

GIBBONS P.C.

Robert K. Malone
Kyle P. McEvilly
One Gateway Center
Newark, New Jersey 07102-5310
Telephone: (973) 596-4500
Email: rmalone@gibbonslaw.com
kmcevilly@gibbonslaw.com
-and-

MCDERMOTT WILL & EMERY LLP

Darren Azman (admitted *pro hac vice*)
Lisa A. Gerson (admitted *pro hac vice*)
Deanna D. Boll (NJ Bar No. 31861998)
One Vanderbilt Avenue
New York, New York 10017-3852
Telephone: (212) 547-5400
Email: dazman@mwe.com
lgerson@mwe.com
dboll@mwe.com

Co-Counsel to Natera Inc.

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:	Chapter 11
INVITAE CORPORATION, <i>et al.</i> ,	Case No. 24-11362 (MBK)
Debtors. ¹	(Jointly Administered)
NATERA INC.,	
Plaintiff,	
v.	Adv. Pro. No. 25-01015 (MBK)
INVITAE CORPORATION, <i>et al.</i> ,	
Defendant.	

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



241136225073000000000002

**NATERA INC.'S STATEMENT OF THE ISSUES ON APPEAL AND DESIGNATION OF
ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Appellant Natera Inc. (“Natera”), by and through its undersigned counsel, hereby respectfully submits the following: (i) statement of issues to be included on appeal from the decision of the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) set forth in Order Dismissing Adversary Proceeding Without Prejudice [ECF No. 19] (the “Order”) and the Bankruptcy Court’s Memorandum Opinion [ECF No. 18] (the “Opinion”), and (ii) designation of items to be included in the record on appeal.

Natera’s appeal is pending before the United States District Court for the District of New Jersey at Case No. 3:25-cv-13394-RK.

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

Natera hereby submits the following as the issues on appeal pursuant to Bankruptcy Rule 8009(a)(1)(A):

1. Did the Bankruptcy Court err by abstaining and declining jurisdiction over a core matter – contract rejection – over which it had retained exclusive jurisdiction as set forth in the Debtors’ confirmed plan, and dismissing Natera’s complaint?
2. Did the Bankruptcy Court err by ruling, *sua sponte*, that Natera’s pre-rejection conduct to preserve its rights under the APA estopped Natera from asserting its altered rights related to the legal consequences of rejection after the Debtors rejected the APA?

DESIGNATION OF RECORD ON APPEAL²

Natera submits the following designation of items to be included in the record on appeal (including any exhibit, annex, or addendum thereto):

	Description Main Case No. 24-11362 (MBK)	Date Filed / Entered	Docket No.
1.	Chapter 11 Voluntary Petition	2/13/24	ECF No. 1
2.	Natera Inc.'s Objection to the Proposed Sale Transaction	4/1/24	ECF No. 262
3.	Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	5/9/24	ECF No. 471
4.	Disclosure Statement Relating to the Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	5/9/24	ECF No. 472
5.	Notice of Filing Disclosure Statement Relating to Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	6/13/24	ECF No. 614
6.	Solicitation Version of the Amended Joint Plan of Invitae Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	6/13/24	ECF No. 630
7.	Notice of Filing Solicitation Version of Disclosure Statement Relating to the Amended Joint Plan of Invitae Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	6/13/24	ECF No. 631

² Portions of the record designated for appeal were filed under seal or with redactions (together, the “**Sealed Material**”) in accordance with the Confidentiality Agreement (defined below). The parties executed an asset purchase agreement (“**APA**”) on January 17, 2024, which contained information that was designated by Invitae and Natera as confidential pursuant to a certain Confidentiality and Rule 408-Plus Agreement, dated as of September 1, 2022, by and between Natera and its subsidiaries and affiliates on the one hand, and certain of the Debtors and their respective employees, legal counsel, and board members on the other hand, as amended by Addendum No. 1 thereto (the “**Confidentiality Agreement**”). Sealed Material is identified in the tables below with asterisks. Appellant will file a motion with the District Court pursuant to Federal Rule of Bankruptcy Procedure 8009(f) requesting that the District Court accept these portions of the record under seal.

	Description Main Case No. 24-11362 (MBK)	Date Filed / Entered	Docket No.
8. **	Motion for Relief From Stay to Effectuate a Setoff Pursuant to Sections 362 and 553 of the Bankruptcy Code**	6/19/24	ECF No. 670
9.	Natera Inc.'s Motion to File Under Seal Natera's Motion for Relief From Stay to Effectuate a Setoff Pursuant to Sections 362 and 553 of the Bankruptcy Code	6/19/24	ECF 671
10. **	Motion for Relief From Stay Pursuant to Section 362 of the Bankruptcy Code to Initiate Delaware State Law Proceeding**	7/1/24	ECF No. 711
11.	Natera Inc.'s Motion to File Under Seal Natera's Motion for Relief From Stay Pursuant to Section 362 of the Bankruptcy Code to Initiate Delaware State Law Proceeding	7/1/24	ECF No. 712
12.	Notice of Filing Plan Supplement for the Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	7/8/24	ECF No. 761
13.	Notice of Filing Second Amended Joint Plan of Invitae Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code	7/12/24	ECF No. 791
14.	Amended Plan Supplement for the Second Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications)	7/19/24	ECF No. 857
15.	Third Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications)	8/1/25	ECF No. 909
16.	Notice of Filing Second Amended Plan Supplement for Third Amended Joint Plan	8/1/24	ECF No. 910
17.	Findings of Fact, Conclusions of Law, and Order Confirming the Third Amended Joint Plan	8/2/24	ECF No. 913

	Description Main Case No. 24-11362 (MBK)	Date Filed / Entered	Docket No.
18.	Notice of Filing Debtors' Third Amended Plan Supplement for Third Amended Joint Plan of Reorganization of Invitae Corporation and Its Debtor Affiliates	8/7/24	ECF No. 924
19.	Notice of Entry of the Confirmation Order and the Occurrence of the Effective Date	8/7/24	ECF No. 927
20.	Notice of Entry of the Confirmation Order and the Occurrence of the Effective Date	8/9/24	ECF No. 932

	Description Adversary Case No. 25-01015 (MBK)	Date Filed / Entered	Docket No.
1.	Verified Adversary Complaint	1/21/25	ECF No. 1
2.	Debtors' Memorandum of Law in Support of Motion to Dismiss Natera Inc.'s Adversary Complaint for Failure to State a Claim Upon Which Relief Can Be Granted	2/21/25	ECF No. 8
3.	Natera's Response to Defendant's Motion to Dismiss	5/20/25	ECF No. 12
4.	Debtors' Reply in Support of Motion to Dismiss	5/27/25	ECF No. 13
5.	Natera's Sur-Reply to Debtors' Motion to Dismiss	6/2/25	ECF No. 16
6.	Memorandum Opinion	7/2/25	ECF No. 18
7.	Order Dismissing Adversary Proceeding Without Prejudice	7/2/25	ECF No. 19
8.	Notice of Appeal	7/15/25	ECF No. 23
9.	Transmittal of Record on Appeal	7/16/25	ECF No. 25
10.	Notice of Docketing Record on Appeal to District Court	7/16/25	ECF No. 26

CERTIFICATE REGARDING TRANSCRIPTS

Bankruptcy Rule 8009(b) requires an appellant to either (i) order from the court reporter a transcript of such parts of the proceedings not already on file as the appellant considers necessary for the appeal and file a copy of the order with the bankruptcy clerk; or (ii) file a certificate with the bankruptcy clerk stating that the appellant is not ordering a transcript.

Pursuant to Bankruptcy Rule 8009(b), Natera respectfully certifies to the Clerk of Court that it is not ordering a transcript not already included in the record on appeal with respect to the appeal docketed in the United States District Court for the District of New Jersey, Case No. 3:25-cv-13394-RK.

Natera expressly reserves the right to supplement this designation and the record on appeal with any relevant materials from the above-captioned chapter 11 bankruptcy cases.

[Remainder of page intentionally blank]

Dated: July 29, 2025

By: /s/ Robert K. Malone

GIBBONS P.C.

Robert K. Malone

Kyle P. McEvilly

One Gateway Center

Newark, New Jersey 07102-5310

Telephone: (973) 596-4500

Email: rmalone@gibbonslaw.com

kmcevilly@gibbonslaw.com

-and-

MCDERMOTT WILL & EMERY LLP

Darren Azman (admitted *pro hac vice*)

Lisa A. Gerson (admitted *pro hac vice*)

Deanna D. Boll

One Vanderbilt Avenue

New York, New York 10017-3852

Telephone: (212) 547-5400

Email: dazman@mwe.com

lgerson@mwe.com

dboll@mwe.com

Co-Counsel to Natera Inc.