

**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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**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 of 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 (the “Motion”) to shorten the deadline for parties to file an answer to Hybrid Holdings’ Notice of Appeal, shorten the designation period provided by Fed. R. Bankr. P. 8006, and expedite transmittal of the record on appeal to the District Court. In support of the Motion, Hybrid Holdings respectfully states as follows:

BACKGROUND

1. 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.

2. 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.

3. Concurrently with the filing of this Motion, Hybrid Holdings is filing (i) a Notice of Appeal of the Credit Bid Decision, (ii) an Emergency Motion for Leave to Appeal and (iii) an Emergency Motion for Expedited Hearing on its Emergency Motion to Shorten Designation Period and Expedite Transmittal of Appeal to District Court.

4. Upon the docketing of the appeal by the clerk of the District Court, Hybrid Holdings will be seeking an expedited appeal in the District Court.

RELIEF REQUESTED

5. Hybrid Holdings respectfully requests, pursuant to Fed. R. Bankr. P. 8019 and 9006(c), that the Court enter an order in the attached form (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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. Pursuant to Fed. R. Bankr. P. 8011(d), the names, addresses, and telephone numbers of counsel for the Debtors and the Committee are set forth below:

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WHEREFORE, Hybrid Holdings respectfully requests that the Court enter an order in the attached form (i) shortening the deadline for parties to file answers 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, (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 and (iv) 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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