

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Hearing Date: November 12, 2024 at 2:00 p.m. (ET)

Obj. Deadline: October 23, 2024 at 4:00 p.m. (ET)

**LIQUIDATION TRUSTEE’S MOTION FOR ENTRY OF AN ORDER
EXTENDING THE CLAIMS OBJECTION DEADLINE**

The Liquidation Trustee (the “Trustee”) of the InVivo Therapeutics Liquidation Trust (the “Trust”), by and through its undersigned counsel, hereby submits the *Liquidation Trustee’s Motion for Entry of an Order Extending the Claims Objection Deadline* (the “Motion”).² In support of the Motion, the Trustee respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this Motion 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. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. 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.³

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 246-1] (the “Plan”).

³ Pursuant to Local Rule 9013-1(f), the Trustee hereby confirms its consent to entry of a final order by this Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.



BACKGROUND

2. On February 1, 2024 (the “Petition Date”), the Debtors commenced the above-captioned chapter 11 cases (the “Chapter 11 Cases”) by each filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

3. On June 21, 2024, the Court entered the Confirmation Order confirming the Plan. *See* D.I. 246. The Effective Date of the Plan occurred on July 12, 2024. *See* D.I. 270.

4. On the Effective Date, the Trust was established and, in accordance with the Liquidation Trust Agreement, Plan, and Confirmation Order, the Trustee was appointed.

5. The Liquidation Trust serves to, among other things, liquidate its assets and make distributions pursuant to the terms of the Plan, Confirmation Order and Liquidation Trust Agreement. *See* Plan, Art. IV.C.2.

6. Since the occurrence of the Effective Date, the Trustee, through its professionals, has continued to review and analyze claims on an ongoing basis as part of the claims reconciliation process. Such process has included (i) pursuing potential objections to claims asserted against the Debtors, and (ii) if appropriate, negotiating with purported claimants based on those objections.

7. Pursuant to the Plan and the Confirmation Order, the initial deadline to object to any Claims or Administrative Claims asserted against the Debtors is October 10, 2024 (the “Claims Objection Deadline”). *See* Plan, Art. I.A.22 (setting the deadline for objecting to claims or interests as the ninetieth (90th) day after the Effective Date, or such later deadline as may be fixed by an order of the Court upon motion filed by the Trustee); Confirmation Order ¶ 17 (same).

8. Since the Effective Date, the Trustee has been diligently reviewing and analyzing Claims as part of the claim reconciliation process. As of the date of this Motion, however, the Trustee has not fully resolved all asserted Claims. The Trustee seeks an Order of this Court

extending the Claims Objection Deadline by one hundred twenty (120) days to, and including, February 7, 2025.

RELIEF REQUESTED

9. By this Motion, the Trustee requests the entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), extending the Claims Objection Deadline by one hundred twenty (120) days to February 7, 2025.⁴

10. Such an extension of the Claims Objection Deadline is without prejudice to the rights of the Trustee or any successor-in-interest’s right to seek further extensions thereof.

BASIS FOR RELIEF

11. As of October 9, 2024, the claims register reflects that ten (10) proofs of claim (collectively, the “Proofs of Claim”) were filed in the Debtors’ Chapter 11 Cases. Of these Proofs of Claim, nine (9) assert prepetition general unsecured portions and one (1) asserts a priority tax claim.

12. The Trustee and his professionals are diligently reviewing and analyzing all Claims that remain outstanding. To date, the Trustee believes that it has resolved most of the claims for which the Trust is responsible, with payment ready to be made once the final claims are reconciled. This has required a significant amount of time and effort to accomplish. Although the Trustee has made significant progress in reviewing and reconciling such Claims, it requests the relief sought herein out of an abundance of caution.

13. Pursuant to the Plan a Claim is deemed an Allowed Claim if no objection to such Claim has been filed as of the date of the Claims Objection Deadline. *See* Plan, Art. I.A.4. As a

⁴ Pursuant to Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the filing of this Motion prior to the expiration of the current Claims Objection Deadline and Administrative Claims Objection Deadline automatically extends such deadlines until such time as the Court rules on this Motion.

consequence, if the Claims Objection Deadline is not extended, the Trustee may be required to make distributions on account of Claims that may be disputed. Any distribution on account of such Claims would not be in the best interests of the Debtors' estates and creditors.

14. Almost three (3) months have passed since the Effective Date. The Trustee submits that an extension of one hundred twenty (120) days, while it continues to diligently review and analyze alleged Claims and Administrative Claims, is warranted and appropriate under the circumstances and that alleged holders of Claims will not be unduly burdened by such an extension.

15. For the foregoing reasons, the Trustee submits that the Claims Objection Deadline should be extended by one hundred twenty (120) days, to February 7, 2025, without prejudice to the Trustee or any successor-in-interest's right to seek further extensions of the Claims Objection Deadline as necessary.

NOTICE AND NO PRIOR REQUEST

16. The Trustee has provided notice of this Motion to the following or in lieu thereof, their counsel, if known: (a) the Office of the U.S. Trustee for the District of Delaware; (b) all parties who have filed a Claim as of the date hereof; and (c) all parties who have requested notice pursuant to Federal Rules of Bankruptcy Procedure rule 2002. In light of the nature of the relief requested herein, the Trustee submits that no other or further notice need be given.

17. No previous request for the relief sought in this Motion has been made to this Court or any other court.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Trustee respectfully requests that the Court enter the Proposed Order granting the relief requested herein and granting such other and

further relief as is just and

proper. Dated: October 9, 2024
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Joshua B. Brooks

Matthew B. McGuire (No. 4366)

Joshua B. Brooks (No. 6765)

George A. Williams III (No. 6964)

919 Market Street, Suite 1800

Wilmington, Delaware 19801

Telephone: (302) 467-4400

Facsimile: (302) 467-4450

Email: mcguire@lrclaw.com

brooks@lrclaw.com

williams@lrclaw.com

Counsel for the InVivo Therapeutics Liquidation Trust

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

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Hearing Date: November 12, 2024 at 2:00 p.m. (ET)

Obj. Deadline: October 23, 2024 at 4:00 p.m. (ET)

**NOTICE OF MOTION OF LIQUIDATION TRUSTEE FOR ENTRY OF AN ORDER
EXTENDING TIME PERIOD WITHIN WHICH ACTIONS MAY BE REMOVED
PURSUANT TO 28 U.S.C. § 1452**

TO: (i) the Office of the United States Trustee (Attn: Joseph Cudia, Esq.); and (ii) all parties who have requested notice pursuant to Federal Rules of Bankruptcy Procedure rule 2002.

On October 22, 2024, the Liquidation Trustee of the InVivo Therapeutics Liquidation Trust, filed the *Liquidation Trustee's Motion for Entry of an Order Extending the Claims Objection Deadline* (the "Motion").²

Objections, if any, to the relief requested in the Motion must be filed with the United States Bankruptcy Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **October 23, 2024 at 4:00 p.m. (ET)**.

At the same time, you must also serve a copy of the objection upon the undersigned counsel so as to be **received no later than 4:00 p.m. (ET) on October 23, 2024**.

A HEARING ON THE MOTION WILL BE HELD **NOVEMBER 12, 2024 AT 2:00 P.M. (ET)** BEFORE THE HONORABLE MARY F. WALRATH, UNITED STATES BANKRUPTCY COURT JUDGE, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR, COURTROOM 4, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors' mailing address is 1500 District Avenue, Burlington, MA 01803.

² Capitalized terms utilized but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Dated: October 9, 2024
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Joshua B. Brooks

Matthew B. McGuire (No. 4366)

Joshua B. Brooks (No. 6765)

George A. Williams III (No. 6964)

919 Market Street, Suite 1800

Wilmington, Delaware 19801

Telephone: (302) 467-4400

Facsimile: (302) 467-4450

Email: mcguire@lrclaw.com

brooks@lrclaw.com

williams@lrclaw.com

Counsel for the InVivo Therapeutics Liquidation Trust

EXHIBIT A

Proposed Order

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

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. No. ____

**ORDER GRANTING LIQUIDATION TRUSTEE’S MOTION FOR ENTRY OF
AN ORDER EXTENDING THE CLAIMS OBJECTION DEADLINE**

Upon the *Liquidation Trustee’s Motion for Entry of an Order Extending the Claims Objection Deadline* (the “Motion”)² of the Liquidation Trustee in the above-captioned cases (the “Trustee”) for the entry of an order extending the Claims Objection Deadline to February 7, 2025; and the Court having reviewed the Motion; and the Court finding that (i) 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, (ii) venue is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and a final order may be entered on this matter under Article III of the U.S. Constitution, (iv) notice of the Motion was sufficient under the circumstances and no other or further notice is necessary, and (v) a sound business purpose exists for the relief granted herein; 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 after due deliberation and sufficient cause appearing therefor; it is hereby ordered that:

1. The Motion is GRANTED as set forth herein.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

² Terms utilized but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

2. The Claims Objection Deadline shall be extended by approximately one hundred twenty (120) days to February 7, 2025.

3. The relief granted herein is without prejudice to the Liquidation Trustee or a successor-in-interest's right to seek further extensions of the Claims Objection Deadline.

4. The Liquidation Trustee and its authorized representatives are authorized and empowered to take any and all actions necessary to implement the terms of this Order.

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

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

Dated: _____, 2024
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE