

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

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In re: : Chapter 11
:
FISKER AUTOMOTIVE HOLDINGS, INC., et al. : Case No. 13-13087-KG
:
Debtors. : (Jointly Administered)
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**MOTION FOR EXPEDITED CONSIDERATION OF EMERGENCY
MOTION OF HYBRID TECH HOLDINGS, LLC TO (I) SHORTEN
DEADLINE TO ANSWER MOTION FOR LEAVE TO APPEAL
(II) SHORTEN DESIGNATION PERIOD AND (III) EXPEDITE
TRANSMITTAL OF RECORD ON APPEAL TO THE DISTRICT COURT**

Hybrid Tech Holdings, LLC, in its capacity as assignee to the rights of the United States Department of Energy as lender to Fisker (“Hybrid Holdings”), by and through its undersigned counsel, hereby submits this emergency motion for expedited consideration (“Motion for Expedited Consideration”) of its Motion to (i) Shorten Deadline to Answer Motion for Leave to Appeal (ii) Shorten Designation Period and (iii) Expedite Transmittal of Record on Appeal to the District Court (the “Motion for Expedited Transmittal”) filed contemporaneously herewith. In support of the Motion, Hybrid Holdings respectfully states as follows:

JURISDICTION

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 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. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.

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

3. The statutory bases for the relief requested herein are section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

BACKGROUND

4. On November 22, 2013, the Debtors entered into an agreement with Hybrid Holdings to acquire the Debtors’ assets through a \$75 million credit bid by Hybrid Holdings of the DOE Loan. On November 22, 2013, the Debtors filed a motion to approve the Hybrid Purchase Agreement. On November 24, 2013, the Debtors filed the DIP Financing Motion providing for DIP financing loans from Hybrid Technology in the aggregate principal amount of \$8.14 million, which the Bankruptcy Court approved in part on an interim basis on November 26, 2013 and December 17, 2013.

5. On Friday, January 10, 2014, the Bankruptcy Court held a hearing to consider, among other things, whether the Debtors’ assets should be sold through an auction in lieu of confirming the Debtors’ proposed chapter 11 plan and whether Hybrid Holdings’ bid should be capped at \$25 million as the Committee requested. At the conclusion of the hearing, the Bankruptcy Court issued a decision from the bench (the “Credit Bid Decision”) limiting the creditor bid of Hybrid Holdings to \$25M and ordering an auction of the Debtors’ assets.

6. Concurrently with the filing of this Motion for Expedited Transmittal, Hybrid Holdings is filing (i) a Notice of Appeal of the Credit Bid Decision and (ii) an Emergency Motion for Leave to Appeal.

7. Upon the docketing of the appeal by the clerk of the District Court, Hybrid Holdings will be seeking an expedited appeal and expedited hearings on the Motion for Leave to Appeal and Motion to Withdraw the Reference in the District Court.

RELIEF REQUESTED

8. By this Motion for Expedited Consideration, Hybrid Holdings seeks the entry of an order shortening notice of the hearing to consider the Motion for Expedited Transmittal, with any objections to the Motion for Expedited Transmittal to be heard at the Hearing.

BASIS FOR RELIEF REQUESTED

9. Local Rule 9006-1(c)(i) requires that all motion papers be filed and served at least eighteen days prior to a proposed hearing, with an additional three days if service is by mail and nineteen days if service is by overnight delivery. Local Rule 9006-1(c)(ii) further provides that objections, if any, to such a motion are to be received at least seven days prior to the proposed hearing date.

10. Local Rule 9006-1(e), however, provides that a motion may be heard on less notice than as otherwise required if authorized “by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.”

11. As noted in the Motion for Expedited Transmittal, Hybrid Holdings is seeking an order (i) shortening the deadline for parties to file an answer to Hybrid Holdings’ Notice of Appeal, (ii) shortening the 14 day period provided by Fed. R. Bankr. P. 8006 for appellee’s designation of additional items to be included in the record on appeal and (iii) ordering the Clerk of the Bankruptcy Court to transmit a copy of the record on appeal to the Clerk of the U.S. District Court for the District of Delaware immediately upon the expiration of deadline for appellee’s designation of additional items to be included in the record on appeal.

12. The outcome of whether Hybrid Holdings can credit bid the full amount of its debt will dictate the outcome of these cases and, more specifically, the permissible contents of a chapter 11 plan and residual creditor distributions. The issue of whether the Bankruptcy Court properly interpreted section 363(k) to restrict Hybrid Holdings from credit bidding its full claim is a gating issue to the advancement of the sale and plan process, and ultimately the fate of the Debtors' chapter 11 cases. An immediate appeal of this decided issue would allow the sale process, plan process, and thus the case to proceed efficiently and would materially advance these chapter 11 cases.

13. Hybrid Holdings has an immediate need for appellate review of the Credit-Bid Decision and will suffer irreparable harm unless such review is not granted. Under the timeframes normally provided for under the Rules, months may pass before these issues are finally adjudicated. This is truly a situation where rights delayed are rights denied.

14. An expedited appeal in the District Court is essential to ensure that this appeal is not rendered moot by the Committee's and Debtors' proposed auction and sale timetable, which spans the next two to three weeks.

15. In order for Hybrid Holdings to file its emergency motions for expedited relief in the District Court, the District Court must open a docket for this appeal. The District Court cannot open a docket for this appeal until the record is transmitted by the Clerk of the Bankruptcy Court to the Clerk of the District Court.

16. Due to the expedited timeframes of the auction and sale process, it is essential that the normal timeframes for an appellee's designation set forth in Fed. R. Bankr. P. 8006 be shortened and for the Clerk of the Bankruptcy Court to immediately transfer the record on appeal to the District Court.

17. Accordingly, the requisite exigent circumstances exist for expedited consideration of the Motion for Expedited Transmittal.

NOTICE

18. Hybrid Holdings shall provide notice of this Motion for Expedited Consideration and the Motion for Expedited Transmittal to: (a) counsel for the Debtors; (b) counsel for the Committee of Unsecured Creditors; (c) the Office of the United States Trustee for the District of Delaware; (d) all parties entering an appearance in these cases pursuant to Rule 2002; and (e) counsel to Wanxiang. In light of the nature of the relief requested, Hybrid Holdings respectfully submits that no further notice is necessary.

WHEREFORE, Hybrid Holdings respectfully requests that the Court enter an order in the attached form (i) granting the relief requested in the Motion for Expedited Consideration, (ii) considering the Motion for Expedited Transmittal at the Hearing, with objections, if any, to be heard at the Hearing, and (iii) granting Hybrid Holdings such other and further relief as is just and equitable.

Respectfully submitted,

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Dated: January 14, 2014

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

In re: : Chapter 11
FISKER AUTOMOTIVE HOLDINGS, INC., *et al.* : Case No. 13-13087-KG
Debtors. : (Jointly Administered)
:

ORDER

AND NOW, this _____ day of January, 2014, upon consideration of Hybrid Tech Holdings, LLC's Motion for Expedited Consideration of its Emergency Motion to (i) Shorten Deadline to Answer Motion for Leave to Appeal (ii) Shorten Designation Period and (iii) Expedite Transmittal of Record on Appeal to the District Court (the "Motion for Expedited Transmittal"), and any responses thereto, it is hereby:

ORDERED that any responses to Hybrid Tech Holdings, LLC's Motion for Expedited Transmittal shall be filed by January _____, 2014 at 4:00 p.m. (prevailing Eastern time); and it is further

ORDERED that a hearing on Hybrid Tech Holdings, LLC's Motion for Expedited Transmittal shall be held in Courtroom _____, at _____, on January _____, 2014.

Dated: _____
Wilmington, Delaware

The Honorable Kevin Gross
Chief United States Bankruptcy Judge