UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
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In re: BIRD GLOBAL, INC., *et al.*, Debtors.	Chapter 11 Cases Case No. 23-20514-CLC (Jointly Administered)

THIRD LANE MOBILITY, INC'S JOINDER IN AND SUPPLEMENT TO BRIEFS REGARDING THE SUPREME COURT OPINION IN *HARRINGTON V. PURDUE PHARMA, L.P.* AND RELATED FILINGS

Third Lane Mobility, Inc., successor by name change to Bird Scooter Acquisition Corp. (the "Purchaser"), by and through undersigned counsel, (a) files this Joinder in the (1) *Debtors' Brief Regarding The Supreme Court's Opinion in Harrington v. Purdue Pharma, L.P.* [ECF No. 1133] (the "Debtors' Brief"); (2) *Underwriters' Joinder and Supplement to Debtors' Brief Regarding The Supreme Court's Opinion in Harrington v. Purdue Pharma, L.P.* [ECF No. 1135] (the "Underwriters' Brief"); (3) *Municipalities' Joinder and Supplement to Debtors' Brief Regarding The Supreme Court's Opinion in Harrington v. Purdue Pharma, L.P.* [ECF No. 1138] and (4) the United States Trustee's Post Confirmation Statement [ECF No. 1130] (collectively, the "Plan Support Briefs"), and (b) submits its supplemental memorandum regarding the Supreme Court's opinion in *Harrington v. Purdue Pharma L. P.*, 144 S. Ct. 2071 (2024) ("*Purdue*"), and states as follows:

As detailed and argued in the Plan Support Briefs, to which the Purchaser joins in all respects, the Plan[1] and Insurance Settlement Agreement simply do not contain the non-consensual,

[1] Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the *Debtors' Second Amended Joint Plan of Liquidation* [ECF No. 802] (the "Plan").

third-party releases that are prohibited under *Purdue*. To be clear, the Debtors amended their *First Amended Joint Plan of Liquidation* [ECF No. 643] to delete the now-prohibited third-party releases that were contained therein.

Instead, the Plan and Insurance Settlement Agreements contain a bar order and channeling injunction pursuant to the Eleventh Circuit's decision in *Munford,*[2] Bankruptcy Rule 9019 and sections 105 and 363 of the Bankruptcy Code—not section 1123(b)(6). In *Munford,* the Eleventh Circuit found that bankruptcy courts can "enter bar orders where such orders are integral to settlement in an adversary proceeding." *Id.* at 455. By its own terms, *Purdue* is limited to third-party releases contained in a plan of reorganization, with its primary focus on whether such releases can be included in a plan under section 1123(b)(6). Unlike *Munford*, *Purdue* does not – by its explicit terms – apply to settlements of litigation causes of action outside of the plan context. Likewise, *Purdue* does not apply to settlements under Bankruptcy Rule 9019 or sales of insurance policies under section 363. Importantly, in the Eleventh Circuit, bar orders in furtherance of a settlement agreement (which often occur in the context of a chapter 7 case or independent of a plan) are distinct from non-consensual third-party releases that are included as part of a plan of reorganization. In *Centro Group,*[3] the Eleventh Circuit specifically discussed the differences between bar orders which are a necessary part of a settlement agreement, as provided for in *Mumford*, and the types of non-consensual, third-party releases disallowed by *Purdue*. Therefore, following the rational of *Centro Group*, *Mumford* remains binding precedent in the Eleventh Circuit and has not been overruled by *Purdue*. Any attempt by the

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2. *Matter of Munford, Inc*., 97 F.3d 449 (11th Cir. 1996) ("Munford").
3. *In Re Centro Grp., LLC*, No. 21-11364, 2021 WL 5158001 (11th Cir. Nov. 5, 2021) ("*Centro Group*").

Tort Claimants to expand the scope of *Purdue* to cover bar orders approved under *Munford* is unavailing and would contradict the express limiting language in *Purdue.*

Importantly and notwithstanding the above, even if the bar order and channeling injunction in the Plan and Insurance Settlement Agreements can be considered the equivalent of the third-party release contained in *Purdue*, the Supreme Court made clear that it was not "pass[ing] upon a plan that provides for the full satisfaction of claims against a third-party nondebtor." *Id.* at 2088. As detailed in the Debtors' Brief and the Underwriters' Brief, the greater weight of the evidence presented to the Court at the confirmation hearing establishes that the Tort Claims will be satisfied in full by the monies being deposited into the Tort Claims Trust. As a result, the Plan and the Insurance Settlement Agreements fit squarely within the exception established by *Purdue* for approval of third-party releases.

Moreover, absent the Insurance Settlement Agreements, all of the settled issues would be unwound and litigation by the Tort Claimants would devolve into protracted years'-long litigation with no guarantee of any recovery. As many of the insurance policy years have been partially or wholly exhausted, absent approval of the Insurance Settlement Agreements, some Tort Claimants will recover while many others will recover little to nothing. Further, without the Insurance Settlement Agreements, the Debtors will be liable to fund the SIR obligations, further limiting the ability of the Tort Claimants to recover on their claims.

For the reasons set forth in the Plan Support Briefs and supplemented herein, this Court should enter an order confirming the Plan and approving the Insurance Settlement Agreements, including the bar order and channeling injunction contained therein.

DATED: July 16, 2024.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on July 16, 2024, a true and correct copy of the foregoing document has been furnished via electronic mail by virtue of the Court's CM/ECF System to all parties registered to receive electronic notice in this case.

By: */s/ Paul J. Battista*
Paul J. Battista, Esq.