

Docket #0956 Date Filed: 08/16/2024

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

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In re:

INVITAE CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11362 (MBK)

(Jointly Administered)

¹ The last four digits of Debtor Invitae Corporation's ("Invitae," and with its subsidiary debtors, the "Debtors") tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' proposed claims and noticing



241136224081600000000004

NOTICE OF APPEAL

Part 1: Identify the appellant(s)

Appellant is the Official Committee of Unsecured Creditors (the “**Committee**”) appointed in these chapter 11 cases (the “**Chapter 11 Cases**”).

Part 2: Identify the subject of this appeal

Pursuant to 28 U.S.C. §158 and rules 8002 and 8003 of the Federal Rules of Bankruptcy Procedure, the Committee hereby appeals from the *Order Denying the Official Committee of Unsecured Creditors’ Motion for (I) Leave, Standing, and Authority to Commence and Prosecute Certain Claims and Causes of Action on Behalf of the Debtors’ Estates and (II) Exclusive Settlement Authority* [Docket No. 914] (the “**Order**”), entered by the Bankruptcy Court on August 2, 2024. A copy of the Order is attached here to as **Exhibit A**.

Part 3: Identify the other parties to the appeal

The names of the other parties to the Order and the names, addresses, and telephone numbers of their attorneys are as follows:

Party	Counsel
Invitae Corporation and its debtor affiliates, as debtors and debtors in possession in the above-referenced chapter 11 cases	KIRKLAND & ELLIS LLP KIRKLAND & ELLIS INTERNATIONAL LLP Joshua A. Sussberg, P.C. (admitted <i>pro hac vice</i>) Nicole L. Greenblatt, P.C. (admitted <i>pro hac vice</i>) Francis Petrie (admitted <i>pro hac vice</i>) Jeffrey Goldfine (admitted <i>pro hac vice</i>) 601 Lexington Avenue New York, NY 10022 (212) 446-4800 joshua.sussberg@kirkland.com nicole.greenblatt@kirkland.com francis.petrie@kirkland.com jeffrey.goldfine@kirkland.com KIRKLAND & ELLIS LLP KIRKLAND & ELLIS INTERNATIONAL LLP Spencer A. Winters, P.C. (admitted <i>pro hac vice</i>)

agent at www.kccllc.net/invitae. The Debtors’ service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.

	<p>William E. Arnault, P.C. (admitted <i>pro hac vice</i>) 333 West Wolf Point Plaza Chicago, IL 60654 (312) 862-2000 spencer.winters@kirkland.com william.arnault@kirkland.com</p> <p>COLE SCHOTZ P.C. Michael D. Sirota, Esq. Warren A. Usatine, Esq. Felice R. Yudkin, Esq. Daniel J. Harris, Esq. Court Plaza North, 25 Main Street Hackensack, NJ 07601 (201) 489-3000 msirota@coleschotz.com wusatine@coleschotz.com fyudkin@coleschotz.com dharris@coleschotz.com</p>
Deerfield Partners, L.P.	<p>SULLIVAN & CROMWELL LLP Ari Blaut (admitted <i>pro hac vice</i>) Justin DeCamp (admitted <i>pro hac vice</i>) Benjamin Beller (admitted <i>pro hac vice</i>) 125 Broad Street New York, NY 10004 blauta@sullcrom.com decampj@sullcrom.com bellerb@sullcrom.com</p> <p>WOLLMUTH MAHER & DEUTSCH LLP James N. Lawlor 500 Fifth Avenue New York, NY 10110 (212) 382-3300 jlawlor@wmd-law.com</p> <p>MOLOLAMKEN LLP Steven F. Molo (admitted <i>pro hac vice</i>) Justin M. Ellis (admitted <i>pro hac vice</i>) Anden F. Chow (admitted <i>pro hac vice</i>) Nathaniel F. Rubin (admitted <i>pro hac vice</i>) 430 Park Avenue New York, NY 10022 (212) 607-8170 smolo@mololamken.com jellis@mololamken.com achow@mololamken.com nrubin@mololamken.com</p>

<p>U.S. Bank Trust Company, National Association</p>	<p>SHIPMAN & GOODWIN LLP Kathleen M. LaManna, Esq. Kimberly S. Cohen, Esq. Anthony R. Scarcella, Esq. One Constitution Plaza Hartford, CT 06103-1919 (860) 251-5603 klamanna@goodwin.com kcohen@goodwin.com ascarcella@goodwin.com</p> <p>RIKER DANZIG LLP Joseph L. Schwartz, Esq. Tara J. Schellhorn, Esq. Headquarters Plaza, One Speedwell Avenue Morristown, NJ 07962 (973) 538-0800 jschwartz@riker.com tschellhorn@riker.com</p>
<p>United States Trustee</p>	<p>UNITED STATES DEPARTMENT OF JUSTICE OFFICE OF THE UNITED STATES TRUSTEE ANDREW R. VARA UNITED STATES TRUSTEE, REGIONS 3 & 9 Jeffrey M. Sponder, Esq. Lauren Bielskie, Esq. One Newark Center, Suite 2100 Newark, NJ 07102 (973) 645-3014 jeffrey.m.sponder@usdoj.gov lauren.bielskie@usdoj.gov</p>

Dated: August 16, 2024

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*Co-Counsel to the Official Committee of
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EXHIBIT A



Caption in Compliance with D.N.J. LBR 9004-1(b)

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY
In re: INVITAE CORPORATION, <i>et al.</i> , Debtors. ¹

Order Filed on August 2, 2024
by Clerk
U.S. Bankruptcy Court
District of New Jersey

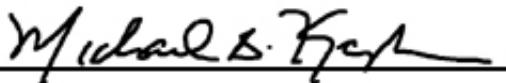
Chapter 11

Case No. 24-11362 (MBK) (Jointly Administered)

**ORDER DENYING THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS' MOTION
FOR (I) LEAVE, STANDING, AND AUTHORITY TO COMMENCE AND
PROSECUTE CERTAIN CLAIMS AND CAUSES OF ACTION ON BEHALF
OF THE DEBTORS' ESTATES AND (II) EXCLUSIVE SETTLEMENT AUTHORITY**

The relief set forth on the following pages, numbered three (3) through five (5), is
ORDERED.

DATED: August 2, 2024


Honorable Michael B. Kaplan
United States Bankruptcy Judge

¹ The last four digits of Debtor Invitae Corporation's tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://www.veritaglobal.net/invitae>. The Debtors' service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.



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Caption in Compliance with D.N.J. LBR 9004-1(b)

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER DENYING THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION FOR (I) LEAVE, STANDING, AND AUTHORITY TO COMMENCE AND PROSECUTE CERTAIN CLAIMS AND CAUSES OF ACTION ON BEHALF OF THE DEBTORS' ESTATES AND (II) EXCLUSIVE SETTLEMENT AUTHORITY

Upon *The Official Committee of Unsecured Creditors' Motion for (I) Leave, Standing, and Authority to Commence and Prosecute Certain Claims and Causes of Action on Behalf of the Debtors' Estates and (II) Exclusive Settlement Authority* [Docket No. 536] (the "Standing Motion");² and the Court having jurisdiction to consider the Standing Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Standing Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Standing Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed and considered the following, among other related documents filed in connection therewith:

- (a) the Standing Motion;
- (b) *Debtors' Objection to the Official Committee of Unsecured Creditors' Motion for (I) Leave, Standing and Authority to Commence and Prosecute Certain Claims and Causes of Action on Behalf of the Debtors' Estates and (II) Exclusive Settlement Authority* [Docket No. 713];
- (c) *Joinder and Supplemental Statement of U.S. Bank Trust Company, National Association, as Trustee and Collateral Agent, to Deerfield Partners L.P.'s (I) Objection to the Committee's Standing Motion and (II) Response to the Committee's Objections to the Make Whole Amount* [Docket No. 720]
- (d) *Deerfield's (I) Objection to the Committee's Standing Motion and (II) Response to*

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Standing Motion.

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER DENYING THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION FOR (I) LEAVE, STANDING, AND AUTHORITY TO COMMENCE AND PROSECUTE CERTAIN CLAIMS AND CAUSES OF ACTION ON BEHALF OF THE DEBTORS' ESTATES AND (II) EXCLUSIVE SETTLEMENT AUTHORITY

the Committee's Objections to the Make Whole Amount [Docket No. 728]; and

- (e) The Official Committee of Unsecured Creditors' Reply Brief in Support of its Motion for (I) Leave, Standing, and Authority to Commence and Prosecute Certain Claims and Causes of Action on Behalf of the Debtors' Estates and (II) Exclusive Settlement Authority [Docket No. 752];

and the Court having held a hearing to consider the Standing Motion and all of the documents filed in connection therewith on July 9, 2024 at 11:00 a.m. (ET) (the "July 9 Hearing"); and the Court having heard and considered the evidence and arguments of counsel presented to it during the July 9 Hearing and at the hearing held on July 22, 2024 at 9:00 a.m. (ET) (the "Confirmation Hearing"); and upon the record of the July 9 Hearing and the Confirmation Hearing; and after due deliberation and sufficient cause appearing therefor **IT IS HEREBY ORDERED THAT:**

1. The Standing Motion is DENIED in its entirety for the reasons stated in the Court's bench decision read into the record on July 12, 2024, and as supplemented by the Court's bench decision read into the record on July 23, 2024.

2. The Court may further supplement its bench decisions on the Standing Motion with a written opinion.