

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Vyera Pharmaceuticals, LLC, *et al.*,¹

Debtors.

Chapter 11, Subchapter V

Case No. 23-10605 (JKS)

(Jointly Administered)

**Proposed Obj. Deadline: At the Hearing
Proposed Hearing Date: August 10, 2023 at
1:00 p.m. (ET)**

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER SHORTENING NOTICE
AND OBJECTION PERIODS IN CONNECTION WITH THE MOTION OF THE
DEBTORS FOR ENTRY OF AN ORDER (I)(A) ESTABLISHING BIDDING
PROCEDURES; (B) APPROVING BID PROTECTIONS; (C) ESTABLISHING
PROCEDURES RELATING TO ASSUMPTION AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS, INCLUDING NOTICE OF PROPOSED CURE
AMOUNTS; (D) APPROVING FORM AND MANNER OF NOTICE; (E) SCHEDULING
A HEARING TO CONSIDER ANY PROPOSED SALE; AND (F) GRANTING
RELATED RELIEF; AND (II)(A) APPROVING A SALE; (B) AUTHORIZING
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN
CONNECTION WITH THE SALE; AND (C) GRANTING RELATED RELIEF**

Vyera Pharmaceuticals, LLC and its affiliated debtors and debtors in possession in the above-captioned subchapter V cases (collectively, the “Debtors”), by and through their counsel, hereby file this motion (this “Motion to Shorten”), for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), shortening the notice and objection periods in connection with the *Motion of the Debtors for Entry of an Order (I)(A) Establishing Bidding Procedures; (B) Approving Bid Protections; (C) Establishing Procedures Relating to Assumption and Assignment of Certain Executory Contracts, Including Notice of Proposed Cure Amounts; (D)*

¹ The Debtors in these subchapter V cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are as follows: Vyera Pharmaceuticals, LLC (1758); Oakrum Pharma, LLC (3999); SevenScore Pharmaceuticals, LLC (2598); Phoenixus AG (1091); Dermelix Biotherapeutics, LLC (4711); and Orpha Labs AG. The Debtors’ headquarters and the mailing address for the Debtors is 600 3rd Avenue, 19th Floor, New York, NY 10016.

*Approving form and Manner of Notice; (E) Scheduling a Hearing to Consider any Proposed Sale; and (F) Granting Related Relief; and (II)(A) Approving a Sale; (B) Authorizing Assumption and Assignment of Certain Executory Contracts in Connection with the Sale; and (C) Granting Related Relief [D.I. 171] (the “Motion”).*² In support of this Motion to Shorten, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over these subchapter V cases, the Debtors, property of the Debtors’ estates, and this matter under 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtors consent to entry of a final order by the Court in connection with this Motion if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. The statutory bases for relief requested in this Motion to Shorten are rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 9006-1(c) and 9006-1(e).

² Capitalized terms used but not otherwise defined in this Motion to Shorten have the meanings ascribed to them in the Motion.

BACKGROUND

5. On May 9, 2023 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code and elected to proceed under subchapter V thereunder. Additional information about the Debtors’ businesses and the events leading to the commencement of these subchapter V cases can be found in the First Day Declaration [D.I. 10], which is incorporated herein by reference.

6. The Debtors are continuing in possession of their respective properties and are continuing to operate their businesses as debtors in possession pursuant to section 1184 of the Bankruptcy Code. On May 10, 2023, the Office of the United States Trustee for Region 3 (the “U.S. Trustee”) appointed David M. Klauder as the Subchapter V Trustee in these subchapter V cases (the “Subchapter V Trustee”). The U.S. Trustee held a meeting of creditors pursuant to section 341 of the Bankruptcy Code on June 6, 2023.

RELIEF REQUESTED

7. By this Motion to Shorten, the Debtors request that this Court enter an order, substantially in the form of the Proposed Order attached hereto as **Exhibit A**, pursuant to Bankruptcy Rule 9006 and Local Rules 9006-1(c) and 9006-1(e), (a) shortening the notice and objection periods with respect to consideration of the Motion on the Debtors’ proposed bidding procedures, (b) setting the hearing on the relief sought by the Motion for the hearing scheduled for **August 10, 2023 at 1:00 p.m. (ET)**, (c) requiring that any objections to the relief sought by the Motion must be filed prior to **or presented at the hearing**, and (d) granting related relief. This request relates only to the portion of the Motion related to the “Sales Procedure Order” as defined in Local Rule 6004-1(c) as the Motion itself provides additional notice for the hearing and objection deadline to the sale contemplated by the Motion.

BASIS FOR RELIEF REQUESTED

8. Local Rule 9006-1(c)(i) requires that “Sale Procedure Motions” filed pursuant to Local Rule 6004-1(c) must be filed at least twenty-one (21) days prior to a hearing on such motions. However, Local Rule 9006-1(e) permits scheduling on shortened notice on written motion specifying the exigencies justifying such request. *See* Del. Bankr. L.R. 9006-1(e). Should the Court grant this Motion to Shorten, the Debtors respectfully request that the Court consider the Sale Procedures portion of the Motion and any objections to those Sale Procedures at a hearing on **August 10, 2023 at 1:00 p.m. (ET)**. Further, Local Rule 9006-1(c) requires that the objection deadline with respect to motions be scheduled to permit all objections to be filed at least seven (7) days prior to the hearing date.

9. Here, there is ample cause to grant this Motion to Shorten. The Debtors and their professionals have been marketing the assets proposed to be sold for over six (6) months. Finally, the Debtors have a deal in hand with Tilde Sciences LLC (the “Stalking Horse Bidder”). Given the fast-approaching confirmation date set in these subchapter V cases for September 13, 2023, the Debtors and the proposed Stalking Horse Bidder are focused intently on consummating the proposed sale on an expedited basis. Additionally, the Sale Procedures portion Motion of the Motion proposes additional notice of the proposed sale and subsequent objection dates to the sale itself. To that end, the Debtors, in consultation with the proposed Stalking Horse Bidder, have proposed a tight timeline for the bidding procedures and sale process. The asset purchase agreement between the parties provides that the sale must close by August 31, 2023, which does not provide much leeway in terms of approval of the Motion to kickstart the sale process.

10. Absent shortening notice here, the Debtors likely would have to push each of the deadlines set forth in the Motion back significantly, which could jeopardize the sale to the proposed

Stalking Horse Bidder (or an alternative bidder should one arise). The proceeds from the sale, as set forth in the asset purchase agreement, would add to the potential pot available for cash distributions to the Debtors' general unsecured creditors within ninety (90) days of the effective date of the Debtors' proposed amended plan [D.I. 157]. As this Court is aware, through a settlement agreement with Cerovene, Inc. and Dr. Reddy's Laboratories, Inc., the Debtors are required to set aside certain funds for distribution to general unsecured creditors, notwithstanding the funding requirements for the Debtors' ORL-101 business. The proceeds from this sale will help bolster the Debtors' prospects to fully fund that business segment on the effective date.

11. Accordingly, the Debtors respectfully submit that there is significant and sufficient cause here to grant this Motion to Shorten and modify the noticing requirements set forth in the Local Rules.

12. Pursuant to Local Rule 9006-1(e), this Court may rule on this Motion to Shorten without the need for a hearing, and accordingly, the Debtors request that this Motion to Shorten be granted without the need for a hearing.

13. The Debtors inquired about this Motion to Shorten with (i) the U.S. Trustee, which stated an initial objection to shortening notice generally; and (ii) the Subchapter V Trustee, which does not oppose the relief requested. While the Debtors initially intended to have an objection deadline fall on August 4, 2023 at 4:00 p.m. (ET), in an attempt to provide parties with more notice, the Debtors, through this Motion to Shorten, are now asking for objections to the Motion be heard at the hearing on **August 10, 2023 at 1:00 p.m. (ET)**; which provides 13 days' notice of the time to object to the Sale Procedures Motion – only 1 day less than had the hearing been noticed for a full 21 day period..

NOTICE

14. Notice of this Motion to Shorten will be provided in accordance with the Local Rules to: (i) the U.S. Trustee; (ii) the Delaware Secretary of State, (iii) the Office of the Attorney General of the states in which the Debtors operate; (iv) the Federal Trade Commission; (v) the United States Food and Drug Administration; (vi) the Internal Revenue Service; (vii) the Debtors' 20 largest unsecured creditors; (viii) the Subchapter V Trustee; and (ix) such parties entitled to notice in accordance with Bankruptcy Rule 2002. The Debtors respectfully submit that no other or further notice of this Motion to Shorten is required.

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WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form of the Proposed Order attached hereto as **Exhibit A**, granting the relief requested in this Motion to Shorten, and grant such other and further relief as the Court deems just and proper.

Dated: July 31, 2023
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Matthew S. Sarna

R. Craig Martin (DE No. 5032)
Matthew S. Sarna (DE No. 6578)
1201 North Market Street
Wilmington, Delaware 19801
Tel: (302) 468-5700
Fax: (302) 397-2336
Email: craig.martin@us.dlapiper.com
matthew.sarna@us.dlapiper.com

-and-

John K. Lyons (admitted *pro hac vice*)
444 West Lake Street, Suite 900
Chicago, Illinois 60606-0089
Tel: (312) 368-4000
Fax: (312) 236-7516
Email: john.lyons@us.dlapiper.com

Counsel to the Debtors

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Vyera Pharmaceuticals, LLC, *et al.*,¹

Debtors.

Chapter 11, Subchapter V

Case No. 23-10605 (JKS)

(Jointly Administered)

Related D.I.: ____

ORDER SHORTENING NOTICE AND OBJECTION PERIODS IN CONNECTION WITH THE MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (I)(A) ESTABLISHING BIDDING PROCEDURES; (B) APPROVING BID PROTECTIONS; (C) ESTABLISHING PROCEDURES RELATING TO ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS; (D) APPROVING FORM AND MANNER OF NOTICE; (E) SCHEDULING A HEARING TO CONSIDER ANY PROPOSED SALE; AND (F) GRANTING RELATED RELIEF; AND (II)(A) APPROVING A SALE; (B) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN CONNECTION WITH THE SALE; AND (C) GRANTING RELATED RELIEF

Upon the Motion to Shorten, filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) shortening the notice and objection periods in connection with the *Motion of the Debtors for Entry of an Order (I)(A) Establishing Bidding Procedures; (B) Approving Bid Protections; (C) Establishing Procedures Relating to Assumption and Assignment of Certain Executory Contracts, Including Notice of Proposed Cure Amounts; (D) Approving form and Manner of Notice; (E) Scheduling a Hearing to Consider any Proposed Sale; and (F) Granting Related Relief; and (II)(A) Approving a Sale; (B) Authorizing Assumption and Assignment of Certain Executory Contracts in Connection with*

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the Sale; and (C) Granting Related Relief [D.I. 171] (the “Motion”);² and this Court having found that (i) this Court has jurisdiction over the Debtors and their estates, and to consider approval of the Settlement Agreement and the relief requested therein under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012, (ii) this Court may enter a final order consistent with Article III of the United States Constitution, (iii) this is a core proceeding under 28 U.S.C. § 157(b), (iv) venue of this proceeding and this matter in this District is proper under 28 U.S.C. §§ 1408 and 1409, and (v) the Debtors’ notice was adequate and appropriate under the circumstances and no other or further notice need be provided; and this Court having reviewed the Motion to Shorten; and this Court having found and determined that the approval sought is in the best interests of the Debtors’ estates, their creditors and other parties in interest; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion to Shorten is GRANTED, as set forth in this Order.
2. The hearing to consider the relief requested in the Motion shall be held on **August 10, 2023 at 1:00 p.m. (ET)**.

² Capitalized terms used but not otherwise defined in this Motion to Shorten shall have the meanings ascribed to them in the Motion.

3. Any objections or responses to the relief requested by the Motion must be filed prior to or presented at the hearing on **August 10, 2023 at 1:00 p.m. (ET)**.

4. This Court shall retain jurisdiction over all matters arising from or related to the interpretation or implementation of this Order.