

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

IN RE: . Case No. 24-11362 (MBK)
. .
INVITAE CORPORATION, .
. .
. 402 East State
. Trenton, NJ 08608
Debtors. .
. March 15, 2024
. 10:00 a.m.

TRANSCRIPT OF SECOND DAY MATTERS
BEFORE HONORABLE MICHAEL B. KAPLAN
UNITED STATES BANKRUPTCY COURT CHIEF JUDGE

TELEPHONIC APPEARANCES:

For the Debtors: Kirkland & Ellis LLP
By: SPENCER A. WINTERS, ESQ.
NIKKI GAVEY, ESQ.
OLIVIA ACUNA, ESQ.
300 North LaSalle
Chicago, IL 60654

For the Official Committee of Unsecured Creditors: Porzio, Bromberg & Newman, P.C.
By: JOHN S. MAIRO, ESQ.
100 Southgate Parkway
Morristown, NJ 07962-1997

White & Case LLP
By: ANDREW ZATZ, ESQ.
BRETT BAKEMEYER, ESQ.
1221 Avenue of the Americas
New York, NY 10020-1095

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J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue
Hamilton, New Jersey 08619
E-mail: jjcourt@jjcourt.com

(609) 586-2311 Fax No. (609) 587-3599



TELEPHONIC APPEARANCES (Cont'd):

For Deerfield Partners, Sullivan & Cromwell, LLP
L.P.: By: BENJAMIN BELLER, ESQ.
125 Broad Street
New York, NY 10004

For the U.S. Trustee: Office of the United States Trustee
By: JEFFREY M. SPONDER, ESQ.
LAUREN BIELSKIE, ESQ.
One Newark Center
Newark, NJ 07102

Audio Operator: Kiya Martin

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1 THE COURT: Hey. Good morning, everyone. It's Judge
2 Kaplan, and we'll be hearing the Invitae matters.

3 Let me give everybody a couple of moments to adjust
4 their video, for those who want to be seen, and those who don't
5 want to be seen. So, we -- the Court has received an amended
6 agenda, chock full of items for this morning, that seem mostly
7 resolved.

8 But, let me turn to debtor's counsel. Who wants to
9 start off?

10 MR. WINTERS: Good morning, Your Honor. Spencer
11 Winters, of Kirkland & Ellis LLP, on behalf of the debtors.
12 Can you hear me okay?

13 THE COURT: I'm going to pause for one second. We're
14 just adjusting our audio. Let me -- we need to test, so let me
15 have debtor's counsel enter an appearance. Let's test our --

16 MR. WINTERS: Good morning, Your Honor. Spencer
17 Winters, of Kirkland & Ellis LLP, on behalf of the debtors.
18 Can you hear me now?

19 THE COURT: Perfect.

20 MR. WINTERS: Great.

21 THE COURT: Thank you.

22 MR. WINTERS: Thank you, Your Honor. We appreciate
23 the Court accommodating us remotely today. Before turning to
24 the agenda, I can give the Court a brief status update on the
25 Chapter 11 cases. So, since the first day hearing, the debtors

1 have successfully transitioned into the cases without
2 disruption to the business. They filed a suite of second-day
3 pleadings, some of which will be up today. We're also
4 preparing to file our schedules and statements.

5 The Official Creditors Committee was of course
6 appointed and has retained advisors, but I'll let them
7 introduce themselves. The debtors have also been keenly
8 focused on the ongoing marketing process for the sale of the
9 business as is our. They're conducting that process pursuant
10 to the bidding procedures that the Court approved at the first-
11 day hearing. To that end, the debtors are in discussions with
12 multiple bidders, and the debtors are working to get a stalking
13 horse signed up, or otherwise cede the auction.

14 Beyond that, Your Honor, as you mentioned, we have a
15 variety of final orders and second-days up for hearing today.
16 We believe that all of these are uncontested, other than the
17 cash collateral order. And on the cash collateral order, we
18 just have a couple issues to address regarding the provisions
19 of the order, with the Official Committee.

20 So, I'll plan to address those couple issues on the
21 cash collateral order, and then I'll turn the agenda -- the
22 balance of the agenda to my colleagues, to hopefully take us
23 quicker through the rest of the pleadings, if that works for
24 the Court.

25 THE COURT: All right. But, let me first -- what I

1 should have said at the outset, I appreciate everybody's
2 participation remotely. For those who wish to be heard on any
3 issue, please use the raise hand function on Zoom. I also will
4 of course be reaching out -- I see Ms. Bielskie and Mr.
5 Sponder, for confirmation from the U.S. Trustee, that they have
6 no issues. But, if the parties, including Committee counsel,
7 wish to weigh in, just let me know by using the raise hand
8 function. I'll be sure to get to you. All right. You can
9 proceed. Thank you.

10 MR. WINTERS: Thank you, Your Honor. Turning to cash
11 collateral, we filed a reply brief together with the proposed
12 final order. No party, Your Honor, objects to the debtor's use
13 of cash collateral. Instead, the -- a bunch of creditors maybe
14 objects to a few provisions of the cash collateral order.

15 We understand that the Committee has dropped their
16 objection to the duration of the challenge period and the
17 amounts of the investigation budget, which leaves two issues
18 that I'll take in turn. Those issues are, liens on proceeds of
19 avoidance action, the commercial tort claims against the
20 secured parties. That's issue number 1. And issue number 2 is
21 their request to be granted standing. Today, they'll bring a
22 challenge. I'll take those -- both those points in turn.

23 There was an equipment lessor, MMAF, that filed a
24 limited objection. We understand their objection has been
25 resolved for today after we provided them some additional

1 information, and they otherwise reserve their rights.

2 Turning to the Committee's objection, Your Honor, as
3 far as cash collateral orders go, this one is right down the
4 middle of the fairway. There's really nothing atypical or
5 unusual about this order. What is atypical and unusual are the
6 two provisions that the Official Creditors Committee is
7 insisting be inserted into the cash collateral order.

8 First, the Creditors Committee objects to customary,
9 adequate protection liens on commercial tort claims and
10 proceeds of avoidance actions. They say that we need to carve
11 out from these claims, claims against the secured noteholders
12 themselves. But, this isn't right. If the secured noteholders
13 suffer a diminution in value as a result of the use of their
14 collateral, they're entitled to adequate protection for that.
15 There's no reason that this adequate protection can't come from
16 the proceeds of a separate claim against the same party.

17 Just as a hypothetical, let's say the secured
18 noteholders need to give back a preference to the estate. And
19 separately, they suffer diminution in value. There's nothing
20 improper about those preference proceeds first compensated for
21 them for that diminution in value, and then going to unsecured
22 creditors. There's no element of wrongdoing in a preference
23 action. There's no element of wrongdoing in a constructive
24 fraudulent transfer action.

25 If the Committee wants to make a showing that there

1 was wrongdoing, sufficient to warrant some sort of echo
2 subordination theory or an uncleans hand theory, they can
3 submit that challenge on that basis during the challenge
4 period. That's what the challenge period is for. But, then
5 don't --

6 THE COURT: Let me stop you.

7 MR. WINTERS: Yeah.

8 THE COURT: Let me stop you there. And I think you
9 referenced this in your reply in a footnote. Obviously, the
10 entitlement to adequate protection is derived from its pre-
11 petition secured status of the secured noteholders. To the
12 extent that the -- those liens are subordinated or avoided, and
13 again, I think you recognize this, there can't be an
14 entitlement to an adequate protection lien.

15 MR. WINTERS: No.

16 THE COURT: So, isn't there really a carve-out to the
17 extent there is avoidance or subordination of the lien, to that
18 extent?

19 MR. WINTERS: Yes. Absolutely, Your Honor. If the
20 liens are avoided in full, or even in part --

21 THE COURT: Part, yeah.

22 MR. WINTERS: -- they're not getting the proceeds of
23 the avoidance of the lien, right? But, let's just say,
24 separately, there's a claim against them to call back, like an
25 interest payment they got, or something like that, that could

1 compensate them for a separate diminution of value. But, if
2 the liens themselves are avoided, they don't -- there's no
3 adequate protection on account of an avoided lien, right? And
4 the secured parties agreed with that.

5 We offered to put that language in the order, but the
6 Committee wouldn't accept it. They're looking for something
7 much broader, which is to say that, if the secured parties need
8 to cough up cash back to the estate, perhaps, due to no
9 wrongdoing, because of a preference or constructive fraudulent
10 transfer plan, that that could separately compensate those same
11 secured parties for a diminution of value. And that's not
12 right. I mean, maybe it shouldn't, if it's fraud, right? But,
13 if it's a strict liability claim, like a preference action,
14 there's no reason they couldn't compensate them for a
15 diminution of value. And that's why you don't see the carve-
16 out there asking for, and cash collateral, because it's not
17 correct. So, that's what I have on that point, Your Honor.

18 I'll turn next to derivative standing. So, Your
19 Honor, they say the Court should grant them derivative standing
20 today, simply because the debtors stipulated to the secured
21 party's claims like debtors do in virtually every case. They
22 say this amounts to a refusal to bring the claims. But,
23 derivative standing requires more than a refusal to bring
24 claims. What's required for derivative standing is that the
25 Committee files a motion and meets its burden to show that the

1 claims are colorable and that the refusal is unjustifiable.

2 As part of that analysis, courts consider the costs
3 and benefits of bringing the claims against their likelihood of
4 success. The cash collateral order fully preserves the ability
5 it made to bring that standing motion over the 75-day period
6 following their claim. It should also fully preserve the
7 rights of the debtors to object to that day in March. And it
8 shouldn't shift the burden to the debtors to make a contrary
9 demonstration on less than a week's notice.

10 The Committee's focus, Your Honor, in particular on
11 an uptier transaction that the debtors did last year, which
12 created the secured notes. I expect you're going to hear
13 argument today, like you saw in the Committee's briefing, about
14 why this transaction should be avoided and about the substance
15 of the claims the Committee thinks it might have. But, there's
16 a reason we don't litigate standing in the context of a second-
17 day hearing on cash collateral.

18 The Committee filed its brief on Monday night making
19 these allegations. Their own brief says, quote, time will tell
20 whether there are viable claims regarding the uptier. Their
21 brief says, quote, the Committee is laser focused on
22 understanding and assessing the uptier. They should understand
23 and assess the uptier, and determine whether the claims are
24 viable before we litigate standing. That's what the law
25 requires. And then they should file a motion and make the

1 required showing.

2 The debtors do understand the uptier, and conducted
3 an independent investigation that's part of the debtor's
4 agreement to the stipulation of the cash collateral order. The
5 Committee should do the same and then we can address this issue
6 in the appropriate way on the appropriate timeline.

7 On the subject of standing, Your Honor, we understand
8 the Committee also plans to ask the Court to insert a sentence
9 in the cash collateral order that says that the debtors and the
10 secured parties waive their right to assert that creditors
11 cannot obtain standing under the Delaware Limited Liability
12 Company Act.

13 Again, there's no reason we should litigate these
14 issues today, or that anybody should be compelled to waive an
15 argument today, because the Committee put it in a redline on
16 Monday night. They can make that argument in their standing
17 motion, and the Court can rule on it at that time. For these
18 reasons, their objection should be overruled in its entirety.
19 Unless the Court has questions, I'll yield the podium.

20 THE COURT: All right. Thank you, counsel. Let me
21 hear from counsel for the Committee.

22 MR. MAIRO: Good morning, Your Honor. It's John
23 Mairo, for the record, with Porzio, Bromberg & Newman, as co-
24 counsel to the Creditors Committee, along with White & Case.
25 Your Honor, I'd like to introduce to the Court, Mr. Andrew

1 Zatz, of White & Case, who will be arguing on behalf of the
2 Committee on the cash collateral motion. And I wanted to point
3 out to Your Honor that we have filed a pro hac vice application
4 for Mr. Zatz, and that's at ECF143.

5 THE COURT: All right. Thank you, Mr. Mairo. And,
6 Mr. Zatz, welcome.

7 MR. ZATZ: Thank you, Your Honor. Can you hear me
8 okay?

9 THE COURT: I can. Thank you.

10 MR. ZATZ: Great. Andrew Zatz, of White & Case,
11 proposed co-counsel to the Official Committee of Unsecured
12 Creditors. Your Honor, if I may, I would just like to make
13 some brief remarks about the Committee formation and where we
14 stand in the cases generally before I get into the objection on
15 cash collateral.

16 THE COURT: Yes, please.

17 MR. ZATZ: Thank you. The Committee was appointed on
18 March 1st. The members of the Committee are Wilmington Savings
19 Fund Society, Chimtech Holding and Workday. After its
20 formation, the Committee quickly engaged White & Case as legal
21 counsel. Shortly after, the Committee hired Ducera Partners as
22 banker. Porzio, Bromberg & Newman has been brought into local
23 counsel. And the Committee just retained Province as the
24 financial advisor.

25 In the two weeks since the Committee has been

1 appointed, it has been actively engaging with the company
2 working to get up to speed and engage on final approval of the
3 company's request for first-day relief. We raised a number of
4 comments and concerns with respect to such relief, negotiated
5 these points with the company's counsel, and modifications were
6 made to the related orders to address these concerns. These
7 changes provide more guardrails around the company's use of
8 cash, among other things.

9 In addition, the Committee has begun its
10 investigation of the purported pre-petition secured claims. We
11 sent an initial list of informal information requests to the
12 company in the last week, and the company's provided some
13 initial documentation in response. This is just the start of
14 our investigation.

15 Yesterday, we served 2004 discovery on the debtors
16 and Deerfield Partners to obtain a more comprehensive set of
17 documentation and information that will provide the necessary
18 support for claims and causes of action. These investigation
19 and potential pursuit of claims and causes of action is
20 particularly acute here, as there are pre-petition liability
21 management transactions that on their face appear to be
22 avoidable.

23 In particular, is the March 2023 uptier of certain of
24 the company's 2024 unsecured notes held by Deerfield Partners
25 and certain other noteholders. Through this transaction, which

1 provided minimal if any benefit to the company at a time when
2 it was already in severe distress, Deerfield managed to convert
3 its unsecured notes with recourse only to the parent entity,
4 the note secured by all assets of all entities (indiscernible)
5 Invitae or its structure. A supposedly independent special
6 committee was appointed to address the fall-out long after this
7 transaction was completed. And the company was already
8 beholden to these noteholders for a solution to its looming
9 bankruptcy filing.

10 That brings me to our objection to cash collateral.
11 As the Committee's investigation and these potential claims are
12 at the core of all of the outstanding disputes on final
13 approval of this motion. We had raised four objections, and as
14 Mr. Winters indicated, two of those have been resolved by the
15 proposed order that the debtors filed as an Exhibit to their
16 reply to our objection.

17 With respect to the investigation budget and the
18 challenge period, the Committee will accept what the debtors
19 have proposed, which is a \$125,000 investigation budget and a
20 challenge deadline of 75 days from formation.

21 And that leaves two outstanding objections as Mr.
22 Winters was kind enough to preview. Adequate protection claims
23 and liens granted to the secured noteholders should not have
24 recourse to the proceeds of claims and causes of action against
25 those same secured noteholders. And the Committee should be

1 granted automatic standing to bring claims and causes of action
2 on behalf of the estates.

3 With respect to adequate protection claims and liens,
4 debtors say there's nothing unusual about this package. Well,
5 there's nothing unusual about carving out liens on proceeds of
6 avoidance actions. That is something that is sometimes
7 negotiated. Now, that's not what the Committee has asked for
8 here. The Committee is asking for a more narrow carve-out,
9 where only proceeds of avoidance actions to commercial
10 (indiscernible) claims against the pre-petition secured
11 noteholders themselves would not be subject to the adequate
12 protection claims and liens.

13 Without even with this carve-out, the adequate
14 protection package that the order would provide is quite
15 robust, consisting of replacement liens on all assets,
16 notwithstanding the effective Section 552 of the Bankruptcy
17 Code to proprietary claims, payment of interest, and payment of
18 professional fees. The only part of this proposed package that
19 we oppose, the adequate protection claims and liens having
20 recourse to the proceeds, all avoidance actions, and commercial
21 tort claims against the secured noteholders themselves.

22 It would be a truly inequitable and absurd result if
23 secured noteholders were required to disgorge funds they
24 received as a result of some wrongdoing or a transaction that
25 does not pass legal muster, only to then be able to rely on

1 their adequate protection package to lay claim to those
2 proceeds. I believe the limited carve-out that the Committee's
3 asking for here is entirely appropriate and merely a logical
4 extension of how a clawback should work if one is warranted
5 here.

6 As the debtors note in their reply, under the Third
7 Circuit's decision in Sweetland, adequate protection is
8 determined on a case-by-case basis. In this case, where there
9 are a number of red flags with respect to the pre-petition
10 claims and liens, and there is already a comprehensive adequate
11 protection package being offered, recourse to proceeds that
12 come from the pre-petition secured parties themselves should
13 not be granted.

14 The final issue with respect to the debtor's request
15 to use cash collateral, is the Committee's request for
16 automatic standing to bring challenges. This is not an unusual
17 request. We cited in our objection to a number of cash
18 collateral and DIP orders entered in this district that have
19 provided for such automatic standing. We believe it is
20 particularly warranted here. First, because of the state of
21 the law regarding investigations and challenges generally, and
22 second, because of the facts of this case specifically.

23 With respect to the state of the law, I'll begin with
24 the legal standard for derivative standing in the Third
25 Circuit. It was articulated in the case of In re GI Holdings,

1 which is at 313 B.R. 612, which cites to the Cybergenics case
2 out of the Third Circuit, that originally addressed this issue.
3 There are a number of factors for standing. The first two
4 involve making a demand of the debtors to bring the claims, and
5 the debtor's refusing to. Here, that is unnecessary, as the
6 debtors are already stipulating to the validity of the pre-
7 petition secured claims and liens in the proposed cash
8 collateral order, and are giving the pre-petition secured
9 parties full releases.

10 The other two factors effectively get to the same
11 point, whether the claim is colorable or meritorious. This was
12 recently corroborated in the Delaware Bankruptcy Court in the
13 In re Suitable Technologies case. It did not result in a
14 published opinion, but in a bench ruling Judge Walrath stated,
15 I agree with the United States Trustee, the process is
16 cumbersome and it seems to be a waste of time. I think the
17 debtor has already said that it thinks any challenges to the
18 DIP lenders claims are meritless and it is so stipulated. So,
19 requiring anyone to ask the debtor to bring such a claim, I
20 cannot concede that the debtor would consent to that.

21 And certainly, the debtor does not have the authority
22 or ability to bring such a claim anyway. So, I think requiring
23 the parties to seek standing in light of the fact that the
24 debtor has already released those claims is not necessary. And
25 I think to avoid administrative expenses, you should just grant

1 any standing to any challenge grade at this point. It
2 preserves the right of the DIP lender and pre-petition lenders
3 to file a motion to dismiss any claim as meritless.

4 Do I think that this process or procedure just is
5 entirely too cumbersome? As the Court stated in that Suitable
6 Technologies case, where the debtors had advocated their
7 ability to bring a claim, standing is a needless formality and
8 a waste of time and resources. The same issue relevant in a
9 standing motion, the merit of the claims, can just as easily be
10 addressed in a motion to dismiss. Any standing motion will
11 attach a proposed complaint anyway, and there's no need to add
12 this additional layer of complexity in a case like this.

13 This is particularly acute in light of the recent
14 decision in the Third Circuit in the FTX cases, regarding
15 motions to appoint an examiner. There, the Third Circuit held
16 that a request for an examiner must be granted and is not
17 discretionary. Importantly, the Court did not give credence to
18 the debtor's own investigation, and articulated a need for a
19 true independent and non-conflicted party to investigate
20 claims.

21 This is a case that screams for a true independent
22 investigation of claims and causes of action against the
23 secured noteholders. And we would not be surprised if a
24 request for an examiner was made here. Any individual
25 unsecured bond holder who is effectively primed by the pre-

1 petition uptier transaction can make that request. To preempt
2 that, the Committee should be given authority now to bring
3 challenges to give parties the comfort of knowing that an
4 independent fiduciary is pursuing these claims. And if an
5 examiner motion is brought, nonetheless, the examiner's powers
6 can be limited in light of the Committee's ongoing
7 investigation and standing rights.

8 With respect to the facts of this case, as I've
9 described earlier, the debtor's pre-petition uptier transaction
10 is extremely suspect. Add to that, 13 failed acquisitions, the
11 resignation of four CFOs in the lead-up to the bankruptcy
12 filing, and other factors we addressed in our objection. There
13 are a number of indicators here that they're legitimate claims.

14 The debtors have advocated their ability to bring
15 those claims under the order. And the debtors cannot credibly
16 argue that they are the appropriate party to control these
17 claims, given that they have given them up, that they are
18 pursuing a sale of all assets, followed by a pot plan where
19 creditors will fight a zero-sum battle over the sale proceeds.
20 The debtors should have no interest in that fight. That will
21 be between the purported secured noteholders and the Committee.

22 In sum, the Committee needs these modifications in
23 the order to effectively execute the fiduciary duties and make
24 sure parties are held accountable for actions that may have
25 unnecessarily complicated, and maybe even expedited, these

1 bankruptcy proceedings. Or it should not approve cash
2 collateral motion on a final basis unless these modifications
3 are made. Unless the Court has any other -- any questions,
4 that concludes my remarks.

5 THE COURT: Thank you, Mr. Zatz. And let me just
6 note, with respect to your pro hac vice application, and I
7 think the Court received six others on Monday, unless there's
8 objection that I hear today, I'm going to be granting them
9 today. So, don't have a concern about hearing from counsel.
10 Mr. Beller, I don't know if you had raised your hand
11 previously, or if someone else wishes to speak?

12 MR. BELLER: Thank you, Your Honor. I had raised my
13 hand just to follow the debtor's initial comments. But, why
14 don't -- I would suggest I'll let Mr. Winters respond, and then
15 I can follow up with any needed response after that on behalf
16 of Deerfield.

17 THE COURT: All right. Thank you.

18 MR. WINTERS: Thank you, Your Honor. Once again,
19 Spencer Winters, of Kirkland & Ellis, on behalf of the debtors,
20 for the record. I'll just briefly respond, Your Honor. Mr.
21 Zatz says that the uptier transaction is avoidable on space.
22 That's not true. And they haven't articulated why. They
23 haven't put those allegations out in a pleading next to the law
24 and actually articulated what those claims are. And that's
25 what a standing motion is for.

1 On the AP liens, I said there's nothing unusual about
2 carving out proceeds of avoidance actions from adequate
3 protection liens. That's also not true. It is unusual. In a
4 final order, liens on those proceeds are estimary. The carve-
5 out they're asking for is very uncommon. We cited a bunch of
6 cases to that effect.

7 On standing, same point, they say it's not unusual,
8 but they strain to cite any cases on this point. They didn't
9 cite a single case in this district where this was done over
10 the objection of the parties, like they're asking for here.
11 And Mr. Zatz talked about the standing factors, but they're not
12 factors. They're requirements. And it's not just a refusal.
13 It's also about colorability and justifiability, and it's
14 weighing the costs and benefits of bringing the claim, and it's
15 their burden. They need to plead the claims and meet their
16 burden.

17 He said it would be a waste of time to attach a
18 complaint. That's what they need to do. Attach a complaint,
19 set out the claims with particularity, and allow us to explain
20 why we justifiably refuse to bring the claims or why they're
21 not colorable. What he's doing reads the requirements standing
22 out of the law, and it litigates the issues today without
23 pleading any of the factors.

24 Automatic standing is a dangerous and slippery slope,
25 and to say it's -- to say that it's not unusual, is just not

1 true. It's highly, highly unusual, and it's inappropriate.

2 Thank you, Your Honor.

3 THE COURT: Thank you, Mr. Winters. Mr. Beller?

4 MR. BELLER: Thank you, Your Honor. Benjamin Beller,
5 from Sullivan & Cromwell, on behalf of Deerfield Partners. As
6 Your Honor, I believe, is aware, Deerfield owns approximately
7 78 percent of the debtor's secured notes. And Deerfield has
8 negotiated the terms of this cash collateral order with the
9 debtors. And like in all cases, this is a package where we've
10 made concessions to the debtors, we've made concessions to the
11 Committee.

12 And I'm glad that the Committee recognizes that the
13 concessions we've made, in particular on the budget for
14 investigation and the time for investigation, is now
15 sufficient. And Mr. Zatz has talked about the need for that
16 investigation. And that's exactly what the Committee has a
17 full and fair opportunity to do now.

18 To allow them to seek standing by raising it in an
19 objection four days before a hearing, with no evidence, not
20 just persuasive evidence, there is no evidence in the record
21 put forward by the Committee to support any of the assertions
22 laid out in their objection, or that Mr. Zatz has gone through
23 today. And they're -- it's fine for them to make their
24 presentation to the Court of their theory of this case, a
25 standard atypical. But, that's not a basis to grant

1 substantive relief. And that's exactly what they're asking
2 Your Honor to do here.

3 Without notice, without a motion, without following
4 all of the procedural and substantive requirements. Because
5 it's too burdensome. And the reason it's too burdensome for
6 them is because they're not going to win. And they'll have an
7 opportunity to make that motion, and we'll all have an
8 opportunity to respond, and we can have a trial before Your
9 Honor on whether standing is appropriate, and we can go from
10 there.

11 But, the request for automatic standing here is
12 simply unsupported. And the case -- the precedent orders that
13 they've cited in their brief, in their objection, don't support
14 it. None of -- in those cases, there was no briefing, there
15 was no dispute, there's no basis for it.

16 And on the adequate protection liens, Your Honor, I
17 echo of course, what the debtors have said. There is just no
18 basis here to exclude proceeds of any actions against the pre-
19 petition secured parties from the adequate protection package.
20 It is entirely standard for those proceeds to be included in
21 adequate protection packages. Every case there is at least the
22 specter of challenges to pre-petition secured party's claims
23 and liens. Every case. And every case has proceeds, at least
24 proceeds, and in some instances, the actions themselves.

25 That's the typical dispute, as Your Honor well knows.

1 Whether the actions themselves are going to be subject to the
2 liens or not. But, not where the proceeds are. And they don't
3 -- and the Committee doesn't cite to a single case that
4 justifies their legal argument. So, Your Honor, we echo the
5 debtor's arguments and positions, and we ask Your Honor to
6 approve the cash collateral order as proposed.

7 THE COURT: All right. Thank you, Mr. Beller. Does
8 anyone else wish to be heard or respond? Mr. Zatz?

9 MR. ZATZ: Yes, Your Honor, if I could just respond
10 quickly to some of the points that were just made. You know,
11 in terms of the liens on the proceeds of avoidance actions and
12 whether the adequate protection liens and claims should have
13 recourse to those. And I think you heard from Mr. Winters
14 earlier in his opening speech, there are a lot of different
15 potential ways that disgorgement could happen.

16 I think the clear and most obvious way is on the
17 claims that we are focused on, which relate to the uptier
18 transaction. And as Your Honor mentioned, it would simply be
19 an absurd result if the very liens that were avoided could
20 somehow be reclaimed as adequate protection liens on those
21 proceeds.

22 There are a number of other ways that proceeds can be
23 disgorged, as Mr. Winters said. And, you know, I think you
24 heard that there are always kind of carve-outs to the
25 possibilities, well, what if they disgorge for preference?

1 Well, maybe it would be for fraud. And on it goes. So, you
2 know, at a minimum, it really should be that the Court should
3 determine at the time whether it's appropriate. But, we really
4 think it's training ability to really think of an instance
5 where the secured noteholders would have to give back proceeds,
6 and yet they still have rights to them.

7 On the issue of automatic standing. As Mr. Winters
8 just said, it's not just that the debtors refuse to bring the
9 claims. I acknowledged that in my earlier argument. We would
10 have to establish that the claims are colorable and justified.
11 But, it's not -- my issue is not with the fact that we have to
12 attach the complaint. My point there is, there's going to be a
13 complaint, whether we have to attach it to a standing motion or
14 we are able to simply bring it, there will be a complaint. The
15 unnecessary part is the standing motion. I would argue, it's a
16 foregone conclusion that the Committee would be granted
17 standing. And I think the GI Holdings case supports that.

18 But, putting that aside, it's just an administrative
19 waste. It's a waste of time, a waste of money, to force us to
20 go through that hurdle, when it's the exact same standard under
21 these circumstances as to whether the standing motion should be
22 granted or whether our claims should survive. Thank you, Your
23 Honor.

24 THE COURT: Thank you, counsel. All right. So, with
25 respect to the two issues that have been batted about by

1 counsel. Number 1, with regard to the entitlement to an
2 adequate protection lien, with respect to proceeds of potential
3 avoidance actions, or commercial tort claims aimed at the
4 secured noteholders, the Court stands on its reasoning that the
5 entitlement to an adequate protection lien is bottomed on the
6 entitlement to a secured claim, to the validity of the
7 underlying liens, pre-petition, asserted by the secured
8 noteholders.

9 And thus, the Court thinks it's appropriate to have
10 language that the entitlement of an adequate protection lien on
11 the avoidance actions and the tort claims arises only to the
12 extent such liens, such pre-petition liens, are not avoided or
13 subordinated. I think that is consistent with the law and
14 suffices as to what needs to be done at this early stage in the
15 case.

16 With respect to standing, I disagree in part with the
17 position as to the underlying meaning of the test or the
18 application of the standards in GI Holdings and Cybergenics. I
19 think both those decisions are -- have baked into them, an
20 understanding that the Court will take on a role as an initial
21 gatekeeper. Otherwise, there would be no role for the Court at
22 all in deciding standing motions. And there wouldn't be such a
23 vehicle in the first place.

24 It's not simply that the debtor refuses to bring an
25 action that it has to be an unwarranted decision. That may not

1 be the exact language, but that's the import of it. And so the
2 Court has to gauge whether or not there's an ill-advised,
3 unwarranted position being taken by the debtor or a trustee in
4 pursuing certain causes of action.

5 Likewise, there has to be a determination by the
6 Court that there are colorable claims, they're related, or that
7 the claims can indeed be meritorious. There is no question in
8 listening to Mr. Zatz and from reading the pleadings, that
9 there are significant issues with -- that have been raised with
10 respect to the transaction, or it does not deny that. But,
11 what I don't have is a record today that would warrant the
12 Court abdicating its gatekeeper function in toto, which is
13 what's being asked, if I give immediate standing to the
14 Committee.

15 So, in light of what I anticipate will be an
16 extensive examination of the issues and of the underlying
17 facts, and considerable amount of work by the professionals
18 going into these issues, the filing of a motion that the Court
19 can hear, indeed can hear on short notice, is not overly
20 burdensome. That should be the least of our concerns when we
21 go forward with the administration of this case. So, the Court
22 can't entertain the motion. I'm not going to require language
23 providing the Committee, at this juncture, with automatic
24 standing.

25 Obviously, the Committee retains all of its rights to

1 pursue the relief when there's a record, or if there is a
2 record, that would -- that supports concerns with the pre-
3 petition activity. That addresses the two issues.

4 Do we want to discuss now the waiver rights with
5 respect to LLCs under Delaware law? That issue? Mr. Winters?

6 MR. WINTERS: Yeah, Your Honor, I think I said my
7 piece on this point. I think that they can -- that if this
8 argument is -- if the debtors or anyone else raises this
9 argument in opposition for a standing motion, that the Court
10 can overrule it in opposition to a standing motion. And it
11 should be briefed. It's the same line of reasoning that you
12 just went through on standing in general.

13 There's -- if you can overrule it now, you can
14 override it in a standing order. And it hasn't even been
15 raised at this time. The only person who raised it was the
16 Creditors Committee in a redline that they filed with their
17 objection. So, let's see if someone raises it, and then if the
18 Court doesn't think it's meritorious, the Court can overrule it
19 and override it in a standing order.

20 THE COURT: Mr. Zatz?

21 MR. ZATZ: So, as Mr. Winters just stated, this was a
22 comment that we had incorporated into our modifications that we
23 were requesting to the proposed order. It would require -- it
24 would include ordering language that waives the ability of
25 parties to contest a challenge or a standing motion to bring a

1 challenge on the basis that it's precluded by the Delaware
2 Limited Liability Company Act.

3 It has become increasingly common that courts in this
4 circuit require that that language be included, because there
5 has been a decision out of Delaware that pretty conclusively
6 refutes that argument on the basis that the Bankruptcy Code
7 supercedes state law and creates new avoidance rights that are
8 separate from those that are addressed by the Delaware Limited
9 Liability Company Act. And I think the reason that that has
10 become an increasingly prevailing convention in these orders is
11 because it is simply understood by all parties, including the
12 courts, that that argument has no merit.

13 And I think, you know, similar to the point we were
14 trying -- we were raising on the liens on (indiscernible)
15 section and we perfectly understand and appreciate Your Honor's
16 comments on that, we're trying to preempt what are effectively
17 absurd arguments now, try to limit the scope of what we're
18 going to wind up fighting about later if that's what it's going
19 to come to. And so, you know, this is language that's made its
20 way into many recent cash collateral and DIP orders, and we
21 would simply request that it's incorporated here.

22 THE COURT: All right. Thank you. The Court is
23 familiar with the language. The Court has seen it in orders,
24 both in other cases before me and in other -- before other
25 judges here in the district. The language makes sense. I

1 share the recent rulings, the concerns raised in recent rulings
2 in Delaware regarding preemption and the viability of any
3 restrictions to pursue such claims in those situations.
4 Delaware LL -- identified under the Delaware LLC statute, I
5 think the language is appropriate.

6 This is an issue of law, as opposed to factual
7 issues, which haven't been raised or a record created. I'm
8 comfortable ruling on it now to avoid wasting time and money
9 down the road. So, I think the language should stay in. And
10 I'll ask debtor's counsel to retain the proposed language that
11 the Committee has requested.

12 MR. WINTERS: Will do. Thank you, Your Honor.

13 THE COURT: Thank you. Then with that, I assume the
14 redlined versions of the cash collateral order suffice. There
15 are no other concerns being raised? I see no other raised
16 hands at this juncture. Mr. Winters, I'll suggest that, I'm
17 going to mark a granted order to be submitted, and I'll ask you
18 to forward to chambers a final version.

19 MR. WINTERS: Will do. Thank you, Your Honor.

20 THE COURT: All right. Thank you.

21 MR. WINTERS: I will yield the podium to my
22 colleague, Ms. Gavey, to take us through the balance of the
23 agenda.

24 THE COURT: All right. Thank you.

25 MS. GAVEY: Good morning, Your Honor. For the

1 record, Nikki Gavey, with Kirkland & Ellis, proposed co-counsel
2 to the debtors. Can you hear me okay?

3 THE COURT: I can. Good morning, Ms. Gavey.

4 MS. GAVEY: Great. I'll be walking you through the
5 next seven items on the agenda, which as you noted, everything
6 on the agenda going forward is uncontested. So, agenda item
7 number 2 is the debtor's final cash management order, which was
8 originally filed at Docket Number 10. The final form of order
9 that we submitted to your chambers prior to the hearing
10 incorporates comments from the UCC, the United States Trustee,
11 our secured noteholders, and one of our cash management banks.

12 The changes primarily consist of the extension of
13 time to update the debtor's electronic business forms, an
14 agreement with Silicon Valley Bank regarding the debtor's
15 credit card program, and certain noticing and reporting rights
16 for intercompany transactions. With these changes, the order
17 is fully resolved, and we received no other formal or informal
18 comments. So, unless you have any specific questions, we
19 respectfully request entry of the order.

20 THE COURT: All right. Thank you. You beat me to
21 the punch, Mr. Sponder. Good morning.

22 MR. SPONDER: Good morning, Your Honor. Jeff
23 Sponder, from the Office of the United States Trustee. Your
24 Honor, this -- these comments are for each of these orders that
25 we're going to go through. There are 14 proposed orders other

1 than the cash collateral order. We received the final orders
2 that were submitted to chambers last night around 8 p.m. We
3 have not had the opportunity to compare them to -- and conform
4 them to whether or not they conform to the revisions that we
5 requested, so we request some time before the orders are
6 entered.

7 With that said, Your Honor, we should be able to get
8 through them by the end of the day today, or even earlier.
9 That just depends on how long Rite Aid goes this afternoon. So
10 -- but, we have resolved each of these orders. It's just, we
11 want to make sure that the language that we requested is there.
12 Thank you, Your Honor.

13 THE COURT: Thank you, Mr. Sponder. I'm going to
14 give you a gift, the gift of time. Rite Aid is being carried
15 this afternoon. We'll be -- it should be making it to the
16 debtor's website, so you'll have all afternoon --

17 MR. SPONDER: Thank you.

18 THE COURT: -- to spend. What I will do -- we won't
19 enter any of the orders that were submitted, redlined versions
20 that were submitted this morning, unless of course -- I would
21 advise as we go through that, there's a critical order that has
22 to be entered today. But, absent that, we'll enter them --
23 let's see, I guess it would be Monday morning. Right?

24 So, I'll ask debtor's counsel to let us know if
25 there's something that has to be entered by the end of the day,

1 and maybe you could work with the U.S. Trustee on that one or
2 two orders. Otherwise, we'll enter the orders Monday morning.

3 MS. GAVEY: Yeah. I don't think that'll be an issue,
4 Your Honor, except perhaps the final wages order.

5 THE COURT: All right. Then maybe I'll ask Mr.
6 Sponder, if you focus on that one and let chambers know if the
7 language is acceptable, and we can get that one entered today.

8 MR. SPONDER: Yes, Your Honor, right after the
9 hearing, we will look at that order and reach out to both Your
10 Honor and debtor's counsel. If there are any issues, or
11 hopefully no issues, then the order could be entered.

12 THE COURT: Great. Thank you. So, absent a further
13 raised hand by any of the counsel on the call this morning,
14 I'll assume that the timeline for entering of these orders is
15 acceptable to everyone, and that there are no further
16 objections. I'll let Ms. Gavey go through the rundown then as
17 we proceed.

18 MS. GAVEY: Great. Thank you, Your Honor. So, wages
19 actually brings me to the third item on the agenda. The final
20 wages order was originally filed at Docket Number 6. The final
21 form of order that we submitted to your chambers incorporates
22 feedback from the UCC and our senior secured noteholders. And
23 Your Honor, just for transparency's sake, we also wanted to
24 inform the Court that shortly after we filed, it came to our
25 attention that one non-insider employee residing in California

1 on non-working WARN notice was owed a pre-petition amount of
2 \$2,100 over the statutory cap in Section 50784.

3 Prior to making any payments to this employee, we
4 notified the United States Trustee's Office, who represented
5 that they did not object to the payments being made, subject to
6 our representations to the Court accordingly. So, we thank the
7 U.S. Trustee for their understanding on this matter. And I
8 understand that they would like to be heard on this as well.
9 But, otherwise having received no objections, we respectfully
10 request entry of the final wages order.

11 THE COURT: All right. Thank you. Ms. Bielskie?

12 MS. BIELSKIE: Thank you, Your Honor. Lauren
13 Bielskie, with the Office of the United States Trustee. We
14 just want to make sure that the Court is entering an order over
15 the statutory cap. It's not that we don't object, we point out
16 that it is over the statutory cap. But, we are not formally
17 objecting to it, but we note that it does not conform with the
18 code.

19 THE COURT: I appreciate the diligence. The Court is
20 cognizant that it exceeds the statutory cap. Given the
21 relative de minimis amount, the Court is comfortable with the
22 entry of the order, and we're including it.

23 MS. BIELSKIE: Thank you, Your Honor.

24 THE COURT: Thank you, Ms. Bielskie. Thank you, Ms.
25 Gavey. So, we'll mark agenda item number 3, I guess?

1 MS. GAVEY: S-3.

2 THE COURT: 3, we'll mark it granted OTBS.

3 MS. GAVEY: Thank you, Your Honor. The next item on
4 the agenda is agenda item number 4, which is the debtor's final
5 vendors order, originally filed at Docket Number 7. The
6 proposed final form of order incorporates just a handful of
7 comments from the UCC and our secured noteholders around notice
8 and reporting. With these changes, the order is fully
9 resolved, so unless Your Honor has any questions, we
10 respectfully request entry of the order.

11 THE COURT: All right. I'll mark it granted, order
12 to be submitted. Thank you.

13 MS. GAVEY: Thank you, Your Honor. Next is agenda
14 item number 5, which is the final customer programs order,
15 originally filed at Docket Number 8. The proposed final form
16 of order incorporates just one minor comment clarifying the
17 certain noticing rights for the UCC and counsel to the senior
18 secured noteholders. With this change, the order is fully
19 resolved, and having received no other formal or informal
20 objections, we respectfully request entry of the order.

21 THE COURT: All right. Again, seeing no objections,
22 granted OTBS.

23 MS. GAVEY: Thank you. The next item is agenda item
24 number 6, which is the final insurance order, originally filed
25 at Docket Number 9. The proposed final form of order

1 incorporates a couple comments from the UCC and counsel to the
2 secured noteholders related to noticing on payments made under
3 the order and entry into new policies. With these changes, the
4 order is fully resolved, and we received no other formal or
5 informal comments, so we respectfully request entry of this
6 order as well.

7 THE COURT: Granted, OTBS. Thank you.

8 MS. GAVEY: Thank you, Your Honor. Next up is agenda
9 item number 7, which is the debtor's administrative fee motion,
10 filed at Docket Number 108. This motion seeks to implement
11 standard procedures for compensation of retained professionals
12 during these Chapter 11 cases. We've received and incorporated
13 comments from the UCC and the United States Trustee, and we
14 think we've reached a consensual form of order. We just have
15 one minor change that occurred right before the hearing that
16 should resolve everyone's concerns and we'll submit that new
17 redline and order to your chambers right after this hearing.
18 So, unless you have any questions, we respectfully request
19 entry of this order, as well.

20 THE COURT: All right. I'm going to mark it granted.
21 We are going to await a new redline, so this one I'll ask my
22 staff just to note a new OTBS.

23 MS. GAVEY: Thank you. And last up for me, Your
24 Honor, is agenda item number 8, which is the debtor's bar date
25 motion, filed at Docket Number 24. This motion seeks authority

1 to set the times for filing proofs of claim, and the approval
2 of procedures for submitting proofs of claim. We were able to
3 achieve a consensual form of order with the United States
4 Trustee, the UCC, and the indentured trustee for the unsecured
5 noteholders. So, unless Your Honor has any questions or would
6 like me to walk through any of the changes to this order, we
7 respectfully request entry of the order as well.

8 THE COURT: All right. I just want to confirm, when
9 looking through this order, I had seen that the language was
10 focused on the -- limiting the -- or the nature of the
11 supporting documentation that the noteholders, or the
12 indentured trustee, would have to attach as part of the proofs
13 of claim. I just want to clarify that the language is
14 acceptable both to the trustee and the Committee. Mr. Sponder?

15 MR. SPONDER: Thank you, Your Honor. Jeff Sponder,
16 from the Office of the United States Trustee. We signed off on
17 the order, Your Honor. We don't have any objection to that
18 language.

19 THE COURT: All right. And for the Committee, Mr.
20 Zatz? You're comfortable with that language? I don't know if
21 he's still on.

22 MS. BAKEMEYER: Good morning, Your Honor. Brett
23 Bakemeyer, of White & Case, on behalf of the Official
24 Committee. Yes, we also looked at that language and are signed
25 off on it.

1 THE COURT: Great. All right. I just wanted to
2 clarify. Thank you. Thank you, counsel. Thank you, Ms.
3 Gavey. We'll mark it granted and OTBS.

4 MS. GAVEY: Thank you, Your Honor. And with that,
5 I'll pass the balance of the agenda off to my colleague, Ms.
6 Acuna.

7 THE COURT: All right. Thank you.

8 MS. ACUNA: Good morning, Your Honor. Can you hear
9 me?

10 THE COURT: I can. Good morning, Ms. Acuna.

11 MS. ACUNA: Good morning. Olivia Acuna, of Kirkland
12 & Ellis, proposed counsel to the debtors. I'll be walking us
13 through the remaining items on today's agenda. And as
14 previously stated, I am happy to report all are being presented
15 to you on a fully consensual basis. The debtors worked with
16 the required holders, the Creditors Committee, and the United
17 States Trustee, as well as other stakeholders to reach these
18 consensual forms of order. And thank you to each of the
19 parties for their help in getting us here.

20 And with that, I'll begin with item number 9 on the
21 agenda, which was the final NOL order, filed at Docket Number
22 9. The revised proposed form of order incorporates comments
23 related to noticing rights from the U.S. Trustee, the UCC, and
24 the required holders. And as mentioned, this is fully
25 consensual. Unless Your Honor has any additional questions, we

1 respectfully request entry of the final NOL order.

2 THE COURT: I do not. Thank you. Granted, OTBS.

3 MS. ACUNA: Great. All right. Next up is item
4 number 10 on the agenda, the taxes order, which the motion was
5 originally filed at Docket Number 11. And again, this order is
6 fully consensual and incorporates comments from the U.S.
7 Trustee, required holders, and the UCC, related to noticing
8 rights. And unless Your Honor has any questions, we
9 respectfully request entry of the order.

10 THE COURT: Again, I don't have any additional
11 concerns. Granted, OTBS.

12 MS. ACUNA: Great. Thank you, Your Honor. And the
13 next item is number 11 on the agenda, and this is the utilities
14 order. The motion was originally filed at Docket Number 14.
15 Again, fully consensual order here. It incorporates comments
16 from the U.S. Trustee, the required holders, and the UCC. And
17 we did add one utility provider to Exhibit A, which is
18 reflected in the redline that we submitted to chambers. And
19 unless Your Honor has any additional questions, we respectfully
20 request entry of the order.

21 THE COURT: All right. Thank you. Motion granted,
22 OTBS. Thank you.

23 MS. ACUNA: Great. Item number 12 on the agenda is
24 the debtor's lease rejection order, and the motion was filed at
25 Docket Number 23. The debtors are seeking to reject eight

1 unexpired leases and two subleases as of the petition date.
2 And as you may have seen on the agenda that was filed at Docket
3 Number 172, we're requesting that the hearing with respect to
4 the 26 Mercer Street lease and sublease be adjourned to the
5 April 8th omnibus hearing. This was at request of the
6 landlord. And we consulted with the landlord's counsel and the
7 sublessee's counsel, and they all consented to the hearing
8 being adjourned with respect to this lease. So, unless Your
9 Honor has any additional questions, we'd request entry of the
10 lease rejection order.

11 THE COURT: So, it's -- this sole exception to, I
12 guess, to the eight rejected leases is the 26 Mercer Street?

13 MS. ACUNA: So, that -- yes, that would have been the
14 ninth location, yes. So, there were eight that are included
15 today, and we'd be adjourning or -- with respect to the 26
16 Mercer Street lease and sublease.

17 THE COURT: And the effective date will be the date
18 of filing?

19 MS. ACUNA: It would be the petition date.

20 THE COURT: The date of filing the petition?

21 MS. ACUNA: Yes.

22 THE COURT: All right. Absent objection -- well,
23 we're going to grant it in part. We'll carry the one -- the
24 issue with respect to -- the context with respect to the one
25 lease to April 8th, I believe?

1 MS. ACUNA: Correct.

2 THE COURT: And we'll mark this OTBS. Thank you.

3 MS. ACUNA: All right. Thank you. Okay. Item
4 number 13 on the agenda is the rejection procedures, and the
5 motion was filed at Docket Number 109. Again, fully
6 consensual, and incorporates comments from the U.S. Trustee,
7 required holders, and the UCC. The edits just provide further
8 clarification regarding when the rejections are effective and
9 timing for filing related proofs of claims, as well as notice
10 requirements. And unless Your Honor has additional questions,
11 we respectfully request entry of the order.

12 THE COURT: All right. I do not. Thank you. Motion
13 granted, OTBS.

14 MS. ACUNA: Thank you. The next item on the agenda
15 is number 14, and this is the de minimis claims settlement
16 procedures order. It was a mouthful. This was filed -- the
17 motion was filed at Docket Number 110, and again, fully
18 consensual. We incorporated comments from the U.S. Trustee,
19 required holders, and the UCC. The edits include additional
20 notice rights and further clarification regarding the value of
21 the claims that may be settled pursuant to the procedures. And
22 we also updated the form settlement notice to include
23 additional categories of information that will be provided to
24 the notice parties. And unless Your Honor has additional
25 questions, we respectfully request entry of the order.

1 THE COURT: All right. I do not. Thank you. Motion
2 granted.

3 MS. ACUNA: Thank you, Your Honor. And this brings
4 us to the last item on the agenda, item number 15, and last but
5 certainly not least, it is the OCP order authorizing the
6 employment and payment of ordinary course professionals. The
7 order reflects comments from the U.S. Trustee, the Unsecured
8 Creditors Committee, and the required holders. Here, the
9 parties agreed to remove the reference to the aggregate fee
10 cap, and agreed that the aggregate case cap, identified in
11 Paragraph 8, is sufficient. And unless Your Honor has
12 additional questions, we respectfully request entry of the
13 order.

14 THE COURT: Why start now? That's fine.

15 MS. ACUNA: I know. Believe me.

16 THE COURT: Motion granted.

17 MS. ACUNA: Great. And, Your Honor, that concludes
18 today's agenda from the debtor's perspective and unless my
19 colleagues, Ms. Gavey or Mr. Winters have anything else to add,
20 I believe that's all from the debtors.

21 THE COURT: All right. My understanding is that we
22 have one adjourned matter that's -- besides the lease issue we
23 were -- we referenced before. The motion with respect to
24 consolidated creditor lists is being carried to April 8th as
25 well, is that correct?

1 MS. GAVEY: That's correct.

2 THE COURT: All right.

3 MS. GAVEY: And the request for adjournment was
4 submitted to chambers.

5 THE COURT: All right. Thank you. So, we'll mark
6 that adjourned. That's Docket Number 17. So, we have -- the
7 next date is the April 8th date, followed by the April 29th
8 date, I believe. The next two omnibus dates. Then we get to
9 the tentative or proposed sale hearing date, May 6th, I
10 believe. Any other issues or concerns that any counsel wish to
11 bring to the Court's attention this morning?

12 MR. WINTERS: Nothing further from the debtors.
13 Thank you, Your Honor.

14 THE COURT: All right. Well, thank you all for your
15 participation. I wish you a very happy and peaceful weekend.
16 Don't work too much. All right. Thank you. Take care.

17 UNIDENTIFIED ATTORNEY: Thank you, Your Honor.

18 UNIDENTIFIED ATTORNEY: Thank you, Your Honor.

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C E R T I F I C A T I O N

I, KIM WEBER, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

/s/ Kim Weber

KIM WEBER

J&J COURT TRANSCRIBERS, INC. DATE: March 22, 2024

Form tsntc

UNITED STATES BANKRUPTCY COURT

District of New Jersey
402 East State Street
Trenton, NJ 08608

Case No.: 24-11362-MBK
Chapter: 11
Judge: Michael B. Kaplan

In Re: Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Invitae Corporation
1400 16th Street
San Francisco, CA 94103

Social Security No.:

Employer's Tax I.D. No.:
27-1701898

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Dated: March 25, 2024

JAN:

Jeanne Naughton
Clerk