

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)

Hearing Date:

January 25, 2019 at 11:00 a.m. (ET)

Objection Deadline:

January 4, 2019 at 4:00 p.m. (ET)

THIRD INTERIM FEE APPLICATION REQUEST OF MORRIS, NICHOLS, ARSHT & TUNNELL LLP, AS DELAWARE BANKRUPTCY CO-COUNSEL FOR THE DEBTOR FOR THE PERIOD SEPTEMBER 1, 2018 THROUGH AND NOVEMBER 30, 2018

In accordance with the Order Establishing Procedures For Interim Compensation And Reimbursement Of Expenses For Retained Professionals (D.I. 171) (the “Compensation Order”), Morris, Nichols, Arsht & Tunnell LLP (“MNAT”) hereby submits its **Third Interim Fee Application Request Of Morris, Nichols, Arsht & Tunnell LLP, As Delaware Bankruptcy Co-Counsel For The Debtor For The September 1, 2018 Through November 30, 2018** (the “Application Period”). **Exhibits A, B, and C** attached hereto, contain certain schedules pursuant to the *Appendix B Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases* (the “UST Guidelines”). In addition, Morris Nichols respectfully states as follows to address the questions set forth under paragraph C.5 of the UST Guidelines:

- a. Did you agree to any variations from, or alternatives to, your standard or customary billing rates, fees or terms for services pertaining to this engagement that were provided during the application period? If so, please explain. **No.**

¹ The last four digits of the 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.



- b. If the fees sought in this fee application as compared to the fees budgeted for the time period covered by this fee application are higher by 10% or more, did you discuss the reasons for the variation with the client? **Not applicable.**
- c. Have any of the professionals included in this fee application varied their hourly rate based on the geographic location of the bankruptcy case? **No.**
- d. Does the fee application include time or fees related to reviewing or revising time records or preparing, reviewing, or revising invoices? (This is limited to work involved in preparing and editing billing records that would not be compensable outside of bankruptcy and does not include reasonable fees for preparing a fee application.). If so, please quantify by hours and fees. **Morris Nichols reserves the right to seek such fees in subsequent applications.**
- e. Does this fee application include time or fees for reviewing time records to redact any privileged or other confidential information? If so, please quantify by hours and fees. **No.**
- f. If the fee application includes any rate increases since retention: (i) Did your client review and approve those rate increases in advance? (ii) Did your client agree when retaining the law firm to accept all future rate increases? If not, did you inform your client that they need not agree to modified rates or terms in order to have you continue the representation, consistent with ABA Formal Ethics Opinion 11-458? **Not applicable.**

MNAT seeks approval for the following fee applications that were filed in the

Application Period:

Fee Application Filing Date, Docket No.	Period Covered By Application	Total Fees Requested [100%]	Total Expenses Requested (100%)	Certification of No Objection Filing Date, Docket No.	Amount of Fees Allowed (80%)	Amount of Expenses Allowed (100%)	Amount of Holdback Fees Sought (20%)
11/6/18 D.I. 813	9/1/18- 9/20/18	\$35,780.00	\$176.60	11/21/18 D.I. 824	\$28,624.00	\$176.60	\$7,156.00
11/16/18 D.I. 821	10/1/18- 10/31/18	\$22,161.50	\$192.30	12/3/18 D.I. 836	\$17,729.20	\$192.30	\$4,432.30
12/17/18 D.I. 857	11/1/18- 11/30/18	\$7,930.00	\$160.20	Pending	\$6,344.00	\$160.20	\$1,586.00
TOTAL		\$65,871.50	\$529.10		\$52,697.20	\$529.10	\$13,174.30

In accordance with the Compensation Order, MNAT seeks interim approval of the

full amount of the fees and expenses requested in the above-referenced fee applications and payment by the Debtor of the amount requested in such fee applications in full.

WHEREFORE, MNAT respectfully requests that the Court enter the order attached hereto as **Exhibit D** and grant MNAT such other and further relief as is just and proper.

December 21, 2018
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Tamara K. Mann

Robert J. Dehney (No. 3578)
Andrew R. Remming (No. 5120)
Tamara K. Mann (No. 5643)
1201 N. Market St., 16th Floor
P.O. Box 1347
Wilmington, DE 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
rdehney@mnat.com
aremming@mnat.com
tmann@mnat.com

- and -

Christopher R. Donoho, III (admitted *pro hac vice*)
Christopher R. Bryant (admitted *pro hac vice*)
John D. Beck (admitted *pro hac vice*)
HOGAN LOVELLS US LLP
875 Third Avenue
New York, NY 10022
Telephone: (212) 918-3000
Facsimile: (212) 918-3100
chris.donoho@hoganlovells.com
chris.bryant@hoganlovells.com
john.beck@hoganlovells.com

Counsel for Debtor and Debtor in Possession

CUMULATIVE COMPENSATION SUMMARY BY PROFESSIONAL

Name of Professional Person	Position of the Applicant, Area of Expertise, Number of Years in that Position, Year Admitted to Bar.	Hourly Billing Rate(s) (incl. changes & travel time billed at half rate)	Total Hours	Total Compensation
Robert J. Dehney	Partner/Bankruptcy. Partner since 1999. Joined firm as an associate in 1996. Member of the DE Bar since 1997.	\$1,050	2.6	\$2,730.00
Andrew R. Remming	Partner/Bankruptcy. Joined firm as an associate in 2008. Member of the DE Bar since 2008.	700	32.4	22,680
Daniel D. Matthews	Partner/Corporate. Partner since 2018. Joined firm as an associate in 2009. Member of the DE Bar since 2009.	700	7.1	4,970.00
Tamara K. Mann	Associate/Bankruptcy. Joined the firm as an associate in 2011. Member of the DE Bar since 2011.	600	32.9	19,740.00
Jason Schoenberg	Associate/Corporate. Joined the firm as an associate in 2017. Member of the DE Bar since 2017.	450	5.4	2,241.00
Angela Conway	Paralegal	300	36.3	10,890.00
Renae M. Fusco	Paralegal	300	.6	180.00
Marisa Maddox	Paralegal	300	7.2	2,160.00
Theresa M. Naimoli	Case Clerk	165	1.7	280.50
Total			126.2	\$65,871.50

CUMULATIVE COMPENSATION BY PROJECT CATEGORY

Project Category	Total Hours	Total Fees
Case Administration	2.5	\$2,340.00
Asset Disposition/363 Sales	.9	590.00
Creditor Communications and Meetings	.1	60.00
Fee Applications (MNAT – Filing)	22.8	8,586.00
Fee Applications (Others – Filing)	19.5	8,325.50
Fee Applications (MNAT – Objections)	1.3	540.00
Fee Applications (Others – Objections)	1.5	720.00
Executory Contracts/Unexpired Leases	3.1	1,810.00
Other Contested Matters	.8	480.00
Employee Matters	.4	250.00
Financing Matters/ Cash Collateral	2.5	1,236.00
Tax Matters	.2	140.00
Vendor/Supplier Matters	.4	280.00
Court Hearings	10.3	4,530.00
Claims Objections and Administration	15.7	8,690.00
Plan and Disclosure Statement	10.7	6,990.00
Litigation/Adversary Proceedings	.4	120.00
Professional Retention (Others-Filing)	3.5	1,910.00
General Corporate Matters	14.5	8,611.00
General Case Strategy	6.7	4,970.00
Schedules/SOFA/US Trustee Reports	8.4	4,693.00
TOTAL	126.2	\$65,871.50

CUMULATIVE EXPENSE SUMMARY

<u>Expense Category</u>	<u>Service Provider (if applicable)</u>	<u>Total Expenses</u>
Paralegal Overtime		\$36.00
In-House Duplicating		1.00
In House Printing	Black & White	263.20
In-House Printing	Color	71.20
Messenger		50.00
Pacer		26.10
Transcripts		81.60
Grand Total Expenses		\$529.10

Exhibit A

Customary and Comparable Compensation Disclosures

Morris Nichols's hourly rates for bankruptcy services are comparable to the hourly rates charged in complex chapter 11 cases by comparably skilled bankruptcy attorneys. In addition, Morris Nichols's hourly rates for bankruptcy services are comparable to the rates charged by Morris Nichols, and by comparably skilled practitioners in other firms, for complex corporate and litigation matters, whether in court or otherwise, regardless of whether a fee application is required.

The blended hourly rate for all Morris Nichols timekeepers who worked on these cases is approximately the same as the firm's blended rate for all timekeepers over a Comparable Period (defined below). In particular, the blended hourly rate for all Morris Nichols timekeepers (including both professionals and paraprofessionals) who billed to matters excluding chapter 11 representations (collectively, the "Non-Chapter 11 Matters")¹ during the 12-month period beginning November 30, 2017 and ending on November 30, 2018 (the "Comparable Period") was, in the aggregate, approximately \$599.62.² By comparison, the blended hourly rate for all Morris Nichols timekeepers (including both professionals and paraprofessionals) who worked on this case during the Application Period was, in the aggregate, \$507.22.

The following table shows blended hourly rates by category of professional and paraprofessional (rounded to the nearest dollar):

Position at Morris Nichols	Billed for this Application Period	Billed for Non-Chapter 11 Matters
Partner	\$817	\$786
Associate	\$525	\$468
Special Counsel	N/A	\$581
Paralegal	\$300	\$266
Litigation Support Specialists	N/A	\$301
Case Clerk	\$165	\$174

¹ It is the nature of Morris Nichols's practice that certain non-bankruptcy engagements require the advice and counsel of professionals and paraprofessionals who work primarily within Morris Nichols's Business Reorganization and Restructuring Group. Accordingly, Non-Chapter 11 Matters consist of matters for which Morris Nichols timekeepers represented a client in a matter *other than* court-approved chapter 11 representations. The Non-Chapter 11 Matters include time billed by Morris Nichols timekeepers who work within Morris Nichols's Business Reorganization and Restructuring Group.

² Morris Nichols calculated the blended rate for Non-Chapter 11 Matters by dividing the *total dollar amount* billed by Morris Nichols timekeepers to Non-Chapter 11 Matters during the Comparable Period by the *total number of hours* billed by such Morris Nichols timekeepers to Non-Chapter 11 Matters during the same period.

Exhibit B

Interim Application Summary

Cover Sheet of Fee Application (UST Guidelines Exh. E)

Interim Application Summary	
Name of Applicant	Morris, Nichols, Arsht & Tunnell LLP
Name of Client	Orexigen Therapeutics, Inc. (Debtor)
Time period covered by Interim Application	September 1, 2018 through November 30, 2018
Total compensation sought during Application Period	\$65,871.50
Total expenses sought during Application Period	\$529.10
Petition Date	3/12/18
Retention Date	3/23/18
Date of order approving employment	4/11/18
Total allowed compensation paid to date	\$768,326.20
Total allowed expenses paid to date	\$21,932.48
Total compensation approved by interim order to date	\$721,973.00
Total expenses approved by interim order to date	\$21,563.58
Blended rate in the Interim Application for all partners	\$816.67
Blended rate in the Interim Application for all attorneys	\$700.00
Blended rate in the Interim Application for all timekeepers	\$507.22
Compensation sought in the Interim Application already paid pursuant to a monthly compensation certificate but not yet allowed	\$46,353.20

Expenses sought in the Interim Application already paid pursuant to a monthly compensation certificate but not yet allowed	\$368.90
Number of professionals included in Interim Application	9
If applicable, number of professionals in the Interim Application not included in staffing plan approved by client	4
If applicable, difference between fees budgeted and compensation sought for the Application Period	Under budget by \$204,128.50
Number of professionals billing fewer than 15 hours to the case during the Application Period	6
Are any rates higher than those approved or disclosed at retention	No

Exhibit C

Budget and Staffing Plan

Application Period Budget

Period Covered	Actual	Forecast	Difference between actual and forecast
September 2018	\$35,780.00	\$90,000.00	(\$54,220.00)
October 2018	\$22,161.50	\$90,000.00	(\$67,838.50)
November 2018	\$7,930.00	\$90,000.00	(\$82,070.00)
Total	\$65,871.50	\$270,000.00	(\$204,128.50)

Application Period Staffing Plan

Category of Timekeeper	Number of Timekeepers Expected to Perform Work Across Matters During the Budget Period	Number of Timekeepers Actually Performing Work During the Budget Period	Projected Average Hourly Rate	Actual Average Hourly Rate
Partner	2	3	\$875	\$816.67
Associate	2	2	\$432.50	\$525.00
Other Professionals	1	4	\$300	\$266.25

Exhibit D

Proposed Order

**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: _____

**ORDER GRANTING THIRD INTERIM FEE APPLICATION REQUEST OF MORRIS,
NICHOLS, ARSHT & TUNNELL LLP, AS DELAWARE BANKRUPTCY
CO-COUNSEL FOR THE DEBTOR FOR THE PERIOD
SEPTEMBER 1, 2018 THROUGH NOVEMBER 30, 2018**

Upon consideration of the Third Interim Fee Application Request (the “Request”) of Morris, Nichols, Arsht & Tunnell LLP (“MNAT”), Delaware Bankruptcy Co-Counsel for the above captioned Debtors for the period from September 1, 2018 through and including November 30, 2018; and upon consideration of the monthly fee applications subject to the Request (the “Fee Applications”); the Court having reviewed the Request and the Fee Applications; and finding that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and determining that proper and adequate notice has been given and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that:

1. The Request is GRANTED.
2. MNAT is allowed compensation and reimbursement of expenses for the period and in the amounts set forth in its Request, subject to the filing of a final fee application by MNAT.

¹ The last four digits of the 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.

3. The Debtor is authorized and directed to disburse to MNAT payment in the amount of the difference between (a) 100% of the total fees and expenses set forth in the Fee Applications and (b) the actual interim payments received by MNAT for fees and expenses under the Fee Applications, as set forth in the Request.

4. The Debtor is authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.

5. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

6. This Order shall be effective immediately upon entry.

Dated: _____, 2019

THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE