

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

Orexigen Therapeutics, Inc.,

Debtor.¹

Chapter 11

Case No. 18-10518 (KG)

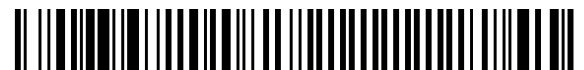
Re: D.I. 75, 151

**ORDER (A) ESTABLISHING BAR DATE FOR FILING PROOFS OF
CLAIM, (B) APPROVING THE FORM AND MANNER FOR FILING
PROOFS OF CLAIM, (C) APPROVING NOTICE THEREOF, (D)
IMPLEMENTING UNIFORM PROCEDURES REGARDING 503(B)(9)
CLAIMS, AND (E) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the above-captioned debtor and debtor-in-possession (the "Debtor"), for entry of an order (this "Order"), pursuant to section 501 the Bankruptcy Code, Bankruptcy Rules 2002 and 3003(c)(3), and Local Rules 2002-1(e) and 3003-1: (a) establishing the deadline by which creditors, other than governmental units, must file proofs of claim the Debtor (the "General Bar Date"); (b) establishing the deadline by which governmental units must file proofs of claim against the Debtor (the "Governmental Bar Date"); (c) establishing the later of (i) the General Bar Date and (ii) twenty-one (21) days after the effective date of rejection, as provided by an order of this Court or pursuant to a notice under procedures approved by this Court, as the deadline by which a proof of claim relating to the Debtor's rejection of an executory contract or unexpired lease must be filed against the Debtor (the "Rejection Bar Date"); (d) establishing the deadline, if necessary, by which creditors holding claims that have been amended by the Debtor in its Schedules (as defined below) as the

¹ The last four digits of Debtor's federal tax identification number are (8822). The Debtor's mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA, 92037.

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



later of (i) the General Bar Date and (ii) twenty-one (21) days after the date that notice of the amendment is served on the affected claimant (the "Amended Schedule Bar Date," and together with the General Bar Date, the Governmental Bar Date, the Rejection Bar Date and the Amended Schedules Bar Date, the "Bar Dates"); (e) approving the forms of notice to be used to inform potential creditors of the Bar Dates; (f) approving mailing procedures with respect to notice of the Bar Dates; (g) establishing the procedure by which proofs of claim for certain administrative expenses pursuant to section 503(b)(9) of the Bankruptcy Code must be filed; and (h) providing certain supplemental relief.; and it appearing that the relief requested in the Motion is in the best interest of the Debtor and its estate and that the establishment of the Bar Dates and the procedures set forth in the Motion are fair and reasonable and will provide good, sufficient, and proper notice to all creditors of their rights and obligations in connection with claims they may have against the Debtor or its property in this Chapter 11 Case; 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 that, and (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and notice of this Motion having been due and sufficient under the circumstances; and after any hearing and upon the record in these Cases; and after due deliberation; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. Bar Dates. The Bar Dates set forth in the Motion are hereby **APPROVED**.
3. Notices and Forms. The forms of the Bar Date Notice, Notice of Amended Schedules, the Publication Notice, and the Claim Form, substantially in the forms attached to the

Motion, and the manner of providing notice of the Bar Dates proposed in the Motion, are **APPROVED**. The form and manner of notice of the Bar Dates approved are hereby deemed to fulfill the notice requirements of the applicable provisions of the Bankruptcy Code, and the Bankruptcy Rules, and the Local Rules.

4. The General Bar Date. The General Bar Date is 4:00 p.m. (prevailing Eastern Time) on the date that is 30 days after the date upon which the Debtor commences service of the Bar Date Notice and Claim Form (the "General Bar Date"). Within three business days following the later of: (i) the entry of this Order and (ii) the filing of its Schedules, the Debtor will serve, through its claims agent, KCC, the notice of Bar Dates (the "Bar Date Notice") and a Claim Form upon all known entities holding potential Prepetition Claims and/or 503(b)(9) Claims. The date upon which the Debtor commences service of the Bar Date Notice and Claim Form shall be the Service Date. On the Service Date, the Debtor shall file a notice indicating the exact calendar date of the deadline established as the General Bar Date.

5. The Governmental Bar Date. The Governmental Bar Date by which proofs of claim against the Debtor of Governmental Units must be filed is **September 10, 2018**.

6. Any Entity that asserts a Prepetition Claim and/or 503(b)(9) Claim against the Debtor is required to file an original, written proof of such Prepetition Claim and/or 503(b)(9) Claim using the Claim Form or Official Form No. 410 so as to be received on or before the General Bar Date or the Governmental Bar Date, as applicable, by either electronic upload through the Court's web portal or hardcopy delivery to:

Hardcopy (first class mail, overnight, or messenger delivery):

Orexigen Claims Processing Center

c/o KCC

2335 Alaska Ave.

El Segundo, CA 90245

7. The Debtor will not accept Claim Forms sent by e-mail, facsimile, telecopy, but may be completed electronically through the Debtor's web portal at <https://epoc.kccllc.net/orexigen>. A proof of claim for a Prepetition Claim and/or 503(b)(9) Claim shall be timely filed only if the original Claim Form is *actually received* by the Debtor on or before the General Bar Date or Governmental Bar Date, as applicable.

8. The following Entities are not required to file proofs of claim (collectively, the "Excluded Prepetition Claims"):

- a. any Entity that has already properly filed with the Court a proof of claim against the Debtor for which no other or additional amounts are sought or claims are asserted;
- b. any Entity whose Prepetition Claim and/or 503(b)(9) Claim is listed in the Debtor's Schedules, and is not designated as "disputed," "contingent," or "unliquidated," and with respect to which the Entity agrees with the nature, classification, and amount that such Prepetition Claim is identified in the Schedules;
- c. any Entity whose Prepetition Claim and/or 503(b)(9) Claim (including any Prepetition Claim and/or 503(b)(9) Claim listed in the Debtor's Schedules) previously has been allowed by, or paid in full pursuant to, an order of this Court;
- d. any holder of a claim for which a separate deadline to file a proof of claim has been fixed by this Court;
- e. any holder of an equity interest in the Debtor need not submit a proof of interest with respect to the ownership of such equity interest at this time; *provided, however*, that any holder of an equity interest who wishes to assert a claim against the Debtor other than with respect to ownership of such equity interest, including a claim relating to the purchase or sale of such interest or rescission under section 510 of the Bankruptcy Code, must submit a proof of claim on or before the General Bar Date pursuant to the procedures set forth herein;
- f. any holder of a claim allowable under sections 503(b) and 507(a)(2) of the Bankruptcy Code as an expense of administration (other than any portion of a Prepetition Claim relating to the Debtor's rejection of an executory contract or unexpired lease or any claim asserting administrative priority under section 503(b) of the Bankruptcy Code); *provided, however*, that, any Entity that has a 503(b)(9) Claim on account of prepetition goods

received by the Debtor within twenty days of the Petition Date must file a proof of claim on or before the General Bar Date;

- g. any current officer, director or employee of the Debtor that holds a claim based on indemnification, contribution, or reimbursement;
- h. any professionals retained by any of the Debtors pursuant to orders of this Court who assert administrative claims for fees and expenses subject to this Court's approval pursuant to sections 330, 331 and 503(b) of the Bankruptcy Code;
- i. any holder of a claim deemed allowed without the need for filing a proof of claim pursuant to the Interim DIP Order and final DIP Order entered by the (D.I. 48), including, without limitation, the Prepetition Secured Obligations, Prepetition Liens, any claims of the Prepetition Secured Parties, or the DIP Super-priority Claim (as such terms are defined therein); and
- j. any Entity that holds or asserts a Prepetition Claim that is limited exclusively to the repayment of principal, interest and/or other applicable fees and charges (a "Secured Notes Claim") owed under those certain 0% Convertible Senior Secured Notes due 2020 that were issued pursuant to that certain indenture (as amended, modified, or supplemented from time to time, the "Secured Notes Indenture"), dated as of March 21, 2016, by and among Orexigen Therapeutics, Inc., as Issuer, and U.S. Bank National Association, as trustee and collateral agent (the "Secured Notes Trustee"); provided, however, that: (i) the Secured Notes Trustee shall file one Proof of Claim against the Debtor on or before the General Bar Date, with respect to all of the amounts owed under the Secured Notes Indenture, (ii) the Secured Notes Trustee will be permitted, in lieu of attaching voluminous documentation, to file with its Proof of Claim a summary of the Secured Notes Indenture and any other operative documents, on the condition that such documents will be made available by the Secured Notes Trustee within ten (10) business days after receipt of a written request from a party in interest, and (iii) any holder of a Secured Notes Claim wishing to assert a Prepetition Claim other than a Secured Notes Claim must file a Proof of Claim on or before the General Bar Date, unless another exception in this paragraph applies.

9. Any Entity whose Prepetition Claim is not listed in the Debtor's Schedules or is listed as disputed, contingent, or unliquidated and that desires to participate in or share in any distribution in this Chapter 11 Case, and any Entity that believes its Prepetition Claim is improperly classified in the Schedules or is listed in an incorrect amount or is not listed in the

Schedules of the Debtor and that desires to have its Prepetition Claim allowed in a classification or amount other than that set forth in the Schedules, must file a proof of claim on or before the General Bar Date or Governmental Bar Date, as applicable.

10. Any Entity that desires to rely on the Schedules will have the responsibility for determining that the claim is accurately listed in the Schedules.

11. Rejection Bar Date. The Rejection Bar Date by which a proof of claim relating to the Debtor's rejection of any executory contract or unexpired lease must be filed is the later of (a) the General Bar Date and (b) twenty-one (21) days after the effective date of rejection of such executory contract or unexpired lease as provided by an order of this Court or pursuant to a notice under procedures approved by this Court.

12. Entities wishing to assert a Rejection Damages Claim are required to file an original proof of such Rejection Damages Claim using the Claim Form so as to be received on or before the Rejection Bar Date by either electronic upload through the Court's web portal or hardcopy delivery to the Court at the address set forth in Paragraph 7 above.

13. The Debtor will not accept Claim Forms sent by e-mail, facsimile, telecopy, but Claim Forms may be completed electronically through the Debtor's web portal at <https://epoc.kccllc.net/orexigen>. A proof of claim with respect to a Rejection Damages Claim shall be timely filed only if the original Claim Form is *actually received* by the Debtor on or before the Rejection Bar Date.

14. The Amended Schedule Bar Date. If and as necessary, the Amended Schedule Bar Date for creditors holding claims which have been amended by the Debtor in its Schedules or added by the Debtor to the Schedules is the later of (a) the General Bar Date and

(b) twenty-one (21) days after the date that the Notice of Amended Schedules is served on the affected claimant.

15. Entities wishing to file proofs of claim with respect to claims which have been amended by the Debtor in its Schedules or added thereto are required to file an original proof of such claim using the Claim Form or Official Form No. 410 so as to be received on or before the Amended Schedule Bar Date by either electronic upload through the Court's web portal or hardcopy delivery to the Court.

16. 503(b)(9) Claims. The following procedures shall apply for the filing of 503(b)(9) Claims:

- a. 503(b)(9) Claimants must use the Claim Form to indicate that a 503(b)(9) Claim is being asserted. As set forth in the Claim Form, each 503(b)(9) Claim against the Debtor must include, with specificity: (i) the amount of the 503(b)(9) Claim; (ii) the date of delivery of the goods the 503(b)(9) Claimant contends that the Debtor received within 20 days before the Petition Date; (iii) documentation, including invoices, receipts, bills of lading and the like, identifying the particular goods for which the 503(b)(9) Claim is being asserted; (iv) an identification of which goods (if any) were subject to a demand for reclamation asserted under section 546 of the Bankruptcy Code; and (v) documentation or other evidence that the goods with respect to which the 503(b)(9) Claim is being filed were sold in the ordinary course of the Debtor's business;
- b. All of the required information shall be sent to KCC, substantially in the form of the Claim Form, so as to be received on or before the General Bar Date by either mail or delivery by hand, courier, or overnight service at the address identified above for the Claims Processing Center;
- c. Nothing in these 503(b)(9) Claims Procedures shall affect the rights and remedies and/or defenses of the Debtors, claimants, or any other party-in-interest with regard to avoidance of any claim or obligation.

17. Claim Form. Each proof of claim filed for a Prepetition Claim must: (a) be written in the English language, (b) conform substantially with the Claim Form or Official Form 410, (c) attach copies of any writings upon which the asserted Prepetition Claim is based, (d) be

signed by the claimant or by an authorized agent of the claimant, and (e) be denominated in lawful currency of the United States; *provided, however*, that the Debtor reserves the right to convert a claim denominated in non-U.S. currency into U.S. currency using the applicable exchange rate as of the Petition Date.

18. Writings. Upon the advance express written consent of the Debtor, a proof of claim filed for a Prepetition Claim may be filed without the writings upon which the Prepetition Claim is based, as required by Bankruptcy Rules 3001(c) and (d) and this Order; *provided, however*, that, upon request of the Debtor or any other party in interest in this Chapter 11 Case, any creditor that receives such written consent shall be required to transmit promptly such writings to the Debtor and the party in interest making such request as soon as reasonably practicable, but in no event later than ten (10) days from the date of such request.

19. Effect of Failure to File by Applicable Bar Date. Any Entity that is required pursuant to this Order to file a proof of claim for a Prepetition Claim, Rejection Damages Claim and/or a 503(b)(9) Claim in this Chapter 11 Case pursuant to the Bankruptcy Code, the Bankruptcy Rules, or this Order with respect to a particular claim against the Debtor, but that fails to do so on or by the applicable Bar Date, may be forever barred, estopped, and enjoined from asserting such Prepetition Claim, Rejection Damages Claim and/or 503(b)(9) Claim against the Debtor (and from filing a proof of claim for a Prepetition Claim or a Rejection Damages Claim with respect thereto), and the Debtor and its property may be forever discharged from any and all indebtedness or liability with respect to such Prepetition Claim, Rejection Damages Claim and/or 503(b)(9) Claim. Additionally, any holder of any Prepetition Claim, Rejection Damages Claim and/or 503(b)(9) Claim who is required, but fails, to file a proof of such Prepetition Claim, Rejection Damages Claim and/or 503(b)(9) Claim in accordance with

this Order on or before the applicable Bar Date may not be permitted to vote to accept or reject any plan or plans or participate in any distribution in the Debtor's Chapter 11 Case on account of such Prepetition Claim, Rejection Damages Claim or 503(b)(9) Claim or to receive further notices regarding such Prepetition Claim or Rejection Damages Claim.

20. Mailing of Bar Date Notice Packages. The Debtor shall provide actual notice of the Bar Dates by mailing the Bar Date Notice and the Claim Form (collectively, the "Bar Date Notice Package") by April 18, 2018, wherever located:

- a. the U.S. Trustee;
- b. all holders of Prepetition Claims and 503(b)(9) Claims listed on the Schedules at the addresses stated therein;
- c. all counterparties to executory contracts and unexpired leases listed on the Schedules at the addresses stated therein;
- d. all current and former employees of the Debtor that left the employ of the Debtor on or after the Petition Date;
- e. all taxing authorities for locations in which the Debtor does business;
- f. all regulatory agencies that regulate the Debtor's business;
- g. the Office of the Attorney General for the State of Delaware;
- h. the office of the attorney general for each state in which the Debtor maintains or conducts business;
- i. all known lienholders;
- j. all known parties to litigation in which the Debtor is involved;
- k. all providers of utility services to the Debtor, if any;
- l. all insurance providers;
- m. all of the Debtor's ordinary course professionals;
- n. the Debtor's banks;
- o. indenture trustees under any indenture to which the Debtor is a party;

- p. all Entities requesting notice pursuant to Bankruptcy Rule 2002 as of the date of entry of the Bar Date Order;
- q. all parties that have filed proofs of claim in this Chapter 11 Case as of the date of entry of the Bar Date Order; and
- r. all parties included on the creditor matrix filed in this Chapter 11 Case.

(collectively, the "Bar Date Notice Parties").

21. With regard to those holders of claims listed on the Schedules, the Debtor shall mail one or more proof of claim forms (as appropriate) substantially similar to the Claim Form annexed to the Motion as Exhibit A, indicating on such Claim Form how the Debtor has scheduled such creditor's claim in the Schedules (including the amount and classification of the claim and whether the claim has been scheduled as contingent, unliquidated, or disputed).

22. The Debtor may, in its discretion, but shall not be required to, serve the Bar Date Notice on certain Entities that are not Bar Date Notice Parties with which, prior to the Petition Date, the Debtor had done business or that may have asserted a claim against the Debtor in the recent past.

23. Supplemental Mailings of Bar Date Notice Packages. In the event that (a) Bar Date Notice Packages are returned by the post office with forwarding addresses, necessitating a remailing to the new addresses, (b) certain parties acting on behalf of parties in interest fail to pass along Bar Date Notice Packages to such parties and instead return their names and addresses to the Debtor for direct mailing, or (c) additional potential claimants become known to the Debtor (collectively, the "Special Bar Date Parties"), the Debtor shall, to the extent it becomes aware of such Special Bar Date Parties prior to the applicable Bar Dates, make supplemental mailings of the Bar Date Notice Package up to twenty-one (21) days in advance of the applicable Bar Dates, and such supplemental mailings shall be deemed timely.

24. Establishment of Special Bar Dates. The Debtor is authorized to establish special bar dates with respect to those Special Bar Date Parties as to which a mailing or re-mailing of the Bar Date Notice Package is necessary and cannot be accomplished prior to twenty-one (21) days in advance of an applicable Bar Date. With respect to such Special Bar Date Parties, the Debtor is authorized to establish special bar dates at least twenty-one (21) days after the date on which the Debtor mails the notice of each such special bar date. Such notice will substantially take the form of the Bar Date Notice (with necessary modifications to reflect the special bar date provisions). The Debtor shall advise the Court of the establishment of each special bar date by filing a notice, together with a list that specifically identifies the Special Bar Date Parties that are subject thereto and a copy of the bar date notice applicable to the special bar date. In addition to being filed with the Court, the Debtor shall serve such notice upon the U.S. Trustee. The Debtor shall file a certificate of service to evidence the mailing of each special bar date notice to the parties subject thereto.

25. Each of the special bar dates will apply only to the Special Bar Date Parties who are specifically identified as being subject thereto in the lists to be filed with the Court. As to any of such specifically identified parties, however, who may be found to have received effective notice of the Bar Dates, the Debtor does not waive the right to assert that the Bar Dates, rather than the special bar date, governs. The Bar Dates will remain effective and fully enforceable both with respect to known parties who have received actual notice thereof pursuant to the Bar Date Notice and with respect to unknown parties who are deemed to have received constructive notice thereof pursuant to the Publication Notice.

26. Actual Notice of Amended Schedule Bar Date. If and when the Debtor amends its Schedules to reduce the undisputed, noncontingent, and liquidated amount, to change

the nature or classification of a Prepetition Claim, or add a claim to the Schedules, the Debtor shall provide notice of any such amended or added claim, substantially in the form of **Exhibit D** to the Motion (the "Notice of Amended Schedules"), to the affected claimant by serving the affected claimant with the Notice of Amended Schedules by first class mail and thereafter filing with the Court a certificate of such service.

27. Publication Notice. The Debtor shall cause the Publication Notice to be published in a California-based publication with a national circulation within the United States as soon as practicable after entry of this Order but in any event no later than twenty-one (21) days prior to the earliest of the Bar Dates.

28. Reservation of Rights. The Debtor shall retain and hereby reserves the right to: (a) dispute, and/or assert offsets or defenses against, any Prepetition Claim and/or 503(b)(9) Claim; (b) subsequently designate any Prepetition Claim and/or 503(b)(9) Claim as disputed, contingent, and/or unliquidated; and (c) object to any Prepetition Claim and/or 503(b)(9) Claim, whether scheduled or filed, on any grounds.

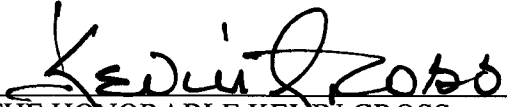
29. The Debtor is authorized and empowered to take such steps and perform such actions as may be necessary to implement and effectuate the terms of this Order, including without limitation payment of costs incurred in connection with the process of noticing the Bar Dates.

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

31. The Debtor may make non-substantive corrections to the Bar Date Notice Package and Publication Notice.

32. This Court shall retain jurisdiction over all matters arising out of or related to the Motion and this Order.

Dated: April 11, 2018
Wilmington, Delaware



THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE