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June 17, 2024

VIA ECF

The Honorable Michael B. Kaplan
United States Bankruptcy Court, District of New Jersey
Clarkson S. Fisher US Courthouse
402 East State Street, Courtroom #8
Trenton, NJ 08608

Re: In re Invitae Corporation, Case No. 24-11362 (MBK)

Dear Chief Judge Kaplan:

This firm represents Deerfield Partners, L.P. (“Deerfield”), in the above-referenced matter. We write in response to the *Notice of the Official Committee of Unsecured Creditors’ Objection to the 2028 Senior Secured Note Claims* [Dkt. 635], filed June 13, 2024, purportedly providing notice that a hearing on the entirety of the Official Committee of Unsecured Creditors’ (the “Committee”) objection to the 2028 Senior Secured Note Claims [Dkt. 528] (“Claim Objection”) will be held on July 9, 2024. This is inconsistent with the Court’s ruling on the record at the June 11, 2024 hearing, which limited the matters to be heard with respect to the Claim Objection only to the allowability of the make-whole.

The Claim Objection itself is broad. It seeks to disallow the 2028 Senior Secured Note Claims on multiple grounds, one being that the holders of such claims are not entitled to the make-whole. *See generally*, Claim Objection at 17-47. At the hearing on June 11, 2024, in response to Deerfield’s suggestion that the Claims Objection proceed on a separate track, Committee counsel argued that the issues of standing and the make-whole should be addressed together. June 11, 2024 Hr’g Tr. 34:9-22. Your Honor agreed and stated that:

[O]n the 9th, I intend to listen to the evidence proffered, listen to the oral arguments made on both issues, the standing and the make-whole. Now, my expectation with the make-whole is that it is primarily legal arguments at issue. . . . But at the hearing on the 9th, all I am anticipating is oral argument on the legal issues relative to the appropriateness of the make-whole.

Id. at 37:14-24. Contrary to this Court’s explicit statements, the Committee’s notice contains no limitation as to the scope of the hearing. Consequently, the notice indicates that the Committee will be seeking relief based on all issues raised in the Claim Objection (including setoff, allowability of interest, and other issues).



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On June 14, 2024, counsel for Deerfield requested that Committee's counsel submit a revised notice consistent with Your Honor's statements that only the make-whole will be at issue on July 9th, but counsel has not responded. We respectfully request, therefore, that the Court either direct the Committee to submit a revised notice or enter a text order clarifying that the scope of the July 9, 2024 hearing with respect to the Claim Objection is to be limited to the allowability of the make-whole. Alternatively, if the Court wishes, we are available for a status conference to discuss the matter.

Respectfully submitted,

/s/ James N. Lawlor

James N. Lawlor

cc: All counsel of Record (*via ECF*)