

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	Chapter 11
INVIVO THERAPEUTICS CORPORATION, <i>et al.</i> , ¹	Case No. 24-10137 (MFW)
Debtors.	(Jointly Administered)

STIPULATION RESOLVING CLAIMS OF RICHARD TOSELLI

This stipulation and agreement (the “Stipulation”) is entered into by and between the Liquidation Trustee² for the InVivo Therapeutics Liquidation Trust (the “Trust”), as successor-in-interest to InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. (collectively, the “Debtors”), and Richard Toselli (“Toselli”). The Liquidation Trustee and Toselli are referred to collectively in this Stipulation as the “Parties”, and, each, as a “Party.” The Parties hereby stipulate and agree as follows:

RECITALS

- A. On February 1, 2024 (the “Petition Date”), the Debtors each commenced a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).
- B. The Debtors and Toselli were parties to that certain *Employment Agreement* dated December 18, 2017 (the “Employment Agreement”).
- C. Pursuant to the Toselli Agreement, Toselli was entitled to receive certain severance benefits upon the termination of the Employment Agreement.

¹ 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.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Joint Chapter 11 Plan of Liquidation of Infinity Pharmaceuticals, Inc. and Infinity Discovery, Inc. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 254] (the “Plan”).



D. On April 11, 2024, Toselli filed proof of claim no. 4 asserting a general unsecured claim for amounts due under the Employment Agreement (the “Toselli GUC Claim”).

E. Through the Toselli Claims, Toselli asserts general unsecured claims in an amount not less than \$879,507.89, representing 18 months of severance pay due under the Employment Agreement.

F. On June 21, 2024, the Bankruptcy Court entered its *Findings of Fact, Conclusions of Law, and Order (I) Confirming Joint Plan of Liquidation of Infinity Pharmaceuticals, Inc. and Infinity Discovery, Inc. Pursuant to Chapter 11 of the Bankruptcy Code and (II) Approving the Disclosure Statement on a Final Basis* [D.I. 246] (the “Confirmation Order”) confirming the Plan.

G. On March 26, 2024, the Debtors filed the *Notice of (A) Entry of the Order (I) Approving the Disclosure Statement on a Final Basis and (II) Confirming the Joint Plan of Liquidation of Infinity Pharmaceuticals, Inc. and Infinity Discovery, Inc.; (B) the Effective Date Thereof; and (C) Certain Deadlines* [D.I. 270] (the “Notice of Effective Date”), indicating that the Effective Date of the Plan occurred on July 12, 2024.

H. Pursuant to the Confirmation Order, the Employment Agreement was rejected upon the Effective Date.

I. The Parties have agreed to resolve the Toselli Claim on the terms set forth herein.

NOW, THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IT HEREBY IS STIPULATED AND AGREED, BY AND AMONG THE PARTIES THAT:

1. This Stipulation shall have no force or effect unless and until the date when both (a) the Stipulation is executed by the Parties; and (b) the payment referenced in paragraph 2 below is received by Toselli (the “Effective Date”).

2. Toselli shall be entitled to a one-time cash payment from the Trust in the amount of \$586,338.00 (the “Toselli Claim Distribution”) in full and final satisfaction of the Toselli Claim, in its entirety.

3. The Toselli Claim Distribution shall be remitted within seven (7) business days of execution of this Stipulation.

4. Except for the rights, duties, and obligations created by this Stipulation, upon the Effective Date, Toselli, shall and does hereby forever release, waive, disclaim, and discharge the Debtors, Liquidation Trustee, the Trust, and their successors, assigns, attorneys, agents, representatives, officers, members, directors, shareholders, and employees, not in their individual capacities, but solely in their capacities as agents, professionals or representatives of the Liquidation Trustee and the Trust (collectively, the “Trust Released Parties”) of and from any and all obligations, rights, claims, liabilities, liens, damages, demands, actions, causes of action, lawsuits, proceedings, adjustments, offsets, contracts, obligations, controversies, costs, expenses, attorneys’ fees, losses, cross-claims, counterclaims, controversies, bankruptcy claims, defenses, and claims of any kind, nature and character whatsoever existing as of the date of this Stipulation whether at law or equity, whether based on contract (including without limitation, quasi-contract or estoppel), statute, regulation, tort (including, without limitation, intentional torts, fraud, recklessness, gross negligence and willful misconduct) or otherwise, foreseen or unforeseen, known or unknown, accrued or unaccrued, matured or unmatured, fixed or contingent, liquidated or unliquidated, disputed or undisputed, suspected or unsuspected, whether held directly or derivatively up to and including the date of this Stipulation.

5. Except for the rights, duties, and obligations created by this Stipulation, upon the Effective Date, the Trust Released Parties shall and do hereby forever waive, release and discharge

Toselli of and from any and all obligations, rights, claims, liabilities, damages, demands, actions, causes of action, lawsuits, proceedings, adjustments, offsets, contracts, obligations, controversies, costs, expenses, attorneys' fees, losses, cross-claims, counterclaims, controversies, bankruptcy claims, defenses, and claims of any kind, nature and character whatsoever existing as of the date of this Stipulation whether at law or equity, whether based on contract (including without limitation, quasi-contract or estoppel), statute, regulation, tort (including, without limitation, intentional torts, fraud, recklessness, gross negligence and willful misconduct) or otherwise, foreseen or unforeseen, known or unknown, accrued or unaccrued, matured or unmatured, fixed or contingent, liquidated or unliquidated, disputed or undisputed, suspected or unsuspected, whether held directly or derivatively up to and including the date of this Stipulation.

6. Except as otherwise provided herein, this Stipulation shall bind the Parties, their successors in interest, and assigns, including, without limitation, any bankruptcy trustee.

7. The Liquidation Trustee, on behalf of the Trust, is authorized to take all reasonable actions necessary or appropriate to effectuate the provisions of this Stipulation, including, without limitation, instructing the Debtors' claims and noticing agent, to reflect the satisfaction of the Toselli Claim in the official claims register for the Debtors.

8. Except as otherwise set forth in this Stipulation, nothing contained in this Stipulation is intended to be, or shall be construed as, a waiver of any claims or causes of action that may exist against any creditor or interest holder. Nothing contained in this Stipulation shall be construed, applied, or interpreted to change the terms of the Plan, the Confirmation Order, or the Liquidation Trust Agreement and Declaration of Trust, in any respect.

9. This Stipulation shall constitute the entire agreement and understanding of the Parties relating to the subject matter hereof and supersedes all prior agreements and understandings

relating to the subject matter hereof.

10. Each of the undersigned who executes this Stipulation by or on behalf of a Party represents and warrants that he or she has been duly authorized and empowered to execute and deliver this Stipulation on behalf of such Party.

11. This Stipulation may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and it shall constitute sufficient proof of this Stipulation to present any copies, electronic copies, or facsimiles signed by the Parties here to be charged.

12. This Stipulation shall not be modified, altered, amended, or vacated without the written consent of all Parties hereto or by order of the Bankruptcy Court.

13. This Stipulation shall be governed by, and construed in accordance with, the laws of the State of Delaware, except to the extent that the Bankruptcy Code applies, without regard to principles of conflicts of law that would require the application of laws of another jurisdiction.

14. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies arising from this Stipulation.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Stipulation has been executed and delivered as of the day
and year first below written.

Dated: October 2, 2024

By: /s/ Richard Toselli
Richard Toselli
1052 East Shore Road
Jamestown, RI 02835

By: /s/ Matthew B. McGuire
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