

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Hearing Date: December 23, 2025 at 2:00 p.m. (ET)

Obj. Deadline: December 16, 2025 at 4:00 p.m. (ET)

**LIQUIDATION TRUSTEE’S MOTION UNDER BANKRUPTCY CODE SECTIONS 105
AND 350, BANKRUPTCY RULE 3022, AND LOCAL RULE 3022-1 FOR FINAL
DECREE AND ORDER CLOSING THE CHAPTER 11 CASES**

The Liquidation Trustee (the “Liquidation Trustee”) of the InVivo Therapeutics Liquidation Trust (the “Trust”), by and through its undersigned counsel, hereby moves for an order and final decree (the “Final Decree”), under sections 105(a) and 350(a) of title 11 of the United States Code (as amended, the “Bankruptcy Code”), rule 3022 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 3022-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), closing the above-captioned bankruptcy cases effective as of the date of the entry of the order approving this motion (the “Motion”).² In support of the Motion, the Liquidation Trustee respectfully represents as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated

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 Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 246, Ex. A] (the “Plan”).



February 29, 2012. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.³

2. The legal bases for the relief sought herein are Bankruptcy Code sections 105(a) and 350(a), Bankruptcy Rule 3022, and Local Rule 3022-1.

BACKGROUND

3. On February 1, 2024 (the “Petition Date”), InVivo Therapeutics Corporation and InVivo Therapeutics Holding Corp. (collectively, the “Debtors”) commenced the above-captioned chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the Court.

4. Additional information regarding the circumstances leading to the commencement of the Chapter 11 Cases and information regarding the Debtors’ business and capital structure is set forth in the *Declaration of Richard Christopher in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* [D.I. 3] (the “First Day Declaration”), which is incorporated herein by reference.

5. On June 11, 2024, the Debtors filed the *Notice of Filing Plan Supplement* [D.I. 219] (the “Plan Supplement”). The Plan Supplement also contains the Liquidation Trust Agreement. *See* Plan Supplement, Exhibit A.

6. On June 21, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order (I) Confirming Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code and (II) Approving*

³ Pursuant to Local Rule 9013-1(f), the Liquidation Trustee hereby confirms its consent to the entry of a final order by the Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

the Disclosure Statement on a Final Basis [D.I. 246] (the “Confirmation Order”) confirming the Plan. The Plan became effective on July 12, 2024 (the “Effective Date”) and created the Liquidation Trust. *See* D.I. 270. Pursuant to the Plan and Confirmation Order, Matthew Foster was appointed as the Liquidation Trustee.

7. On the Effective Date, all of the Debtors’ assets transferred and vested in the Trust. Pursuant to the Plan, the Liquidation Trustee has the duty and obligation to administer and carry out the purposes of the Plan, including acting on behalf of the Trust in all matters before the Court and exercising his power in accordance with the Plan. *See* Plan, Art. IV.C. The Liquidation Trust was established, and the Liquidation Trustee was appointed to, among other things, effectuate the wind down of the Debtors and make distributions pursuant to the terms of the Plan and Liquidation Trust Agreement. *See id.*

8. Since the Effective Date, the Liquidation Trustee has reviewed and objected to all Disputed Claims, filed all required tax returns, reconciled all remaining claims, and has wound down the Post-Effective Date Debtors.

9. In accordance with Local Rule 3022-1, the Liquidation Trustee will submit the final report on or before December 8, 2025. Additionally, the Liquidation Trustee anticipates that all motions, contested matters, and adversary proceedings in the Chapter 11 Cases will have been finally resolved. Accordingly, the Trust will be fully administered and, as such, closure of the Chapter 11 Cases is appropriate.

10. In accordance with the Confirmation Order and Plan, all fees payable pursuant to 28 U.S.C. § 1930 (the “UST Fees”) were paid with respect to the pre-Effective Date period. Following the Effective Date, the Liquidation Trustee has continued to pay the UST Fees to the Office of the United States Trustee for the District of Delaware (the “UST”), and the Liquidation

Trustee will work with the UST to ensure that all remaining UST Fees for the Trust are paid in a timely and appropriate manner.

11. On October 29, 2025, the Liquidation Trustee filed the *Liquidation Trustee's Motion for Entry of an Order, Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code, Authorizing (I) Distributions to Holders of Equity Security Interests; (II) Entry into Paying Agent Agreement with Continental Stock Transfer and Trust Company; and (III) Granting Related Relief* [D.I. 379] (the "Equity Distribution Motion"). On November 18, 2025, the Court entered an order (the "Equity Distribution Order") granting the Equity Distribution Motion and authorizing the Debtors to engage Continental Stock Transfer and Trust Company ("Continental") to effectuate a *pro rata* distribution of Liquidation Trust Assets to holder of Class 6 – Interests in the Debtors (the "Equity Distribution").

12. Pursuant to the Equity Distribution Order, the Liquidation Trustee, with the assistance of Continental, intends to effectuate the Equity Distribution no later than December 22, 2025. The only other remaining tasks left for the Liquidation Trustee in the Chapter 11 Cases will be to (a) pay all fees required under 28 U.S.C. § 1930, and (b) satisfy any other post-Effective Date fees and expenses.

13. Any residual property remaining in the Trust at the time of its dissolution will be donated to a charitable organization at the sole discretion of the Liquidation Trustee.

RELIEF REQUESTED

14. By this Motion, the Liquidation Trustee respectfully requests that the Court enter a Final Decree and order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Final Decree"), closing the Chapter 11 Cases effective as of the date of the entry of the order approving this Motion.

BASIS FOR RELIEF

15. Bankruptcy Code section 350(a) provides that “[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case.” 11 U.S.C. § 350(a). Pursuant to Bankruptcy Code section 105(a) “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). “After the estate is fully administered . . . the court must, on its own or on a party in interest’s motion, enter a final decree closing the case.” Fed. R. Bankr. P. 3022.

16. “Bankruptcy Rule 3022 is intended to allow bankruptcy courts flexibility in determining whether an estate is fully administered.” *Spierer v. Federated Dep’t. Stores, Inc. (In re Federated Dep’t. Stores, Inc.)*, 43 F. App’x 820, 822 (6th Cir. Aug. 5, 2002). The Advisory Committee’s Note to Bankruptcy Rule 3022 sets forth “[f]actors that the court should consider in determining whether the estate has been fully administered includ[ing] (1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan, (5) whether payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.” *See* Fed. R. Bankr. P. 3022, 11 U.S.C.A., Advisory Committee Notes (1991). The foregoing factors are meant as a guide for determining whether a case should be closed; not all factors must be satisfied. *See, e.g., In re Federated Dep’t. Stores, Inc.*, 43 F. App’x at 822 (“not all the factors set forth in the Advisory Committee Note need to be present to establish that a case is fully administered for final decree purposes”); *In re Mold Makers, Inc.*, 124 B.R. 766, 768-69 (Bankr. N.D. Ill. 1990) (adopting the six factors as a guide and noting that not all factors need be

present before entering a final decree). Moreover, this Court has reaffirmed its adoption of the view that, “these factors are but a guide in determining whether a case has been fully administered, and not all factors need to be present before the case is closed.” *In re SLI, Inc.*, 2005 Bankr. LEXIS 1322, at *5 (Bankr. D. Del. Jun. 24, 2005) (citing *In re Mold Makers, Inc.*, 124 B.R. 766 (Bankr. N.D. Ill. 1990)).

17. Application of the relevant factors to these Chapter 11 Cases favors granting the relief requested herein. The period for appealing the Confirmation Order has expired and the order has long become final. The transactions contemplated by the Plan have been fully consummated with the exception of the Equity Distribution, which the Liquidation Trustee intends to complete as soon as practicable. On the Effective Date, all Assets transferred and vested in the Trust in accordance with the Plan. The Liquidation Trustee has reconciled all claims against the Debtors. All motions, contested matters, and adversary proceedings in, and associated with, the Chapter 11 Cases have been finally resolved, or will be in advance of the hearing on this Motion. In addition, all expenses arising from the administration of these cases, including final distributions under the Plan, court fees and fees required under 28 U.S.C. § 1930(a)(6), have been or will be paid as soon as practicable. As such, the Trust has been fully administered and should be closed by the Court. Finally, in accordance with Local Rule 3022-1(a)(ii), the Liquidation Trustee will file the final report as set forth therein. In sum, because the Plan has been substantially consummated, the Liquidation Trustee submits this Court may close the Chapter 11 Cases.

18. Pursuant to Bankruptcy Code section 350(b), the Court retains jurisdiction to reopen the Chapter 11 Cases for further administration in the unlikely event that the need to do so arises. The relief sought herein shall not prejudice any other party in interest.

NOTICE AND NO PRIOR REQUEST

19. The Liquidation Trustee has provided notice of this Motion to the following or in lieu thereof, their counsel, if known: (a) the Office of the United States Trustee for the District of Delaware; and (b) all parties who have requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Liquidation Trustee submits that no other or further notice need be given.

20. No previous request for the relief sought in this Motion has been made to this Court or any other court.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Liquidation Trustee respectfully requests that the Court enter the Proposed Final Decree, in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other and further relief as is just and proper.

Dated: December 2, 2025
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Joshua B. Brooks
Matthew B. McGuire (No. 4366)
Joshua B. Brooks (No. 6765)
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*Counsel for the InVivo Therapeutics
Liquidation Trust*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Hearing Date: December 23, 2025 at 2:00 p.m. (ET)

Obj. Deadline: December 16, 2025 at 4:00 p.m. (ET)

NOTICE OF MOTION

TO: The following parties: (a) the Office of the United States Trustee for the District of Delaware; and (b) all parties who have requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure.

PLEASE TAKE NOTICE that on December 2, 2025, the Liquidation Trustee of the InVivo Therapeutics Liquidation Trust (the “Liquidation Trustee”) filed the *Liquidation Trustee’s Motion Under Bankruptcy Code Sections 105 and 350, Bankruptcy Rule 3022, and Local Rule 3022-1 for Final Decree and Order Closing the Chapter 11 Cases* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

PLEASE TAKE FURTHER NOTICE that responses or objections, if any, to the relief requested in the Motion must be filed with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **December 16, 2025, at 4:00 p.m. (ET)**. At the same time, you must also serve a copy of the objection upon the following parties so as to be received no later than **December 16, 2025, at 4:00 P.M. (ET)**: (1) counsel for the InVivo Therapeutics Liquidation Trust, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801 (Attn: Matthew B. McGuire, Esq., mcguire@lrclaw.com and Joshua B. Brooks, Esq., brooks@lrclaw.com); and (2) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, (Attn: Joseph Cudia, Esq., joseph.cudia@usdoj.gov).

A HEARING ON THE MOTION WILL BE HELD ON **DECEMBER 23, 2025 AT 2:00 P.M. (ET)** BEFORE THE HONORABLE MARY F. WALRATH, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR, COURTROOM NO. 4, WILMINGTON, DELAWARE 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

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.

Dated: December 2, 2025
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Joshua B. Brooks

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*Counsel for the InVivo Therapeutics
Liquidation Trust*

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. No. _____

**ORDER GRANTING THE LIQUIDATION TRUSTEE'S
MOTION UNDER BANKRUPTCY CODE SECTIONS 105 AND 350,
BANKRUPTCY RULE 3022, AND LOCAL RULE 3022-1 FOR
FINAL DECREE AND ORDER CLOSING THE CHAPTER 11 CASES**

Upon the *Liquidation Trustee's Motion Under Bankruptcy Code Sections 105 and 350, Bankruptcy Rule 3022, and Local Rule 3022-1 for Final Decree and Order Closing the Chapter 11 Cases* (the "Motion");² and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Court may enter an order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that sufficient notice of the Motion has been given; and it appearing that the relief requested by the Motion is necessary and appropriate and in the best interests of the Debtors'

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² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. 246, Ex. A] (the "Plan").

estates and their creditors; and after due deliberation and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Any objections to the entry of this Order or to the relief granted herein and requested in the Motion that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are hereby OVERRULED and DENIED on the merits.
3. To the extent the Distribution has not been effectuated, the Liquidation Trustee and Continental are authorized to take all actions necessary to effectuate the Distribution to holders of Class 6 – Interests.
4. The Chapter 11 Cases, jointly administered under Case No. 24-10137 (MFW), are hereby CLOSED and a final decree is granted effective as of the date of entry of this Order; *provided, however*, that this Court shall retain jurisdiction as provided in the Plan and the Confirmation Order.
5. The Liquidation Trustee shall file and serve on the U.S. Trustee any remaining quarterly reports and pay any quarterly fees due and owing pursuant to 28 U.S.C. § 1930(a)(6) within thirty (30) days of the entry of this Order.
6. Entry of this Final Decree is without prejudice to the rights of the Liquidation Trustee, the U.S. Trustee, or any other party in interest to seek to reopen the Chapter 11 Cases for cause pursuant to Bankruptcy Code section 350(b).
7. Entry of this Final Decree is without prejudice to the rights of the U.S. Trustee to seek to reopen the Chapter 11 Cases to seek appropriate relief in the event of an unresolved dispute over the payment of fees pursuant to 28 U.S.C. § 1930(a)(6) or the post-confirmation reports.

8. The Liquidation Trustee, or their respective agents, are authorized to abandon and/or destroy the Debtors' records (both physical and digital).

9. Upon completion of its duties under the Local Rules, the engagement of Verita Global (f/k/a Kurtzman Carson Consultants LLC) ("Verita") as the claims, noticing and balloting agent for the Chapter 11 Cases shall be terminated.

10. Pursuant to Local Rule 2002-1(e)(ix), within twenty-eight (28) days of entry of this Final Decree and Order, Verita shall (i) forward to the Clerk of the Court an electronic version of all proofs of claim; (ii) upload the creditor mailing list into CM/ECF; and (iii) docket the final claims register containing the claims filed in the Chapter 11 Cases.

11. Should Verita receive any mail regarding the Chapter 11 Cases after entry of this Final Decree and Order, Verita shall collect and forward, as soon as practicable, such mail to the Liquidation Trustee.

12. The Liquidation Trustee is authorized to take all actions necessary to effectuate the relief granted in this Order.

13. With the exception of the obligations set forth in this Order, the Liquidation Trustee and its agents, attorneys, professionals, advisors, and other representatives (i) have complied with all of their obligations under the Plan, (ii) are fully and finally released and discharged of and from any duties, obligations, accountings or other matters of any nature with respect to the Plan and Chapter 11 Cases, and (iii) have no further responsibilities or obligations in connection with the Plan or Chapter 11 Cases aside from making final distributions in accordance with the terms of the Plan and Confirmation Order.

14. Notwithstanding anything to the contrary, the terms and conditions of this Final Decree and Order shall be immediately effective and enforceable upon its entry.

15. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Final Decree and Order.

Dated: _____, 2025
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE