

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. Nos. 9 & 33

**CERTIFICATION OF COUNSEL**

I, Joshua B. Brooks, counsel to the above-captioned debtors and debtors in possession (the “Debtors”) hereby certify as follows to the best of my knowledge, information, and belief:

1. On February 1, 2024 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* in the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. On the Petition Date, the Debtors filed the *Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtor to Pay Prepetition Wages, Compensation, Employee Benefits, and Other Associated Obligations* [D.I. 9] (the “Motion”). A proposed final order was attached to the Motion as Exhibit B (the “Proposed Order”).

3. As of the date hereof, no formal objections or other responses to the Motion have been filed or served on the Debtors.

4. The Debtors have revised the Proposed Order with respect to the amount set forth in paragraph 3 of the Proposed Order, a copy of which is attached hereto as **Exhibit A** (the “Revised Proposed Order”). A copy of the Revised Proposed Order compared against the Proposed Order is attached hereto as **Exhibit B**. The Debtors provided a copy of the Revised

<sup>1</sup> 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.



Proposed Order to the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”), and the U.S. Trustee has advised that it does not object to entry of the Revised Final Order.

5. In accordance with the Court’s electronic order processing procedures, a clean copy of the Revised Final Order shall be uploaded to CM/ECF.

6. Accordingly, the Debtors respectfully requests that the Court enter the Revised Proposed Order at its earliest convenience.

Dated: February 21, 2024  
Wilmington, Delaware

**LANDIS RATH & COBB LLP**

/s/ Joshua B. Brooks

Matthew B. McGuire (No. 4366)

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*Proposed Counsel for the Debtors  
and Debtors-In-Possession*

# EXHIBIT A

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

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. Nos. 9 & 33

**FINAL ORDER GRANTING MOTION OF THE DEBTORS FOR ENTRY OF  
AN ORDER AUTHORIZING THE DEBTORS TO PAY PREPETITION WAGES,  
COMPENSATION, EMPLOYEE BENEFITS, AND OTHER  
ASSOCIATED OBLIGATIONS**

Upon the *Motion of the Debtors for Entry of Interim and Final Orders Authorizing the Debtors to Pay Prepetition Wages, Compensation, Employee Benefits, and Other Associated Obligations* (the “Motion”)<sup>2</sup> and upon the First Day Declaration; and it appearing that this 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; and it appearing that the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and it appearing that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that sufficient notice of the Motion has been given; and it appearing that the relief requested by the Motion is in the best interests of the Debtors’ estate; and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Motion.

2. The Debtors are authorized, except to the extent provided in the paragraphs below, to continue to honor, in their discretion, in the ordinary course of business, the Employee Obligations; provided, however, that the Debtors shall seek court approval, upon a motion on notice, of any modification that would implicate any portion of section 503(c) of the Bankruptcy Code.

3. The Debtors are authorized, in their discretion, to pay and remit in the ordinary course of business and in accordance with the Debtors' prepetition policies and programs, prepetition amounts outstanding on account of prepetition Employee Obligations set forth in the Motion in an amount not to exceed \$64,400 in the aggregate. The Debtors are also authorized, but not directed, to continue to honor in the ordinary course of business, all Paid Time Off discharge payments in accordance with their policies and past practices as well as applicable state law.

4. The Debtors shall not pay any Employee or Independent Contractor (or make payments on behalf of any Employee or Independent Contractor) in excess of the statutory caps set forth in Bankruptcy Code sections 507(a)(4) and 507(a)(5) on account of any prepetition obligation to such Employee or Independent Contractor.

5. The Debtors are authorized, but not directed, to continue the Employee Benefit Plans in the ordinary course of business on a postpetition basis, in accordance with the Debtors' prepetition policies and practices and in the Debtors' discretion, and to pay and honor Employee Obligations related thereto.

6. The Debtors are authorized, but not directed, to pay all postpetition costs and expenses incidental to payment of the obligations described above, including all administrative and processing costs and payments to outside professionals identified in the Motion in the ordinary course of business.

7. Notwithstanding anything to the contrary herein or in the Motion, nothing herein (1) authorizes the Debtors to pay any amounts or make any transfers under this Order that may implicate the provisions of Bankruptcy Code section 503(c) or which are bonus or severance obligations; or (2) authorize the Debtors to cash out unpaid vacation/leave time except upon termination of an employee, if applicable state law requires such payment; provided, however, that nothing herein shall impair or otherwise affect any of the Debtors' rights to seek relief under Bankruptcy Code section 503(c) or otherwise in the future.

8. The relief granted herein shall not constitute or be deemed to be an assumption or an authorization to assume, pursuant to Bankruptcy Code section 365, any executory contract or unexpired lease to which any Debtors are a party and all such rights are hereby expressly reserved.

9. All applicable banks and other financial institutions are hereby authorized to receive, process, honor, and pay any and all checks and funds transfers evidencing amounts paid by the Debtors pursuant to the Motion, whether presented or issued prior to or after the Petition Date. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Order.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

11. Bankruptcy Rule 6003 has been satisfied.

12. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

13. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2024  
Wilmington, Delaware

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UNITED STATES BANKRUPTCY JUDGE

# **EXHIBIT B**



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

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

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**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.

<sup>1</sup> 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.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Motion.

2. The Debtors are authorized, except to the extent provided in the paragraphs below, to continue to honor, in their discretion, in the ordinary course of business, the Employee Obligations; provided, however, that the Debtors shall seek court approval, upon a motion on notice, of any modification that would implicate any portion of section 503(c) of the Bankruptcy Code.

3. The Debtors are authorized, in their discretion, to pay and remit in the ordinary course of business and in accordance with the Debtors' prepetition policies and programs, prepetition amounts outstanding on account of prepetition Employee Obligations set forth in the Motion in an amount not to exceed \$~~1,300.00~~64,400 in the aggregate. The Debtors are also authorized, but not directed, to continue to honor in the ordinary course of business, all Paid Time Off discharge payments in accordance with their policies and past practices as well as applicable state law.

4. The Debtors shall not pay any Employee or Independent Contractor (or make payments on behalf of any Employee or Independent Contractor) in excess of the statutory caps set forth in Bankruptcy Code sections 507(a)(4) and 507(a)(5) on account of any prepetition obligation to such Employee or Independent Contractor.

5. The Debtors are authorized, but not directed, to continue the Employee Benefit Plans in the ordinary course of business on a postpetition basis, in accordance with the Debtors' prepetition policies and practices and in the Debtors' discretion, and to pay and honor Employee Obligations related thereto.

6. The Debtors are authorized, but not directed, to pay all postpetition costs and expenses incidental to payment of the obligations described above, including all administrative

and processing costs and payments to outside professionals identified in the Motion in the ordinary course of business.

7. Notwithstanding anything to the contrary herein or in the Motion, nothing herein (1) authorizes the Debtors to pay any amounts or make any transfers under this Order that may implicate the provisions of Bankruptcy Code section 503(c) or which are bonus or severance obligations; or (2) authorize the Debtors to cash out unpaid vacation/leave time except upon termination of an employee, if applicable state law requires such payment; provided, however, that nothing herein shall impair or otherwise affect any of the Debtors' rights to seek relief under Bankruptcy Code section 503(c) or otherwise in the future.

8. The relief granted herein shall not constitute or be deemed to be an assumption or an authorization to assume, pursuant to Bankruptcy Code section 365, any executory contract or unexpired lease to which any Debtors are a party and all such rights are hereby expressly reserved.

9. All applicable banks and other financial institutions are hereby authorized to receive, process, honor, and pay any and all checks and funds transfers evidencing amounts paid by the Debtors pursuant to the Motion, whether presented or issued prior to or after the Petition Date. Such banks and financial institutions are authorized to rely on the representations of the Debtors as to which checks are issued or authorized to be paid pursuant to this Order.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

11. Bankruptcy Rule 6003 has been satisfied.

12. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

13. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2024  
Wilmington, Delaware

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UNITED STATES BANKRUPTCY JUDGE