

**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. 124

**NOTICE OF DATES BY WHICH PARTIES MUST FILE PROOFS
OF CLAIM OR INTEREST AND ADMINISTRATIVE CLAIMS AND
PROCEDURES FOR FILING PROOFS OF CLAIM OR INTEREST
AND ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS**

PLEASE TAKE NOTICE THAT the above-captioned debtors and debtors-in-possession (the “Debtors”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”) on February 1, 2024 (the “Petition Date”).

PLEASE TAKE FURTHER NOTICE THAT on March 11, 2024 the Debtors filed the *Motion of the Debtors for Entry of an Order (A) Establishing Bar Dates for Filing Proofs of Claim and Interest, (B) Approving the Form and Manner for Filing Proofs of Claim or Interest and (C) Approving Notice Thereof* [D.I. 108] (the “Bar Date Motion”). On March 26, 2024, the Court entered an order approving the Bar Date Motion [D.I. 124] (the “Bar Date Order”) and establishing certain dates (collectively, the “Bar Dates” and individually, a “Bar Date”) by which parties holding claims against the Debtor must file claims or interests. Each date is expressly set forth below.

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE HOLDING A CLAIM AGAINST THE DEBTORS OR INTEREST IN THE DEBTORS IN THE ABOVE-CAPTIONED CHAPTER 11 CASES. THEREFORE, YOU SHOULD READ THIS NOTICE CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

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.



Background to the Debtors’ Chapter 11 Cases

- A. **General Information about the Debtors’ Cases.** No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases.

- B. **Access to Claim Forms and Additional Information.** Proofs of claim or interest are to be filed using Official Form 410 (the “Claim Forms”) or in a form that is substantially similar. Administrative Claims are to be filed using the Administrative Claim Form (the “Administrative Claim Form”). If you have any questions regarding the claims process and/or if you wish to obtain a copy of the Bar Date Motion, the Bar Date Order (which contains a more detailed description of the requirements for filing proofs of claim or interest), a General Claim Form, Interest Form, Administrative Claim Form, or related documents (and/or any other pleadings filed in the Debtors’ Chapter 11 Cases) you may do so by contacting the Debtors’ court-appointed claims and noticing agent Kurtzman Carson Consultants LLC (“KCC” or the “Claims Agent”) in writing, at InVivo Claims Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245 or by visiting the Bankruptcy Court’s website <http://www.deb.uscourts.gov> or the Claims Agent’s website <https://www.kccllc.net/invivo> where you may click on the tab “Claim Form” to obtain a copy of the claim forms, instructions for submitting the claim forms and this Notice, as well as a link to file a General Claim electronically. Copies of the Bar Date Order also may be examined during posted hours at the Office of the Clerk of the Bankruptcy Court, 824 N. Market St., 2nd Floor, Wilmington, Delaware 19801. If you have any questions concerning the filing or processing of claims, you may contact the Claims Agent at 1-888-802-7206 (Toll-Free) or 1-781-575-2087 (International) or via electronic mail at <https://www.kccllc.net/invivo/inquiry>.

Schedules of Assets and Liabilities

The Debtors filed their schedules of assets and liabilities [D.I. 60, 62] and statement of financial affairs [D.I. 61, 63] with the Court on February 15, 2024 (as amended or modified and together as, the “Schedules and Statements”). The Debtors’ Schedules and Statements and the Bar Date Order may be examined and inspected by interested parties during regular business hours at (a) the offices of Landis Rath & Cobb LLP, 919 Market St., Suite 1800, Wilmington, DE 19801 or during posted hours at (b) the Clerk of the Bankruptcy Court, United States Bankruptcy Court, District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. The Debtors’ Schedules and Statements and the Bar Date Order are also available online, free of charge, at <https://www.kccllc.net/invivo>.

Bar Dates Approved by the Court

The Court has established the following Bar Dates as those dates by which parties holding Claims against the Debtors **must** file proofs of claim so that they are **actually received** by the Claims Agent:

A. General Bar Date:	April 19, 2024 at 4:00 p.m. prevailing Eastern Time (the “ <u>General Bar Date</u> ”) is the deadline for all persons and entities, other than governmental
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	units (as that term is defined in 11 U.S.C. § 101(27)), holding a claim against the Debtors arising (or deemed to arise) before the Petition Date (each, a “ <u>General Claim</u> ”), including any claim arising under Bankruptcy Code section 503(b)(9) for the value of goods received by the Debtors within twenty (20) days before the Petition Date;
B. Administrative Bar Date:	April 19, 2024 at 4:00 p.m. prevailing Eastern Time (the “ <u>Administrative Bar Date</u> ”) is the deadline for all persons and entities holding any right to payment constituting a cost or expense of administration of the Debtors’ Chapter 11 Cases arising under Bankruptcy Code sections 503(b) (with the exception of any claims arising under Bankruptcy Code section 503(b)(9), which are considered General Claims subject to the General Bar Date above) and 507(a)(2) against the Debtors (each an “ <u>Administrative Claim</u> ”) arising from the Petition Date through March 31, 2024;
C. Amended Schedules Bar Date:	In the event the Debtors amends their Schedules, the holders of claims subject to such amendment shall be required to file a claim or amend any previously filed claim by the Amended Schedules Bar Date (defined below) if such claimant believes its claim is improperly classified in the amended Schedules or is listed in an incorrect amount, and such claimant desires to assert such claim in a different classification and/or different amount. To the extent applicable, the claimant must file its claim on or before the later of (i) the General Bar Date and (ii) twenty-one (21) days from the date on which the Debtors serve notice of an amendment to their Schedules and Statements on such claimant (such date, the “ <u>Amended Schedules Bar Date</u> ”);
D. Governmental Bar Date:	July 30, 2024 at 4:00 p.m. prevailing Eastern Time (the “ <u>Governmental Bar Date</u> ”) is the deadline for governmental units holding a claim against the Debtors arising (or deemed to arise) before the Petition Date;
E. Rejection Bar Date:	For claims relating to the rejection of a contract or lease, the later of (i) the General Bar Date, and

	(ii) the date set forth in an order authorizing the Debtors to reject such contract or lease pursuant to Bankruptcy Code section 365 (including any order confirming a plan in the Debtors' Chapter 11 Cases); or, if no specific date is set forth, thirty (30) days from the date the rejection order or filing of the rejection notice is served on the affected claimant pursuant to a rejection procedures order, if applicable (the " <u>Rejection Bar Date</u> "); and
F. Supplemental Bar Date:	With respect to (a) holders of claims to which a supplemental mailing (" <u>Supplemental Notice</u> ") of the Bar Date Notice is appropriate but which cannot be accomplished in time to provide at least twenty-one (21) days' notice of the applicable Bar Date and (b) other holders of claims that become known to the Debtors after the original date on which the Bar Date Notice is served, the deadline shall be twenty-one (21) days after the party is served a Supplemental Notice (the " <u>Supplemental Bar Date</u> ").
G. Interest Bar Date:	April 19, 2024 at 4:00 p.m. prevailing Eastern Time (the " <u>Interest Bar Date</u> ") is the deadline for all persons and entities holding an equity security interest in the Debtors to file a proof of interest on account of the ownership of such equity security interest.

Parties Required to File Proofs of Claim or Interest

- A. Definition of Claim and Equity Security.** Under Bankruptcy Code section 101(5) and as used herein, the word "claim" means: (i) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (ii) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured. An Administrative Claim is a Claim of the kind described in Bankruptcy Code section 503(b)(1), (2), (3), (4), (5), (6), (7), and (8). Administrative Claims are given priority status pursuant to Bankruptcy Code section 507(a)(2), which means that they are paid before general unsecured claims. Under Bankruptcy Code section 101(16) and as used herein, the word "equity security" means (i) share in a corporation, whether or not transferable or denominated "stock", or similar security; (ii) interest of a limited partner in a limited partnership; or (iii) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in (i) or (ii).

- B. Parties Who Must File Claims.** Except as otherwise set forth herein, the General Bar Date applies to all Persons and Entities, but excluding governmental units, holding General Claims against the Debtors, including the following:
- a. any Person or Entity whose claim against the Debtors is not listed in the Debtors' Schedules, or is listed as "contingent," "unliquidated," or "disputed," if such Person or Entity desires to share in any distribution in the Chapter 11 Cases;
 - b. any Person or Entity who believes that their claim is improperly classified in the Schedules or is listed in an incorrect amount and who desires to have their claim allowed in a different classification or amount other than that identified in the Schedules; and
 - c. any Person or Entity that believes that its claim against the Debtors is or may be entitled to administrative expense priority pursuant to Bankruptcy Code section 503(b)(9), regardless of whether such claim is or is not listed in the Debtors' Schedules.²
- C. Parties Who Must File Administrative Claims.** Except as set forth above, all Persons or Entities holding an Administrative Claim against the Debtors that arose (or are deemed to have arisen) between the Petition Date of February 1, 2024 and March 31, 2024, must file an Administrative Claim on or before the Administrative Claims Bar Date.
- D. Parties Who Must File Proof of Interests.** Except as otherwise set forth herein, the Interest Bar Date applies to all Persons and Entities, but excluding governmental units, holding an equity security interest in the Debtors.
- E. Parties Who Do Not Need To File Proofs of Claim or Interest.** Certain parties are not required to file proofs of claim or interest. The Court may, however, enter one or more separate orders at a later time requiring holders of General Claims, Interests and Administrative Claims to file proofs of claim or interests for some kinds of the following claims and setting related deadlines. If the Court does enter such an order, you will receive notice of it. The following Persons or Entities whose claims or Interests otherwise would be subject to the General Bar Date, Interest Bar Date, Government Bar Date and/or Administrative Bar Date need **not** file a claim or interest, at this time:
- a. any Person or Entity that already has filed a signed proof of claim or interest against the Debtors with the Clerk of the Court or with the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC ("KCC" or the "Claims Agent"), in a form substantially similar to Official Form 410;
 - b. any Person or Entity whose claim is listed on the Schedules if: (i) the claim is not scheduled as any of "disputed," "contingent," or "unliquidated;" and (ii) such

² Claims under Bankruptcy Code section 503(b)(9) are for "the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business." 11 U.S.C. § 503(b)(9).

Person or Entity agrees with the amount, nature, and priority of the claim as set forth in the Schedules;

- c. any Person or Entity whose claim or interest has previously been allowed by order of the Court;
- d. any Person or Entity whose claim or interest has been paid in full by the Debtors pursuant to the Bankruptcy Code or in accordance with an order of the Court or otherwise paid in full by the Debtors or any other party;
- e. a current employee of the Debtors, if an order of the Court authorized the Debtors to honor such claim in the ordinary course of business as a wage or benefit; provided, however, that a current or former employee must submit a proof of claim by the General Bar Date for all other claims, including without limitation, claims for deferred compensation, wrongful termination, discrimination, harassment, hostile work environment, retaliation, claims covered by the Debtors' workers' compensation insurance, or any other litigation or pre-litigation claim;
- f. any current officer, director or manager of the Debtors for claims based on indemnification, contribution or reimbursement;
- g. any Person or Entity holding a claim or interest for which a separate deadline is fixed by this Court;
- h. claims of professionals retained by the Debtors pursuant to orders of the Court who assert administrative claims for fees and expenses subject to the Court's approval pursuant to Bankruptcy Code sections 328, 330, 331, 363 and 503(b) or 28 U.S.C. § 156(c) (collectively, the "Professional Claims");
- i. any Person or Entity holding a Claim payable to the Court or the United States Trustee Program pursuant to 28 U.S.C. § 1930; including, for the avoidance of doubt, any Administrative Claims asserted by the U.S. Trustee for statutory fees required to be paid by the Debtors;
- j. any governmental unit or governmental entity asserting an Administrative Claim related to a claim for taxes that arose post-petition as set forth in Bankruptcy Code section 503(b)(1)(D); and
- k. for the avoidance of doubt, any Person or Entity that believes that its claim against the Debtors is or may be entitled to administrative expense priority pursuant to Bankruptcy Code section 503(b)(9) shall not be required to file an Administrative Claim Form, but shall be required to file a General Claim Form in accordance with this Order prior to the General Bar Date.

Instructions for Filing Proofs of Claim or Interest

- A. Contents of Proofs of Claim or Interest.** Each General Claim Form, Interest Form or Administrative Claim Form, as applicable, must (i) be written in English; (ii) include a claim amount denominated in United States dollars; (iii) conform substantially with the General Claim Form or Administrative Claim Form, as applicable; and (iv) be signed by the holder of the claim or Interest Holder or by an authorized agent or legal representative of the holder of the claim or Interest Holder. Each original claim or interest form must be submitted prior to the applicable Bar Date (facsimile, telecopy, electronic mail or other form of electronic submission will not be accepted).

Claim Forms that the Debtors are serving on known creditors will each contain the name of the Debtors and case number at the top of the first page. If the claimant or Interest Holder is not using the General Claim Form, Interest Form or Administrative Claim Form supplied by the Debtors, the creditor must provide the name of the Debtors and the case number.

- B.** Additionally, any claimant asserting a claim entitled to priority under section 503(b)(9) of the Bankruptcy Code must also: (i) include the value of the goods delivered to and received by the Debtors in the twenty (20) days prior to the Petition Date; (ii) attach any documentation identifying the particular invoices for which the 503(b)(9) claim is being asserted; and (iii) attach documentation of any reclamation demand made to the Debtors under section 546(c) of the Bankruptcy Code (if applicable).
- C. Supporting Documentation.** Each proof of claim or interest must include supporting documentation in accordance with Bankruptcy Rules 3001(c) and 3001(d) (or, upon prior written consent of the Debtors' counsel, if such documentation is voluminous, include a summary of such documentation) or an explanation as to why such documentation is not available; provided, however, that, upon the request for additional documentation, any such creditor that received such request shall be required to transmit such written documentation no later than five (5) business days following the date of such request.
- D. Timely Service.** Each General Claim Form, Interest Form and Administrative Claim Form, as applicable, including supporting documentation, must be submitted: (i) on or before the applicable Bar Date, by completing the applicable form, copies of which can be accessed at the Claims Agent's website <https://www.kccllc.net/invivo> and following the directions given therein; or (ii) by United States mail or other hand delivery system, so as to be **actually received** by the Claims Agent on or before the applicable Bar Date at the following address:

InVivo Claims Processing Center
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

EXCEPT AS EXPRESSLY PERMITTED ABOVE, A CLAIM FORM OTHERWISE SUBMITTED BY FACSIMILE, TELECOPY, ELECTRONIC MAIL OR OTHER FORM OF ELECTRONIC SUBMISSION WILL NOT BE ACCEPTED.

- E. Receipt of Service.** Holders of claims or interests wishing to receive acknowledgment that their proofs of claim or interest were received by the Claims Agent must submit (i) a copy of the proof of claim or interest and (ii) a self-addressed, stamped envelope.

Consequences of Failing to Timely File Your Claim or Interest

Absent further order of the Court to the contrary, any Person or Entity that is required but fails to properly file a General Claim Form, Interest Form or Administrative Claim Form by the applicable Bar Date, please be advised that **YOU SHALL BE PROHIBITED FROM (A) VOTING TO ACCEPT OR REJECT ANY CHAPTER 11 PLAN FILED IN THE CHAPTER 11 CASES AND (B) PARTICIPATING IN ANY DISTRIBUTION IN THE CHAPTER 11 CASES ON ACCOUNT OF SUCH CLAIM OR INTEREST; PROVIDED, HOWEVER, THAT A HOLDER OF A CLAIM SHALL BE ABLE TO ASSERT ANY UNDISPUTED, NONCONTINGENT AND LIQUIDATED CLAIMS IDENTIFIED IN THE SCHEDULES ON BEHALF OF SUCH HOLDER, IN THE AMOUNT SET FORTH IN THE SCHEDULES, AND VOTE UPON AND RECEIVE DISTRIBUTIONS UNDER ANY PLAN OF REORGANIZATION OR LIQUIDATION IN THIS CHAPTER 11 CASE ON ACCOUNT OF SUCH SCHEDULED CLAIM; PROVIDED, HOWEVER, THAT A HOLDER OF A CLAIM SHALL BE ABLE TO ASSERT ANY UNDISPUTED, NONCONTINGENT AND LIQUIDATED CLAIMS IDENTIFIED IN THE SCHEDULES ON BEHALF OF SUCH HOLDER, IN THE AMOUNT SET FORTH IN THE SCHEDULES, AND VOTE UPON AND RECEIVE DISTRIBUTIONS UNDER ANY PLAN OF REORGANIZATION OR LIQUIDATION IN THE CHAPTER 11 CASES ON ACCOUNT OF SUCH SCHEDULED CLAIM.**

Amendments to the Debtor's Schedules

- A. Amendments to Schedules.** In the event the Debtors amend their Schedules and Statements after the date of this notice, the Debtors will provide holders of claims that are affected by the amendment notice of the amendment, and such parties will be given an opportunity to file proofs of claim or amend any previously filed claim before a new deadline that will be specified in that future notice.
- B. Amended Schedules Bar Date.** The Court has approved the later of (i) the General Bar Date or (ii) twenty-one (21) days from the date on which the Debtors provide notice of the amendment to the Schedules and Statements (or another time period as may be fixed by the Court) as the date by which holders of claims affected by the amendment must file proofs of claim with respect to such claim.

Parties to the Debtors' Leases and Executory Contracts

- A. Rejection of Leases and Contracts.** The Bankruptcy Code provides that the Debtors may, at any time before a plan is confirmed by the Court, choose to reject certain executory

contracts or unexpired leases. If your contract or lease is rejected, you may have a claim resulting from that rejection.

- B. Proofs of Claim Relating to Rejection Damages.** The deadline to file a proof of claim for damages relating to the rejection of a contract or lease that has already been rejected as of the date hereof is the General Bar Date. If the Debtors reject a contract or lease subsequent to the date hereof, the deadline to file a proof of claim shall be the later of (i) the General Bar Date, and (ii) the date set forth in an order authorizing the Debtors to reject such contract or lease pursuant to Bankruptcy Code section 365 (including any order confirming a plan in the Debtors' Chapter 11 Cases); or, if no specific date is set forth, thirty (30) days from the date the notice of entry of the rejection order or filing of the rejection notice is served on the affected claimant pursuant to a rejection procedures order, if applicable.

Reservation of Rights

Nothing contained in this notice is intended to or should be construed as a waiver of the Debtors' or any successors' rights to: (a) dispute, or assert offsets or defenses against, any filed claim or interest or any claim listed or reflected in the Schedules and Statements as to the nature, amount, liability, classification, characterization or validity thereof; (b) subsequently designate any scheduled claim as disputed, contingent or unliquidated; and (c) otherwise amend or supplement the Schedules and Statements.

If you have any questions relating to this Notice, contact the Claims Agent at <https://www.kccllc.net/invivo/inquiry>.

NEITHER THE ATTORNEYS FOR THE DEBTORS NOR THE CLAIMS AGENT IS AUTHORIZED TO PROVIDE YOU WITH LEGAL ADVICE.

Dated: March 28, 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 Debtors and Debtors-In-Possession