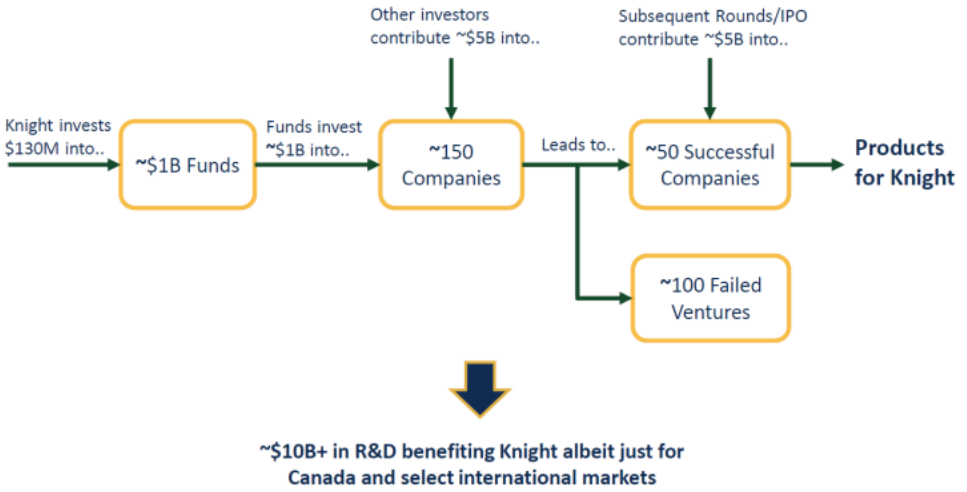
Source: Knight Therapeutics Inc., Raymond James Ltd.

Long-Term Licensing Strategy

Investments Provide Unique Insight Into Diverse Clinical Pipeline

Knight has embarked on a unique long-term strategy to invest $130 mln into proven life science funds in order to generate LP returns, and more strategically, to obtain preferential access to innovative pharmaceutical products from around the world for the Canadian market. While a novel strategy in Canada, it does not appear that this is without precedence. For example, a similar strategy was employed when Domain Associates and Rusnano, a Russian investment group, partnered in a manner such that investments made by Domain into companies resulted in Russian product rights for NovaMedica, a pharmaceutical company controlled by Rusnano.

Exhibit 10: Illustration of Knight's Long-Term Licensing Strategy



Source: Knight Therapeutics Inc.

To date, Knight has committed over $126 mln (with $81 mln remaining to be funded) of the $130 mln earmarked for investment under this strategy (Exhibit 11). These investments are long-term oriented and Knight expects that for each dollar invested in these funds, it will generate a dollar in annual revenues from future product rights acquired from the relationships established from funded companies in addition to a 5%-15% return on principal. To date, Knight's investment strategy has led to the license of Iluvien from Alimera (Domain Partners IX, L.P. is an early investor of Alimera) and has led to a license agreement with Advaxis for their portfolio of products for Canada (Sectoral is an investor of Advaxis).

We acknowledge that this is an unorthodox strategy; however, we believe that even if Knight is successful in securing the rights to one potential blockbuster asset from the hundreds of assets it will have visibility into, this will prove to be a successful strategy. We once again refer to Paladin's Top 5 selling assets in 2012, all of which were a direct result of Paladin's long-term horizon outlook.

Exhibit 11: Knight's Fund Investment Portfolio

Date	Managing Entity	Fund	Amount	Fund AUM	Development Stage	Geography
26-Jun-14	Sectoral Asset Management Inc	NEMO II	US$13 mln	US$3.6 bln	Late stage to small cap	Global
2-Oct-14	Forbion Capital Partners	Forbion Capital Fund III C.V. ("FCF III")	EUR€19.5 mln	EUR€400 mln	All clinical stages	Europe
28-Oct-14	Teralys Capital	Teralys Capital Innovation Fund LP ("Teralys Fund")	C$30 mln	$450 mln	VCAP fund of funds	Canada
16-Dec-14	Domain Associates L.L.C.	Domain Partners IX, L.P. ("Domain Fund")	US$25 mln	US$2.4 mln	Early stage	North America
16-Dec-14	Sanderling Ventures, L.L.C.	Sanderling Ventures VII, L.P.	US$10 mln	US$900 mln	Early Stage	North America
3-Apr-15	HarbourVest Partners LLC	HarbourVest Canada Growth Fund L.P.	$10 mln	US$32.3 bln	VCAP fund of funds	Canada
2-Jul-15	Sectoral Asset Management Inc.	NEMO III	US$10 mln	US$3.6 bln	Late stage to small cap	Global
7-Jul-15	TVM Capital Life Science	TVM Life Sciences Venture VII	US$1.6 mln	US$1.2 bln	VCAP fund of funds	Global
9-Jul-15	Stratigis Capital Advisors	Bloom Burton Lending Trust	C$1.5 mln	C$16 mln	Emerging Commercial	Canada
16-Aug-16	Genesys Capital	Genesys Ventures III	C$1 mln	N/A	All clinical stages	Global

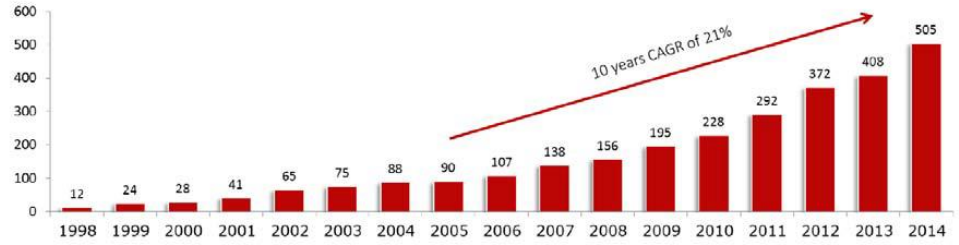
Source: Knight Therapeutics Inc., Raymond James Ltd.

Medison Biotech Ltd: Establishing a Rest-of-World Footprint

In September 2015, Knight officially established its rest-of-world, global footprint through the acquisition of a 28.3% strategic interest in Medison Biotech Ltd., an Israeli specialty pharmaceutical company. The consideration given for the equity interest amounted to $82.0 mln (10.33 common shares of Knight) including a contingent consideration of $1.13 mln settled in 2016.

Founded in 1995, Medison is currently Israel's fourth-largest healthcare company ranked by prescription volume, preceded only by Roche, Janssen and Novartis. With approximately 185 employees at the time of the transaction, Medison boasted 17 years of profitable growth and a 10-year CAGR of 21% (Exhibit 12).

Exhibit 12: Medison Revenues 1998-2014 (NIS in mln)



Source: Knight Therapeutics Inc.

At the time of the transaction, Knight had disclosed that Medison had a portfolio consisting of 46 products licensed from approximately 40 high-profile global healthcare companies such as Shire/Genzyme, Biogen, Amgen, BioMarin, etc. Medison's product offering covers multiple therapeutic areas, with the largest revenue contributors being medical specialties where a small number of physicians drive a large volume of scripts, such as Neurology (24%), Rare Diseases (23%), and Oncology/Endocrinology (18%). According to Knight, approximately 25% of Medison's product portfolio does not currently have representation in Canada. As such, management believes there may be opportunity to leverage its relationship with Medison who could potentially facilitate introductions to various vendors seeking a Canadian partner for any of these products.

In addition to an Israeli footprint, Medison maintains a wholly owned subsidiary established in 2006 and headquartered in Bucharest, Romania where it is currently the market leader ranked by prescription volume. As Knight has gained the rest of world rights to a number of products in its pipeline, Medison represents an attractive partner with local market expertise in its various Middle Eastern and eastern European jurisdictions. In fact, Knight has already demonstrated the value of this partnership by out licensing the Israeli rights of Movantik to Medison.

As of March 31, 2018, Knight had received dividends from Medison totaling $11.8 mln.

Valuation & Recommendation

P/BVPS Best Captures Knight's Focus on Building Shareholder Equity

We are initiating on Knight Therapeutics with an Outperform recommendation and a $10.25 per share target price. While we would typically value a specialty pharmaceutical company by utilizing either a DCF valuation methodology or a forward EBITDA multiple, we believe neither approach accurately captures the inherent value in Knight's current early-stage operational strategy nor growing cash balance. This is particularly true, as at present, the majority of Knights earnings are to date generated from interest income on loans receivable as well as other unique investment tactics. Furthermore, we would lack confidence in any assumptions we make at present around the timing of future debt issuances and product launches. As such, we have opted to utilize a price to book value per share multiple valuation methodology which we believe more precisely represents the current value in in Knights growing asset base. Specifically, we value Knight at 1.5x P/BVPS which represents a 25% discount to its North American Specialty Pharmaceutical comps which currently trade at an average of 2.0x (Exhibit 13). Our 1.5x multiple results in a value of $10.35 per share which we round down to $10.25 (Exhibit 14). We provide a sensitivity analysis around our multiple in Exhibit 15.

Exhibit 13: North American Specialty Pharmaceutical Comparables

		Market	TEV	Debt /	EBITDA (mln)		Diluted EPS		EV/EBITDA		P/E		
Company Name	Price	Cap. (mln)	(mln)	EBITDA	2018E	2019E	2018E	2019E	2018E	2019E	2018E	2019E	P/BV
Select Canadian Spec Pharma													
BioSyent Inc.	$9.50	$138	$118	NM	$7.9	$9.4	$0.4	$0.5	14.3x	14.3x	22.4x	22.4x	5.9x
Cipher Pharmaceuticals Inc.	$2.84	$76	$61	NM	$15.7	$20.4	$0.6	$0.7	3.6x	3.6x	4.7x	4.7x	2.6x
HLS Therapeutics Inc.	$9.40	$258	$366	1.6x	$56.2	$54.1	-$0.5	-$0.4	6.6x	6.6x	NM	NM	1.1x
Medicure Inc.	$7.14	$104	$32	NM	$13.0	$32.6	$0.7	$1.5	1.8x	1.8x	7.5x	7.5x	1.3x
Nuvo Pharmaceuticals Inc.	$2.66	$31	$24	NM	$3.6	$5.3	$0.1	$0.2	6.0x	6.0x	32.7x	32.7x	1.2x
Valeant Pharmaceuticals International, Inc.	$30.13	$10,517	$42,633	7.2x	$4,252.6	$4,318.2	$4.4	$4.6	0.0x	0.0x	0.0x	0.0x	0.0x
Canadian Average									**5.4x**	**5.4x**	**13.5x**	**13.5x**	**2.0x**
Select US Spec Pharma													
Akorn, Inc.	$18.02	$2,196	$2,703	4.5x	$123.1	$212.1	$0.4	$0.8	18.6x	18.6x	46.1x	46.1x	2.7x
Allergan plc	$174.74	$58,387	$82,935	3.2x	$7,563.9	$7,678.8	$16.0	$16.7	10.9x	10.9x	10.8x	10.8x	0.8x
Depomed, Inc.	$7.17	$448	$979	3.2x	$127.2	$127.8	$0.8	$0.8	7.7x	7.7x	9.5x	9.5x	2.2x
Horizon Pharma Public Limited Company	$16.80	$2,756	$3,987	NM	$397.1	$457.9	$1.5	$1.8	9.2x	9.2x	9.4x	9.4x	3.2x
Jazz Pharmaceuticals plc	$179.31	$10,640	$11,513	1.2x	$1,026.3	$1,190.1	$13.0	$15.1	10.8x	10.8x	13.4x	13.4x	3.8x
Mallinckrodt Public Limited Company	$19.90	$1,601	$7,903	4.7x	$1,091.0	$1,165.9	$6.2	$6.9	7.1x	7.1x	3.1x	3.1x	0.2x
Perrigo Company plc	$76.51	$10,417	$13,054	2.3x	$1,147.6	$1,202.9	$5.2	$5.7	11.2x	11.2x	14.2x	14.2x	1.7x
US Average									**10.8x**	**10.8x**	**15.2x**	**15.2x**	**2.1x**
North American Average									**8.1x**	**8.1x**	**14.3x**	**14.3x**	**2.0x**
Knight Therapeutics Inc.w	**$8.23**	**$851**	**$414**	**NM**	**($11.2)**	**($7.4)**	**$0.11**	**$0.09**	**NM**	**NM**	**72.1x**	**94.1x**	**1.2x**

Source: Capital IQ, Raymond James Ltd.

Exhibit 14: Knight Therapeutics Valuation

C$mln (except per share)	2018E
Tangible Book Value	1012.23
FD S/O	146.67
BVPS	6.90
Multiple	1.5x
Per Share Target	**$10.35**

Source: Raymond James Ltd.

Exhibit 15: Sensitivity Analysis

		2018E BVPS						
		$5.92	**$6.23**	**$6.56**	**$6.90**	**$7.25**	**$7.61**	**$7.99**
P/BVPS Multiple	**1.2x**	$7.10	$7.47	$7.87	$8.28	$8.70	$9.13	$9.59
	1.3x	$7.69	$8.10	$8.52	$8.97	$9.42	$9.89	$10.39
	1.4x	$8.28	$8.72	$9.18	$9.66	$10.14	$10.65	$11.18
	1.5x	$8.88	$9.34	$9.83	$10.35	$10.87	$11.41	$11.98
	1.6x	$9.47	$9.97	$10.49	$11.04	$11.59	$12.17	$12.78
	1.7x	$10.06	$10.59	$11.15	$11.73	$12.32	$12.93	$13.58
	1.8x	$10.65	$11.21	$11.80	$12.42	$13.04	$13.70	$14.38

Source: Raymond James Inc.

Appendix: Financial Statements

Exhibit 16: Knight Therapeutics Inc. Income Statement

Fiscal YE Dec. 31			2018E					
(C$000s, except where noted)	2016A	2017A	1QA	2QE	3QE	4QE	2018E	2019E
Total Revenue	5,940	8,634	3,154	2,161	2,161	2,161	9,638	9,716
COGS	1,550	1,585	834	432	432	432	2,131	1,943
Gross Profit	$4,390	$7,049	$2,320	$1,729	$1,729	$1,729	$7,508	$7,773
Expenses								
Selling General & Administrative	9,834	11,576	2,884	2,971	3,089	3,213	12,157	13,950
Research & Development	1,955	2,750	489	513	539	566	2,108	2,562
Total Expenses	11,789	14,326	3,373	3,484	3,628	3,779	14,264	16,511
EBITDA	$(7,399)	$(7,277)	$(1,053)	$(1,755)	$(1,899)	$(2,050)	$(6,757)	$(8,738)
Depreciation of Property & Equip.	18	8	16	300	171	100	588	172
Amortization of Intangible Assets	419	1,621	441	318	312	306	1,376	1,162
EBIT	$(7,836)	$(8,906)	$(1,510)	$(2,373)	$(2,383)	$(2,455)	$(8,721)	$(10,072)
Foreign Exchange Loses/(Gains)	1,451	3,689	(2,597)	-	-	-	(2,597)	-
Interest Expense	-	-	-	-	-	-	-	-
Interest Income	(24,414)	(26,300)	(5,288)	(6,261)	(6,290)	(6,111)	(23,950)	(25,230)
Gain on Sale of Intangible Asset	-	-	-	-	-	-	-	-
Net Gain on Financial Assets	(1,659)	(6,734)	(541)	-	-	-	(541)	-
Purchase Gain on Acquisition	-	-	-	-	-	-	-	-
Net loss on settlement of Loans	-	-	-	-	-	-	-	-
Impairment on Financial Assets	-	1,621	-	-	-	-	-	-
Share of net income of associate	(2,793)	(854)	(503)	(503)	(503)	(503)	(2,012)	(2,012)
Other Income	(3,894)	(1,527)	(1,351)	-	-	-	(1,351)	-
EBT	$23,473	$21,199	$8,770	$4,391	$4,411	$4,158	$21,730	$17,170
Income Tax Expense/(Recovery)	4,190	1,897	641	1,181	1,186	1,119	4,127	4,619
Deferred Tax Exp./(Recovery)	723	2,058	1,220	-	-	-	1,220	-
Net Income (Loss)	$18,560	$17,244	$6,909	$3,210	$3,224	$3,040	$16,383	$12,551
Weighted Average S/O								
Basic	120,723	142,764	142,778	142,792	142,807	142,821	142,821	142,878
Fully Diluted	121,264	143,417	143,431	143,445	143,460	143,474	143,474	143,531
Earnings Per Share								
Basic	**$0.15**	**$0.12**	**$0.05**	**$0.02**	**$0.02**	**$0.02**	**$0.11**	**$0.09**
Fully Diluted	**$0.15**	**$0.12**	**$0.05**	**$0.02**	**$0.02**	**$0.02**	**$0.11**	**$0.09**

Source: Knight Therapeutics Inc., Raymond James Ltd.

Exhibit 17: Knight Therapeutics Inc. Balance Sheet

Fiscal YE Dec. 31			2018E					
(C$000s, except where noted)	2016A	2017A	1QA	2QE	3QE	4QE	2018E	2019E
ASSETS								
Current Assets:								
Cash	$514,942	$496,460	$583,408	$589,179	$593,124	$596,991	$596,991	$612,111
Marketable Securities	221,108	232,573	183,017	183,223	183,429	183,635	183,635	184,463
Accounts Receivable	6,440	9,176	10,046	3,369	3,381	3,309	3,309	3,446
Invest. Tax Credits Receivable	4,683	-	-	-	-	-	-	-
Inventory	790	1,224	994	2,527	2,536	2,482	2,482	2,585
Other Current Financial Assets	51,789	58,848	25,167	25,167	25,167	25,167	25,167	25,167
Income Taxes Receivable	-	792	819	819	819	819	819	819
Total Current Assets	799,752	799,073	803,451	804,284	808,455	812,403	812,403	828,591
Property & Equipment	32	633	675	386	225	136	136	43
Intangible Assets	14,153	12,576	15,906	15,588	15,276	14,971	14,971	13,808
Intang. Assets Held for Sale	-	36,000	36,000	36,000	36,000	36,000	36,000	36,000
Investment in Associate	80,113	75,983	77,697	77,697	77,697	77,697	77,697	77,697
Deferred Inc. Tax Assets	6,077	4,730	3,455	3,455	3,455	3,455	3,455	3,455
Other Financial Assets	90,643	76,988	79,669	79,669	79,669	79,669	79,669	79,669
Total Assets	**$990,770**	**$1,005,983**	**$1,016,853**	**$1,017,079**	**$1,020,777**	**$1,024,331**	**$1,024,331**	**$1,039,263**
LIABILITIES & SHAREHOLDERS' EQUITY								
Current Liabilities:								
Accounts Payable & Accruals	$3,207	$5,025	$4,592	$1,219	$1,270	$1,323	$1,323	$1,531
Int. Pay. to Rltd. Party	-	-	-	-	-	-	-	-
Loan Pay. to Rltd Party	-	-	-	-	-	-	-	-
Income Taxes Payable	5,659	7,599	7,962	7,962	7,962	7,962	7,962	7,962
Other Balances Payable	537	1,354	1,394	1,394	1,394	1,394	1,394	1,394
Deferred Revenue	355	282	251	251	251	251	251	251
Total Current Liabilities	9,758	14,260	14,199	10,826	10,877	10,930	10,930	11,138
Deferred Income Tax Liability	1,294	515	1,171	1,171	1,171	1,171	1,171	1,171
Total Liabilities	11,052	14,775	15,370	11,997	12,048	12,101	12,101	12,309
Shareholders' Equity:								
Share Capital	760,447	761,490	761,546	761,546	761,546	761,546	761,546	761,546
Warrants	785	785	785	785	785	785	785	785
Contributed Surplus	9,469	12,196	12,741	12,741	12,741	12,741	12,741	12,741
Accum. Other Comp. Inc. / (Loss)	30,431	20,907	11,459	10,956	10,453	9,950	9,950	7,938
Retained Earnings / (Deficit)	178,586	195,830	214,952	219,053	223,204	227,208	227,208	243,944
Total Shareholders' Equity	979,718	991,208	1,001,483	1,005,081	1,008,729	1,012,230	1,012,230	1,026,954
Total Liabilities & Share. Equity	**$990,770**	**$1,005,983**	**$1,016,853**	**$1,017,079**	**$1,020,777**	**$1,024,331**	**$1,024,331**	**$1,039,263**

Source: Knight Therapeutics Inc., Raymond James Ltd.

Exhibit 18: Knight Therapeutics Inc. Cash Flow Statement

Fiscal YE Dec. 31			2018E					
(C$000s, except where noted)	2016A	2017A	1QA	2QE	3QE	4QE	2018E	2019E
Operating Activities								
Net Income	$18,560	$17,244	$6,909	$3,210	$3,224	$3,040	$16,383	$12,551
Non-cash Items:								
Deferred Income Tax Recovery	723	2,058	1,220	-	-	-	1,220	-
Stock-based Compensation	3,640	3,038	545	891	927	964	3,327	4,185
Acquisition of Product Rights	-	-	-	-	-	-	-	-
Deprec. of Property & Equip.	18	8	16	300	171	100	588	172
Amort. of Intang. Assets	419	1,621	441	318	312	306	1,376	1,162
Accretion of Interest	(6,201)	(5,382)	-	-	-	-	-	-
Other Income	(795)	(886)	(94)	-	-	-	(94)	-
Gain/Unrealized Other Cur. Fin. Ass.	(1,659)	(4,421)	(541)	-	-	-	(541)	-
Dividen	4,837	4,984	-	-	-	-	-	-
Impairment	-	1,621	-	-	-	-	-	-
Share of Ass. Net Inc.	(2,793)	(854)	(503)	(503)	(503)	(503)	(2,012)	(2,012)
Unrealized Loss on Deriv/Other	-	(2,313)	-	-	-	-	-	-
Unrealized Foreign Exch. Gain	1,451	3,689	(2,597)	-	-	-	(2,597)	-
Chngs: Non-cash WC Rel. to Ops.	(3,462)	3,050	1,468	1,566	(176)	(28)	2,830	(860)
Cash Flow from Op. Activities	$14,738	$23,457	$6,864	$5,782	$3,955	$3,878	$20,480	$15,198
Investing Activities								
Purch. of Mark. Sec.	$(535,685)	$(314,358)	$(50,755)	$-	$-	$-	$(50,755)	$-
Proc. from Disposal of Mark. Sec.	544,812	259,067	101,318	-	-	-	101,318	-
Purch. of Other Curr. Fin. Assets	(16,371)	(2,939)	(400)	-	-	-	(400)	-
Fund Dist.	11,729	8,083	343	-	-	-	343	-
Purch. Of Intang.	(9,853)	-	(3,000)	-	-	-	(3,000)	-
Issuance of Loans & Deb. Rec.	(43,274)	(20,112)	-	-	-	-	-	-
Proc. from Repay. on Loans Rec.	11,324	38,835	33,440	-	-	-	33,440	-
Purchase of P&E	(7)	(126)	(42)	(11)	(11)	(11)	(74)	(78)
Sale of Investment in Funds	4,610	-	-	-	-	-	-	-
Proc. Sale of Equity/Der.	-	12,872	-	-	-	-	-	-
Investment in Fund	(16,503)	(21,314)	(4,277)	-	-	-	(4,277)	-
Cash Flow from Invest. Activities	$(49,218)	$(39,992)	$76,627	$(11)	$(11)	$(11)	$76,595	$(78)
Financing Activities								
Net Proc. from Share Issuance	313,574	-	-	-	-	-	-	-
Share Purchase Loans	(350)	-	-	-	-	-	-	-
Share Option Plan	-	551	-	-	-	-	-	-
Share Purchase Plan	105	195	49	-	-	-	49	-
Cash Flow from Fin. Activities	$313,329	$746	$49	$-	$-	$-	$49	$-
Incr. / (Dec. in Cash & Equivalents	278,849	(15,789)	83,540	5,771	3,945	3,867	97,123	15,120
Cash & Equiv., Begin. of Period	237,481	514,942	496,460	583,408	589,179	593,124	496,460	596,991
Net Foreign Exchange Difference	(1,388)	(2,693)	3,408	-	-	-	3,408	-
Cash & Equiv., End of Period	$514,942	$496,460	$583,408	$589,179	$593,124	$596,991	$596,991	$612,111

Source: Knight Therapeutics Inc., Raymond James Ltd.

Appendix: Management & Board of Directors

Jonathan Ross Goodman – CEO & Founder

Prior to establishing Knight Therapeutics, Mr. Goodman was the co-founder of Paladin Labs Inc., which was purchased by Endo International for $1.6 bln in November 2013. Prior to co-founding Paladin in 1995, Mr. Goodman was a consultant with Bain & Company and also worked in brand management for Procter & Gamble. Mr. Goodman holds a BA with Great Distinction from McGill University and the London School of Economics with 1st Class Honours. Additionally, he holds an LLB and an MBA from McGill University. Mr. Goodman is a member of the Bars of New York and Massachusetts, is an accredited pharmaceutical manufacturing representative and is a seasonal lecturer in pharmaceutical entrepreneurship at McGill University. Mr. Goodman was named Quebec Entrepreneur of the Year in the Life Sciences by Ernst & Young in 2003. Under Mr. Goodman's leadership, $1 invested in Paladin at its founding was worth approximately $100 at its sale 19 years later.

Samira Sakhia – President & CFO

Ms. Sakhia joined Knight as President in August 2016 and assumed the additional responsibility of CFO in October 2017. Prior to Knight, Ms. Sakhia served as the CFO at Paladin from 2001 to 2015. At Paladin, Ms. Sakhia was responsible for the finance, operations, human resources, and investor relations functions. During her employment with Paladin, Ms. Sakhia was instrumental in executing in-licensing and acquisition transactions of Canadian and international pharmaceutical products and businesses. In addition, Ms. Sakhia led several M&A and strategic lending transactions as well as equity rounds on the TSX and completed the sale of Paladin to Endo International for over $3 billion. Ms. Sakhia holds an MBA and a Bachelors of Commerce degree from McGill University and is also a Chartered Professional Accountant. Ms. Sakhia serves on the boards of Crescita Therapeutics Inc., Profound Medical Corporation and Antibe Therapeutics. In addition, Ms. Sakhia serves on the board of the Montreal Society for the Prevention of Cruelty to Animals, the International Advisory Board of McGill's Desautels Faculty of Management, and is an independent board member at the McGill University Health Center.

Amal Khouri – VP, Business Development

Prior to joining Knight, Ms. Khouri worked at Novartis Pharma for over seven years, where she held multiple positions within the global business development and licensing team in Basel, Switzerland. Before joining Novartis, she worked business development at Paladin Labs in roles with increasing responsibilities. Ms.Khouri holds a BSc. in Biochemistry from McGill University and an MBA from the University of Ottawa.

James C. Gale – Chairman

Mr. Gale is the founding partner of Signet Healthcare Partners. He is currently the Chairman of the Board of Alpex Pharma S.A. and Teligent Inc., and also serves on the Board of Directors of Spepharm AG, Bionpharma Inc., CoreRx, Inc., Leon Nanodrugs GmbH and Chr. Olesen Synthesis A/S. Prior to Signet, Mr. Gale worked for Gruntal & Co., LLC as head of principal investment activities and investment banking. Prior to joining Gruntal, he worked in Home Insurance Co., Gruntal's parent. Earlier in his career, Mr. Gale was a senior investment banker at E.F. Hutton & Co. Mr. Gale holds an M.B.A. from the University of Chicago. Mr. Gale was on the Board of Paladin Labs from 2008 to 2014.

Risks

Key Personnel Risk

Our thesis is heavily dependent on our confidence in Mr. Goodman's continuing ability to execute as per his historical precedence. If he is unable to operate Knight as effectively as he did Paladin, or should a scenario arise which would demand that he step down as CEO, this would materially impact our outlook. However, that said, we believe it is worth noting that Mr. Goodman, to date, has assembled an outstanding team supporting him, led by Jeffrey Kadanoff and Amal Khouri, which could somewhat mitigate this risk.

Impavido Generic Competition Risk

Impavido is currently under generic threat. Given that buyers of Impavido are typically the WHO and developing nations, we do not believe there is much safety afforded by brand loyalty. We anticipate that Impavido sales in markets ex-US will face pressure. However, given that Impavido's royalty will become immaterial to Knight's top line as it develops the business, we do not find this risk significant.

Inside Ownership Risk

Mr. Goodman is currently the largest shareholder of Knight, owning 15.3% of the company. It is possible that his interest may diverge from those of other shareholders at some point in the future.

Tax Structure Risk

Knight currently utilizes a Barbados corporate tax structure through one of its subsidiaries. Changes to relevant tax laws in the future may impair Knight's tax strategy.

Competition Risk

Paladin's success has spurred an abundance of new Canadian specialty pharmaceutical companies. As a result, the demand for Canadian rights to pharmaceutical assets is at a historic high and acquisition price multiples are expanded in response. There is no guarantee that the market will indeed shift, resulting in a valuation corrections, and as such Knight may be forced to amend its strategy. Acquiring products for price multiples at the high end of historical precedent will materially impact our future forecasts and valuation due to slower growth rates or reduced profitability estimates.

Lending Risk

Part of Knight's strategy includes lending capital to life science companies. While all of Knight's loans are fully secured, it is possible that a scenario will manifest where Knight is unable to recuperate its investment. Such a scenario would negatively impact the company's valuation and furthermore would cast doubt on its ability to structure similar transaction in the future.

Company Citations

Company Name	Ticker	Exchange	Currency	Closing Price	RJ Rating	RJ Entity
Akorn, Inc.	AKRX	NASDAQ	US$	17.97	3	RJ & Associates
Allergan plc	AGN	NYSE	US$	175.95	2	RJ & Associates
Amgen Inc.	AMGN	NASDAQ	US$	195.69	S	RJ & Associates
Biogen Inc.	BIIB	NASDAQ	US$	344.82	3	RJ & Associates
BioMarin Pharmaceutical Inc.	BMRN	NASDAQ	US$	99.37	2	RJ & Associates
BioSyent, Inc.	RX	TSXV	C$	9.28	2	RJ Ltd.
Endo International plc	ENDP	NASDAQ	US$	10.88	3	RJ & Associates
Gilead Sciences, Inc.	GILD	NASDAQ	US$	76.75	1	RJ & Associates
Mallinckrodt public limited company	MNK	NYSE	US$	20.98	2	RJ & Associates
Origin Bancorp, Inc.	OBNK	NASDAQ	US$	39.80	1	RJ & Associates
Perrigo Company PLC	PRGO	NYSE	US$	77.81	3	RJ & Associates
Teligent, Inc.	TLGT	NASDAQ	US$	3.80	1	RJ & Associates
The Procter & Gamble Company	PG	NYSE	US$	79.82	3	RJ & Associates

Notes: Prices are as of the most recent close on the indicated exchange and may not be in US$. See Disclosure section for rating definitions. Stocks that do not trade on a U.S. national exchange may not be registered for sale in all U.S. states. NC=not covered.

Glossary

PAM	primary amebic meningoencephalitis
PVR	Priority Review Voucher

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Market Perform (Hold)	25%	39%	34%	13%	9%	0%
Underperform (Sell)	4%	5%	15%	22%	5%	0%

* Columns may not add to 100% due to rounding.

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Company Name	Disclosure
Knight Therapeutics Inc.	Raymond James Ltd - the analyst and/or associate has viewed the material operations of GUD.

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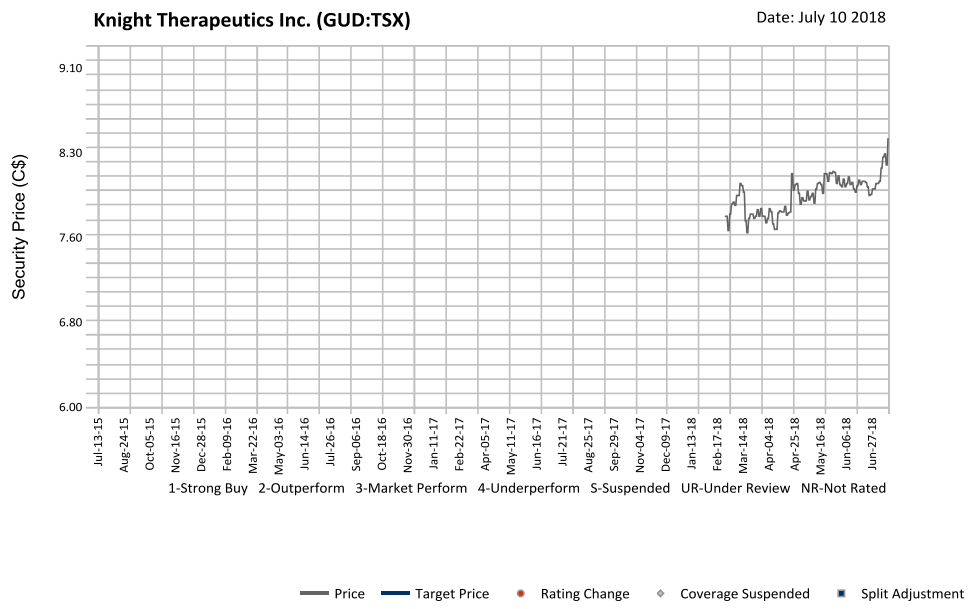
Target Prices: The information below indicates our target price and rating changes for GUD stock over the past three years.



Valuation Methodology: We value Knight Therapeutics Inc. utilizing a Price-to-book multiple.

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Risks - Knight Therapeutics Inc.

Key Personnel Risk

Our thesis is heavily dependent on our confidence in Mr. Goodman's continuing ability to execute as per his historical precedence. If he is unable to operate Knight as effectively as he did Paladin, or should a scenario arise which would demand that he step down as CEO, this would materially impact our outlook. However, that said, we believe it is worth noting that Mr. Goodman, to date, has assembled an outstanding team supporting him, led by Jeffrey Kadanoff and Amal Khouri, which could somewhat mitigate this risk.

Impavido Generic Competition Risk

Impavido is currently under generic threat. Given that buyers of Impavido are typically the WHO and developing nations, we do not believe there is much safety afforded by brand loyalty. We anticipate that Impavido sales in markets ex-US will face pressure. However, given that Impavido's royalty will become immaterial to Knight's top line as it develops the business, we do not find this risk significant.

Inside Ownership Risk

Mr. Goodman is currently the largest shareholder of Knight, owning 15.3% of the company. It is possible that his interest may diverge from those of other shareholders at some point in the future.

Tax Structure Risk

Knight currently utilizes a Barbados corporate tax structure through one of its subsidiaries. Changes to relevant tax laws in the future may impair Knight's tax strategy.

Competition Risk

Paladin's success has spurred an abundance of new Canadian specialty pharmaceutical companies. As a result, the demand for Canadian rights to pharmaceutical assets is at a historic high and acquisition price multiples are expanded in response. There is no guarantee that the market will indeed shift, resulting in a valuation corrections, and as such Knight may be forced to amend its strategy. Acquiring products for price multiples at the high end of historical precedent will materially impact our future forecasts and valuation due to slower growth rates or reduced profitability estimates.

Lending Risk

Part of Knight's strategy includes lending capital to life science companies. While all of Knight's loans are fully secured, it is possible that a scenario will manifest where Knight is unable to recuperate its investment. Such a scenario would negatively impact the company's valuation and furthermore would cast doubt on its ability to structure similar transaction in the future.

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HEAD OF EQUITY RESEARCH
- Daryl Swetlishoff, CFA — 604.659.8246

CONSUMER

CONSUMER & RETAIL
- Kenric Tyghe, MBA — 416.777.7188
- Joanna Chmiel (Associate) — 416.777.7060

ENERGY

OIL & GAS ENERGY SERVICES, HEAD OF ENERGY RESEARCH
- Andrew Bradford, CFA — 403.509.0503
- Michael Shaw, CFA (Sr Associate) — 403.509.0534
- Hailey Doney (Jr Associate) — 403.509.0377

OIL & GAS PRODUCERS
- Kurt Molnar — 403.221.0414
- Gordon Steppan, CFA (Sr Associate) — 403.221.0411

OIL & GAS PRODUCERS
- Jeremy McCrea, CFA — 403.509.0518
- Rahul Pandey (Associate) — 403.509.0562

SR. OIL & GAS PRODUCERS | ENERGY INFRASTRUCTURE
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FOREST PRODUCTS
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INFRASTRUCTURE & CONSTRUCTION
- Frederic Bastien, CFA — 604.659.8232

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- Kanish Pawar (Associate) — 604.659.8238

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BASE & PRECIOUS METALS, HEAD OF MINING RESEARCH
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- Chris Law (Associate) — 416.777.7144

BASE & PRECIOUS METALS
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PRECIOUS METALS
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- Jeremy Poon (Associate) — 604.659.8294

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- Jonathan Greer — 416.777.4930
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- Robert Mills, CFA — 416.777.4945
- Nicole Svec, CFA (US Equities) — 416.777.4942
- Neil Weber — 416.777.4931
- Michelle Marguet (ECM Institutional Marketing) — 416.777.4951
- Ornella Burns (Assistant) — 416.777.4928
- Satbir Chatrath (Assistant, currently on leave) — 416.777.4915
- Ariana Piccione (Assistant) — 416.777.4915

VANCOUVER (1.800.667.2899)

- Scot Atkinson, CFA — 604.659.8225
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- Nick Pocrnic — 604.659.8230
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MONTREAL (514.350.4450 | 1.866.350.4455)

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VANCOUVER (1.800.667.2899)
- Nav Cheema — 604.659.8224
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- Joe Clement — 514.350.4470
- Patrick Sanche — 514.350.4465

INSTITUTIONAL EQUITY OFFICES

Calgary
Suite 4250
525 8th Avenue SW
Calgary, AB T2P 1G1
403.509.0500

Montreal
Suite 3000
1800 McGill College
Montreal, PQ H3A 3J6
514.350.4450
Toll Free: 1.866.350.4455

Vancouver
Suite 2100
925 West Georgia Street
Vancouver, BC V6C 3L2
604.659.8000
Toll Free: 1.800.667.2899

Toronto
Suite 5400, Scotia Plaza 40 King Street West
Toronto, ON M5H 3Y2
416.777.4900
Toll Free Canada: .888.601.6105
Toll Free USA: 1.800.290.4847

International Headquarters
The Raymond James Financial Center
880 Carillon Parkway
St.Petersburg, FL
USA 33716
727.567.1000

Exhibit J

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re **ENDO INTERNATIONAL plc., *et al*.,** **Debtors.**[1]	Chapter 11 Case No.: 20-11254 (JLG) Jointly Administered

ORDER (I) GRANTING FIRST INTERIM APPLICATIONS FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES INCURRED FROM AUGUST 16, 2022 THROUGH AND INCLUDING DECEMBER 31, 2022

Upon consideration of the: (i) *First Interim Application of Skadden, Arps, Slate, Meagher & Flom LLP, as Counsel to the Debtors* [Docket No. 1337]; (ii*) First Interim Application of Togut, Segal & Segal LLP, as Co-Counsel to the Debtors* [Docket No. 1338]; (iii) *First Interim Application of O'Melveny & Myers LLP, as Special Counsel to the Debtors* [Docket No. 1417]; (iv) *First Interim Application of A&L Goodbody LLP, as Special Counsel to the Debtors* [Docket No. 1348]; (v) *First Interim Application of KPMG LLP, Providing Tax and Compliance Services for the Debtors* [Docket No. 1339]; (vi) *First Interim Application of PJT Partners LP, as Investment Banker for the Debtors* [Docket No. 1340]; (vii) *First Interim Application of Alvarez & Marsal North America, LLC, as Financial Advisor for the Debtors* [Docket No. 1341]; (viii) *First Interim Application of PricewaterhouseCoopers LLP, as Audit and Tax Services Provider for the Debtors* [Docket No. 1343]; (ix) *First Interim Application of SolomonEdwardsGroup, LLC, as Investment Banker for the Debtors* [Docket No. 1344]; (x) *First Interim Application of Kramer Levin Naftalis & Frankel LLP, as Counsel to the Official*

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

Committee of Unsecured Creditors [Docket No. 1349]; (xi) *First Interim Application of Lazard Frères & Co. LLC, as Investment Banker to the Official Committee of Unsecured Creditors* [Docket No. 1358]; (xii) *First Interim Application of Dundon Advisers LLC, as Co-Financial Advisor to the Official Committee of Unsecured Creditors* [Docket No. 1294]; (xiii) *First Interim Application of Cooley LLP, Lead Counsel to the Official Committee of Opioid Claimants* [Docket No. 1350]; (xiv) *First Interim Application of Akin Gump Strauss Hauer & Feld LLP, as Special Counsel to the Official Committee of Opioid Claimants* [Docket No. 1351]; (xv) *First Interim Application of Jefferies LLC, as Investment Banker for the Official Committee of Opioid Claimants* [Docket No. 1352]; (xvi) *First Interim Application of Province, LLC, as Financial Advisor to the Official Committee of Opioid Claimants* [Docket No. 1353]; (xvii) *First Interim Application of Roger Frankel, as Future Claimants' Representative* [Docket No, 1319]; (xviii) *First Interim Application of Frankel Wyron LLP, counsel to the Future Claimants' Representative* [Docket No. 1320]; (xix) *First Interim Application of Young Conaway Stargatt & Taylor, LLP, counsel to the Future Claimants' Representative* [Docket No. 1321]; (xx) *First Interim Application of NERA Economic Consulting, Consultant to the Future Claimants' Representative* [Docket No. 1322]; and (xxi) *First Interim Application of Ducera Partners LLC, Investment Banker to the Future Claimants' Representative* [Docket No. 1323], (collectively, the "Applications" submitted by the "Professionals") for professional services rendered and expenses incurred; and notice of the Applications having been given pursuant to Federal Rules of Bankruptcy Procedure 2002(a)(6) and (c)(2) and the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* entered on October 3, 2022 [Docket No. 326]; and a hearing to consider the Applications having been held before this

Court on April 20, 2023; and after due deliberation and sufficient cause having been shown therefor, it is hereby;

ORDERED that the Applications, as well as the holdback releases requested in the Applications, are granted to the extent set forth in the attached Schedule "A" on an Interim basis. The Debtors are authorized and directed to remit to each of the Professionals the allowed amounts to which such Professional is entitled, as set forth in Schedule "A", to the extent not previously paid. The terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order, and the Court shall retain jurisdiction with respect to any matters, claims, rights, or disputes arising from or related to the implementation of this Order.

Dated: May 8, 2023
New York, New York

/s/ *James L. Garrity, Jr.*
HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through December 31, 2022 (First Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden") *Counsel to the Debtors*	2/14/2023 Docket No. 1337	$27,068,684.67	$26,956,296.57[4]	$24,260,666.91	$0.00	$24,260,666.91	$454,849.19	$441,934.53[4]
Togut, Segal & Segal LLP ("Togut Firm") *Co-Counsel to the Debtors*	2/14/2023 Docket No. 1338	$1,450,555.00	$1,446,555.00[5]	$1,301,899.50	$0.00	$1,301,899.50	$5,144.85	$5,144.85
O'Melveny & Myers LLP ("OMM") *Special Counsel to the Debtors*	3/1/2023 Docket No. 1417	$3,120,533.73	$3,120,533.73	$2,808,480.36	$0.00	$2,808,480.36	$364,686.44	$364,686.44

[2] Total fees to be paid for the current fee period to the extent not previously paid less any agreed to voluntary reduction.

[3] Expenses to be paid for the current fee period to the extent not previously paid less any agreed to voluntary reduction.

[4] Pursuant to informal discussions with David Klauder, the court appointed Fee Examiner in these cases (the "Fee Examiner"), Skadden has agreed to voluntarily reduce its fees sought in the amount of $112,388.10 and its expenses sought in the amount of $12,914.66, aggregating a total reduction of fees and expenses in the amount of $125,302.76.

[5] Pursuant to informal discussions with the Fee Examiner, the Togut Firm has agreed to voluntarily reduce its fees sought in the amount of $4,000.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through December 31, 2022 (First Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
A&L Goodbody LLP ("A&L") *Special Counsel to the Debtors*	2/15/2023 Docket No. 1348	$2,878,971.70	$2,872,471.70[6]	$2,585,224.53	$0.00	$2,585,224.53	$702,931.13[6]	$702,717.10[6]
KPMG LLP ("KPMG") *Tax Compliance and Tax Consulting Services for the Debtors*	2/15/2023 Docket No. 1339	$384,334.58	$384,334.58	$345,901.12	$0.00	$345,901.12	$1,292.03	$1,292.03
PJT Partners LP ("PJT") *Investment Banker for the Debtors*	2/15/2023 Docket No. 1340	$1,129,032.26	$1,129,032.26	$1,016,129.03	$0.00	$1,016,129.03	$2,389.17	$1,694.34[7]
Alvarez & Marsal ("A&M") *Financial Advisors for the Debtors*	2/15/2023 Docket No. 1341	$11,348,686.00	$11,265,777.65[8]	$10,139,199.89	$0.00	$10,139,199.89	$92,337.34	$92,337.34

[6] Pursuant to informal discussions with the Fee Examiner, A&L has agreed to voluntarily reduce its fees sought in the amount of $6,500 and its expenses sought in the amount of $214.03, aggregating a total reduction of fees and expenses in the amount of $6,714.03. Expenses allowed also include allowed (VAT) expenses in the amount of $662,535.75.

[7] Pursuant to informal discussions with the Fee Examiner, PJT has agreed to voluntarily reduce its expenses sought in the amount of $694.83.

[8] Pursuant to informal discussions with the Fee Examiner, A&M has agreed to voluntarily reduce its fees sought in the amount of $82,908.35.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through December 31, 2022 (First Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
PricewaterhouseCoopers LLP ("PwC") *Audit and Tax Services for the Debtors*	2/15/2023 Docket No. 1343	$4,286,190.50	$4,286,190.50	$3,857,571.45	$0.00	$3,857,571.45	$14,422.33	$14,422.33
SolomonEdwardsGroup, LLC ("SEG") *Bankruptcy Accounting Consultant for the Debtors*	2/15/2023 Docket No. 1344	$255,417.50	$255,417.50	$229,875.75	$0.00	$229,875.75	$0.00	$0.00
Kramer Levin Naftalis & Frankel LLP ("Kramer") *Counsel to the Official Committee of Unsecured Creditors*	2/15/2023 Docket No. 1349	$8,809,672.00	$8,809,672.00	$7,928,704.80	$0.00	$7,928,704.80	$108,203.92	$108,203.92
Lazard Frères & Co. LLC ("Lazard") *Investment Banker to the Official Committee of Unsecured Creditors*	2/16/2023 Docket No. 1358	$713,333.33	$713,333.33	$642,000.00	$0.00	$642,000.00	$121,854.37	$121,806.19[9]

[9] Pursuant to informal discussions with the Fee Examiner, Lazard has agreed to voluntarily reduce its expenses sought in the amount of $48.18.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through December 31, 2022 (First Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Dundon Advisers LLC ("Dundon") *Co-Financial Advisor to the Official Committee of Unsecured Creditors*	2/7/2023 Docket No. 1294	$979,008.00	$947,543.93[10]	$852,789.54	$0.00	$852,789.54	$0.00	$0.00
Cooley LLP "(Cooley") *Lead Counsel to the Official Committee of Opioid Claimants*	2/15/2023 Docket No. 1350	$4,940,379.00	$4,884,533.80[11]	$4,396,080.42	$0.00	$4,396,080.42	$21,855.69	$21,855.69
Akin Gump Strauss Hauer & Feld LLP ("Akin") *Special Counsel to the Official Committee of Opioid Claimants*	2/15/2023 Docket No. 1351	$3,941,341.50	$3,941,341.50	$3,547,207.35	$0.00	$3,547,207.35	$57,257.61	$57,047.21[12]

[10] Pursuant to informal discussions with the Fee Examiner, Dundon has agreed to voluntarily reduce its fees sought in the amount of $31,464.07.

[11] Pursuant to informal discussions with the Fee Examiner, Cooley has agreed to voluntarily reduce its fees sought in the amount of $55,845.20.

[12] Pursuant to informal discussions with the Fee Examiner, Akin has agreed to voluntarily reduce its expenses sought in the amount of $210.40.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through December 31, 2022 (First Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Jefferies LLC ("Jefferies") *Investment Banker for the Official Committee of Opioid Claimants*	2/15/2023 Docket No. 1352	$800,000.00	$800,000.00	$720,000.00	$0.00	$720,000.00	$76,623.00	$76,623.00
Province, LLC ("Province") *Financial Advisor to the Official Committee of Opioid Claimants*	2/15/2023 Docket No. 1353	$4,137,731.50	$4,137,731.50	$3,723,958.35	$0.00	$3,723,958.35	$8,995.55	$8,944.80[13]
Roger Frankel ("FCR") *Future Claimants' Representative*	2/14/2023 Docket No. 1319	$343,128.00	$343,128.00	$308,815.20	$0.00	$308,815.20	$452.84	$452.84
Frankel Wyron LLP ("Frankel") *Counsel to the Future Claimants' Representative*	2/14/2023 Docket No. 1320	$185,915.00	$185,915.00	$167,323.50	$0.00	$167,323.50	$210.00	$210.00

[13] Pursuant to informal discussions with the Fee Examiner, Province has agreed to voluntarily reduce its expenses sought in the amount of $50.75.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through December 31, 2022 (First Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Young Conaway Stargatt & Taylor, LLP ("YCST") *Counsel to the Future Claimants' Representative*	2/14/2023 Docket No. 1321	$1,769,856.50	$1,759,856.50[14]	$1,583,870.85	$0.00	$1,583,870.85	$22,402.42	$19,823.62[12]
NERA Economic Consulting ("NERA") *Economic Consulting Consultant to the Future Claimants' Representative*	2/14/2023 Docket No. 1322	$138,689.00	$138,035.00[15]	$124,231.50	$0.00	$124,231.50	$18,612.00	$18,612.00
Ducera Partners LLC ("Ducera") *Investment Banker to the Future Claimants' Representative*	2/14/2023 Docket No. 1323	$500,000.00	$500,000.00	$450,000.00	$0.00	$450,000.00	$354.83	$25.00[16]

DATE ON WHICH ORDER WAS SIGNED: 5/8/2023 **INITIALS: JLG USBJ**

[14] Pursuant to informal discussions with the Fee Examiner, YCST has agreed to voluntarily reduce its fees sought in the amount of $10,000; and expenses sought in the amount of $2,578.80, aggregating a total reduction of fees and expenses in the amount of $12,578.80.

[15] Pursuant to informal discussions with the Fee Examiner, NERA has agreed to voluntarily reduce its fees sought in the amount of $654.

[16] Pursuant to informal discussions with the Fee Examiner, Ducera has agreed to voluntarily reduce its expenses sought in the amount of $329.83.

Exhibit J

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	Chapter 11
ENDO INTERNATIONAL plc., *et al*.,	Case No.: 22-22549 (JLG)
Debtors.[1]	Jointly Administered

SECOND ORDER (I) GRANTING INTERIM APPLICATIONS FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES INCURRED FROM JANUARY 1, 2023 THROUGH AND INCLUDING APRIL 30, 2023

Upon consideration of the: (i) *Second Interim Application of Skadden, Arps, Slate, Meagher & Flom LLP, as Counsel to the Debtors* [Docket No. 2224]; (ii*) Second Interim Application of Togut, Segal & Segal LLP, as Co-Counsel to the Debtors* [Docket No. 2193]; (iii) *Second Interim Application of O'Melveny & Myers LLP, as Special Counsel to the Debtors* [Docket No. 2194]; (iv) *Second Interim Application of A&L Goodbody LLP, as Special Counsel to the Debtors* [Docket No. 2210]; (v) *Second Interim Application of KPMG LLP, Providing Tax and Compliance Services for the Debtors* [Docket No. 2200]; (vi) *Second Interim Application of PJT Partners LP, as Investment Banker for the Debtors* [Docket No. 2201]; (vii) *Second Interim Application of Alvarez & Marsal North America, LLC, as Financial Advisor for the Debtors* [Docket No. 2198]; (viii) *Second Interim Application of PricewaterhouseCoopers LLP, as Audit and Tax Services Provider for the Debtors* [Docket No. 2206]; (ix) *First Interim Application of PricewaterhouseCoopers Ireland, as Audit Services Provider for the Debtors* [Docket No. 2202];

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

(x) *Second Interim Application of SolomonEdwardsGroup, LLC, as Investment Banker for the Debtors* [Docket No. 2203]; (xi) *Second Interim Application of Kramer Levin Naftalis & Frankel LLP, as Counsel to the Official Committee of Unsecured Creditors* [Docket No. 2208]; (xii) *First Interim Application of Lowenstein Sandler LLP as Special Counsel to the Official Committee of Unsecured Creditors* [Docket No. 2212]; (xiii) *Second Interim Application of Lazard* Frères *& Co. LLC, as Investment Banker to the Official Committee of Unsecured Creditors* [Docket No. 2209]; (xiv) *Second Interim Application of Dundon Advisers LLC, as Co-Financial Advisor to the Official Committee of Unsecured Creditors* [Docket No. 2185]; (xv) *First Interim Application of Berkeley Research Group LLC, Co-Financial Advisor to the Official Committee of Unsecured Creditors* [Docket No. 1474]; (xvi) *Second Interim Application of Berkeley Research Group LLC, Co-Financial Advisor to the Official Committee of Unsecured Creditors* [Docket No. 2183]; (xvii) *First Interim Application of Grant Thornton LLP, Tax Advisor to the Official Committee of Unsecured Creditors* [Docket No. 1898]; (xviii) *Second Interim Application of Cooley LLP, Lead Counsel to the Official Committee of Opioid Claimants* [Docket No. 2221]; (xix) *Second Interim Application of Akin Gump Strauss Hauer & Feld LLP, as Special Counsel to the Official Committee of Opioid Claimants* [Docket No. 2216]; (xx) *First Interim Application of Maples and Calder (Ireland) LLP, Special Foreign Counsel to the Official Committee of Opioid Claimants* [Docket No. 2234]; (xxi) *Second Interim Application of Jefferies LLC, as Investment Banker for the Official Committee of Opioid Claimants* [Docket No. 2218]; (xxii) *Second Interim Application of Province, LLC, as Financial Advisor to the Official Committee of Opioid Claimants* [Docket No. 2217]; (xxiii) *Second Interim Application of Roger Frankel, as Future Claimants' Representative* [Docket No. 2184]; (xxiv) *Second Interim Application of Frankel Wyron LLP, counsel to the Future Claimants' Representative* [Docket

No. 2186]; (xxv) *Second Interim Application of Young Conaway Stargatt & Taylor, LLP, counsel to the Future Claimants' Representative* [Docket No. 2187]; (xxvi) *First Interim Application of Gilbert LLP, Special Insurance Counsel to the Future Claimants' Representative and the Committee of Unsecured Creditors* [Docket No. 2190]; (xxvii) *Second Interim Application of NERA Economic Consulting, Consultant to the Future Claimants' Representative* [Docket No. 2188]; (xxviii) *Second Interim Application of Ducera Partners LLC, Investment Banker to the Future Claimants' Representative* [Docket No. 2189]; (xxix) *First Interim Application of Pillsbury Winthrop Shaw Pittman LLP, Counsel to the Multi-State Endo Executive Committee* [Docket No. 2205]; (xxx) *First Interim Application of Houlihan Lokey Capital, Inc., Investment Banker and Financial Advisor to the Multi-State Endo Executive Committee* [Docket No. 2207]; (xxxi) *First Interim Application of Bielli & Klauder, LLC, Counsel to the Fee Examiner, David M. Klauder, Esq.* [Docket No. 2197]*; and certain Ordinary Course Professionals who exceeded their Tier 1 Monthly OCP Cap pursuant to the Order Authorizing Debtors to Employ and Pay Professionals Utilized in the Ordinary Course of Business [Docket No. 378] the ("OCP Order") as follows: (xxxii) Perkins Coie LLP, as a Tier 1A OCP Professional and Supplement* [Docket Nos. 2222 and 2453]*; (xxxiii) Womble Bond Dickinson (US) LLP, as a Tier 1A OCP Professional* [Docket No. 2220]*; and (xxxiv) Shardul Amarchand Mangaldas & Co., as a Tier 1 OCP Professional* [Docket No. 2219] (the "OCP Applications"), (collectively with the OCP Applications, the "Applications" submitted by the "Professionals") for professional services rendered and expenses incurred; and notice of the Applications having been given pursuant to Federal Rules of Bankruptcy Procedure 2002(a)(6) and (c)(2) and the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* entered on October 3, 2022 [Docket No. 326]; and a hearing to consider the

Applications having been held before this Court on September 21, 2023; and after due deliberation and sufficient cause having been shown therefor, it is hereby;

ORDERED that the Applications, as well as the holdback releases requested in the Applications, are granted to the extent set forth in the attached Schedule "A" on an Interim basis. The Debtors are authorized and directed to remit to each of the Professionals the allowed amounts to which such Professional is entitled, as set forth in Schedule "A", to the extent not previously paid. The terms and conditions of this Order shall be immediately effective and enforceable upon entry of this Order, and the Court shall retain jurisdiction with respect to any matters, claims, rights, or disputes arising from or related to the implementation of this Order.

Dated: October 3, 2023
New York, New York

/s/ *James L. Garrity, Jr.*
HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden") *Counsel to the Debtors*	6/14/2023 Docket No. 2224	$21,401,435.90	$21,347,435.90[4]	$19,212,692.31	$0.00	$19,212,692.31	$179,201.83	$179,201.83
Togut, Segal & Segal LLP ("Togut Firm") *Co-Counsel to the Debtors*	6/14/2023 Docket No. 2193	$874,299.00	$870,705.16[5]	$783,634.64	$0.00	$783,634.64	$3,440.52	$2,721.62[5]
O'Melveny & Myers LLP ("OMM") *Special Counsel to the Debtors*	6/14/2023 Docket No. 2194	$190,143.30	$183,154.30[6]	$164,838.87	$0.00	$164,838.87	$796.87	$796.87

[2] Total fees to be paid for the current fee period to the extent not previously paid less any agreed to voluntary reduction.

[3] Expenses to be paid for the current fee period to the extent not previously paid less any agreed to voluntary reduction.

[4] Pursuant to informal discussions with David M. Klauder, Esquire, the court appointed Fee Examiner in these cases (the "Fee Examiner"), Skadden has agreed to voluntarily reduce its fees sought in the amount of $54,000.

[5] Pursuant to informal discussions with the Fee Examiner, the Togut Firm has agreed to voluntarily reduce its fees sought in the amount of $3,593.84 and expenses in the amount of $1,168.90, for an aggregate reduction of fees and expenses in the amount of $4,762.74.

[6] Pursuant to informal discussions with the Fee Examiner, OMM has agreed to voluntarily reduce its fees sought in the amount of $6,989.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
A&L Goodbody LLP ("A&L") *Special Counsel to the Debtors*	6/14/2023 Docket No. 2210	$1,874,092.21	$1,863,347.76[7]	$1,677,012.98	$0.00	$1,677,012.98	$150,255.12	$150,255.12
KPMG LLP ("KPMG") *Tax Compliance and Tax Consulting Services for the Debtors*	6/14/2023 Docket No. 2200	$174,785.24	$174,785.24	$157,306.72	$0.00	$157,306.72	$0.00	$0.00
PJT Partners LP ("PJT") *Investment Banker for the Debtors*	6/14/2023 Docket No. 2201	$1,000,000.00	$1,000,000.00	$900,000.00	$0.00	$900,000.00	$1,719.34	$1,719.34
Alvarez & Marsal North America ("A&M") *Financial Advisors for the Debtors*	6/14/2023 Docket No. 2198	$5,420,133.50	$5,375,133.50[8]	$4,837,620.15	$0.00	$4,837,620.15	$17,414.85	$17,059.82[8]

[7] Pursuant to informal discussions with the Fee Examiner, A&L has agreed to voluntarily reduce its fees sought in the amount of $10,744.45.

[8] Pursuant to informal discussions with the Fee Examiner, A&M has agreed to voluntarily reduce its fees sought in the amount of $45,000 and expenses in the amount of $355.03 for an aggregate reduction of fees and expenses in the amount of $45,355.03.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
PricewaterhouseCoopers LLP ("PwC") *Audit and Tax Services for the Debtors*	6/14/2023 Docket No. 2206	$3,452,493.60	$3,452,493.60	$3,107,244.24	$0.00	$3,107,244.24	$9,038.20	$9,038.20
PricewaterhouseCoopers Ireland ("PwC Ireland") *Audit Services for the Debtors*	6/14/2023 Docket No. 2202	$233,474.09	$233,474.09	$210,126.68	$0.00	$210,126.68	$0.00	$0.00
SolomonEdwardsGroup, LLC ("SEG") *Bankruptcy Accounting Consultant for the Debtors*	6/14/2023 Docket No. 2203	$414,295.00	$414,295.00	$372,865.50	$0.00	$372,865.50	$0.00	$0.00
Kramer Levin Naftalis & Frankel LLP ("Kramer") *Counsel to the Official Committee of Unsecured Creditors*	6/14/2023 Docket No. 2208	$8,912,544.00	$8,912,544.00	$8,021,289.60	$0.00	$8,021,289.60	$167,933.43	$167,259.96[9]
Lowenstein Sandler *Special Counsel to the Official Committee of Unsecured Creditors*	6/14/2023 Docket No. 2212	$32,624.50	$32,624.50	$29,362.05	$0.00	$29,362.05	$0.00	$0.00

[9] Pursuant to informal discussions with the Fee Examiner, Kramer has agreed to voluntarily reduce its expenses sought in the amount of $673.47.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Lazard Frères & Co. LLC ("Lazard") *Investment Banker to the Official Committee of Unsecured Creditors*	6/14/2023 Docket No. 2209	$800,000.00	$800,000.00	$720,000.00	$0.00	$720,000.00	$64,721.35	$64,198.80[10]
Dundon Advisers LLC ("Dundon") *Co-Financial Advisor to the Official Committee of Unsecured Creditors*	6/14/2023 Docket No. 2185	$599,095.50	$593,095.50[11]	$533,785.95	$0.00	$533,785.95	$0.00	$0.00
Berkeley Research Group LLC ("Berkeley") *Co-Financial Advisor to The Official Committee of Unsecured Creditors*	3/15/2023 Docket No. 1474	$4,163,285.00	$4,145,452.00[12]	$3,730,906.80	$0.00	$3,730,906.80	$524.94	$524.94

[10] Pursuant to informal discussions with the Fee Examiner, Lazard has agreed to voluntarily reduce its expenses sought in the amount of $522.55.

[11] Pursuant to informal discussions with the Fee Examiner, Dundon has agreed to voluntarily reduce its fees sought in the amount of $6,000.

[12] Pursuant to informal discussions with the Fee Examiner, Berkeley has agreed to voluntarily reduce its fees sought in their first interim application in the amount of $17,833.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Berkeley Research Group LLC ("Berkeley") *Co-Financial Advisor to The Official Committee of Unsecured Creditors*	6/14/2023 Docket No. 2183	$3,168,259.00	$3,150,759.00[13]	$2,835,683.10	$0.00	$2,835,683.10	$160.00	$160.00
Grant Thornton LLP ("Grant") *Tax Advisor to The Official Committee of Unsecured Creditors*	5/11/2023 Docket No. 1898	$317,259.25	$314,585.95[14]	$283,127.36	$0.00	$283,127.36	$11,052.00	$11,052.00
Cooley LLP "(Cooley") *Lead Counsel to the Official Committee of Opioid Claimants*	6/14/2023 Docket No. 2221	$2,985,730.00	$2,948,551.30[15]	$2,653,696.17	$0.00	$2,653,696.17	$32,894.74	$32,894.74

[13] Pursuant to informal discussions with the Fee Examiner, Berkeley has agreed to voluntarily reduce its fees sought in their second interim application in the amount of $17,500.

[14] Pursuant to informal discussions with the Fee Examiner, Grant has agreed to voluntarily reduce its fees sought in the amount of $2,673.30.

[15] Pursuant to informal discussions with the Fee Examiner, Cooley has agreed to voluntarily reduce its fees sought in the amount of $37,178.30.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

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Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Akin Gump Strauss Hauer & Feld LLP ("Akin") *Special Counsel to the Official Committee of Opioid Claimants*	6/14/2023 Docket No. 2216	$6,274,946.50	$6,217,158.30[16]	$5,595,442.47	$0.00	$5,595,442.47	$112,745.09	$112,414.77[16]
Maples & Calder (Ireland) LLP *Special Foreign Counsel to the Official Committee of Opioid Claimants*	6/16/2023 Docket No. 2234	$210,369.00	$210,369.00	$189,332.10	$0.00	$189,332.10	$69,724.70	$69,724.70
Jefferies LLC ("Jefferies") *Investment Banker for the Official Committee of Opioid Claimants*	6/14/2023 Docket No. 2218	$800,000.00	$800,000.00	$720,000.00	$0.00	$720,000.00	$38,866.00	$38,866.00

[16] Pursuant to informal discussions with the Fee Examiner, Akin has agreed to voluntarily reduce its fees sought in the amount of $57,788.20 and expenses in the amount of $330.32, for an aggregate reduction of fees and expenses in the amount of $58,118.52.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Province, LLC ("Province") *Financial Advisor to the Official Committee of Opioid Claimants*	6/14/2023 Docket No. 2217	$3,590,469.50	$3,580,267.30[17]	$3,222,240.57	$0.00	$3,222,240.57	$12,353.63	$12,353.63
Roger Frankel ("FCR") *Future Claimants' Representative*	6/14/2023 Docket No. 2184	$547,560.00	$547,560.00	$492,804.00	$0.00	$492,804.00	$1,498.00	$1,498.00
Frankel Wyron LLP ("Frankel") *Counsel to the Future Claimants' Representative*	6/14/2023 Docket No. 2186	$252,618.75	$252,618.75	$227,356.88	$0.00	$227,356.88	$908.00	$908.00
Young Conaway Stargatt & Taylor, LLP ("YCST") *Counsel to the Future Claimants' Representative*	6/14/2023 Docket No. 2187	$2,656,716.00	$2,643,230.50[18]	$2,378,907.45	$0.00	$2,378,907.45	$22,112.43	$22,112.43

[17] Pursuant to informal discussions with the Fee Examiner, Province has agreed to voluntarily reduce its fees sought in the amount of $10,202.20.

[18] Pursuant to informal discussions with the Fee Examiner, YCST has agreed to voluntarily reduce its fees sought in the amount of $13,485.50.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

Case Name: ***Endo International plc, et al.,***

(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Gilbert LLP ("Gilbert") *Special Insurance Counsel to the Future Claimants' Representative and the Committee of Unsecured Creditors*	6/14/2023 Docket No. 2190	$757,523.00	$747,707.05[19]	$672,936.35	$0.00	$672,936.35	$280.00	$280.00
NERA Economic Consulting ("NERA") *Economic Consulting Consultant to the Future Claimants' Representative*	6/14/2023 Docket No. 2188	$568,879.50	$568,879.50	$511,991.55	$0.00	$511,991.55	$13,212.00	$13,212.00
Ducera Partners LLC ("Ducera") *Investment Banker to the Future Claimants' Representative*	6/14/2023 Docket No. 2189	$500,000.00	$500,000.00	$450,000.00	$0.00	$450,000.00	$15,277.50	$15,277.50

[19] Pursuant to informal discussions with the Fee Examiner, Gilbert has agreed to voluntarily reduce its fees sought in the amount of $9,815.95.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

Various Dates through April 30, 2023 (Second Interim Fee Period)

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(1) Applicant	(2) Date/Doc. No. of Application	(3) Interim Fees Requested in Application	(4) Fees Allowed	(5) Fees to be Paid for Current Fee Period (90%)[2]	(6) Fees to be Paid for Prior Fee Period(s) (Holdback Release)	(7) Total Fees to be Paid	(8) Interim Expenses Requested	(9) Expenses Allowed and to be Paid for Current Fee Period[3]
Pillsbury Winthrop Shaw Pittman LLP "(Pillsbury Winthrop") *Counsel to the Multi-State Endo Executive Committee*	6/14/2023 Docket No. 2205	$815,055.75	$814,023.55[20]	$732,621.20	$0.00	$732,621.20	$3,574.42	$3,574.42
Houlihan Lokey Capital Inc. ("Houlihan Lokey") *Investment Banker and Financial Advisor to the Multi-State Endo Executive Committee*	6/14/2023 Docket No. 2207	$900,000.00	$900,000.00	$810,000.00	$0.00	$810,000.00	$49.50	$49.50
Bielli & Klauder, LLC ("B&K") *Counsel to the Fee Examiner, David M. Klauder, Esq.*	6/14/2023 Docket No. 2197	$160,000.00	$160,000.00	$144,000.00	$0.00	$144,000.00	$0.00	$0.00

[20] Pursuant to informal discussions with the Fee Examiner, Pillsbury Winthrop has agreed to voluntarily reduce its fees sought in the amount of $1,032.20.

Exhibit J

Case No. 22-22549 (JLG) **CURRENT INTERIM FEE PERIOD** **Schedule "A"**

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Perkins Coie LLP ("Perkins") *Tier 1A OCP Professional*	6/14/2023 7/17/2023 Docket Nos. 2222, 2453	$1,719,308.70	$1,716,941.10[21]	$1,500,000.00[22]	$0.00	$1,500,000.00	$0.00	$0.00
Womble Bond Dickinson (US) LLP ("Womble Bond") *Tier 1A OCP Professional*	6/14/2023 Docket No. 2220	$789,679.00	$789,679.00	$789,679.00[23]	$0.00	$789,679.00	$0.00	$0.00
Shardul Amarchand Mangaldas & Co., ("Shardul") *Tier 1 OCP Professional*	6/14/2023 Docket No. 2219	$490,992.78	$490,992.78	$490,992.78[23]	$0.00	$490,992.78	$0.00	$0.00

DATE ON WHICH ORDER WAS SIGNED:10/3/2023 **INITIALS: JLG USBJ**

[21] Pursuant to informal discussions with the Fee Examiner, the Perkins firm agreed to a voluntary reduction in fees sought in the amount of $2,367.60.

[22] Fees to be paid represents fees that are below Perkins' Tier 1A OCP Case Cap of $2,700,000.00 pursuant to Notice of Tier Change Professionals Utilized in the Ordinary Course of Business [Docket No. 2175].