

**Fill in this information to identify the case:**

Debtor EPI Health, LLC

United States Bankruptcy Court for the: \_\_\_\_\_ District of Delaware  
(State)

Case number 23-10938

Official Form 410  
**Proof of Claim**

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

<b>1. Who is the current creditor?</b>	<u>Aclaris Therapeutics, Inc.</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>
	See summary page	Aclaris Therapeutics, Inc. 640 Lee Road Suite 200 Wayne, PA 19087
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Contact phone <u>302-468-5662</u>	Contact phone <u>484-321-2487</u>
	Contact email <u>See summary page</u>	Contact email <u>agandhi@aclaristx.com</u>
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_ \_

7. How much is the claim? \$ 4,617,278.52. Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
See addendum attached.

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature or property:**  
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amount should match the amount in line 7.)  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( <u>2</u> ) that applies.	\$ <u>unliquidated</u>

\* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/23/2023  
MM / DD / YYYY

/s/Meghan Dunsmore  
Signature

**Print the name of the person who is completing and signing this claim:**

Name Meghan Dunsmore  
First name Middle name Last name

Title Vice President, Finance

Company Aclaris Therapeutics, Inc.  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 640 Lee Road, Suite 200, Wayne, PA, 19087, USA

Contact phone 484-321-5551 Email mdunsmore@aclaristx.com



# KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (888) 251-2954 | International (310) 751-2614

<b>Debtor:</b> 23-10938 - EPI Health, LLC		
<b>District:</b> District of Delaware		
<b>Creditor:</b> Aclaris Therapeutics, Inc. Aaron S. Applebaum DLA Piper LLP US 1201 North Market Street Suite 2100 Wilmington, DELAWARE, 19801 United States <b>Phone:</b> 302-468-5662 <b>Phone 2:</b>  <b>Fax:</b>  <b>Email:</b> aaron.applebaum@us.dlapiper.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded <b>Related Document Statement:</b>	
	<b>Has Related Claim:</b> No <b>Related Claim Filed By:</b>	
	<b>Filing Party:</b> Authorized agent	
	(Empty)	
<b>Disbursement/Notice Parties:</b> Aclaris Therapeutics, Inc. 640 Lee Road Suite 200 Wayne, PA, 19087 <b>Phone:</b> 484-321-2487 <b>Phone 2:</b>  <b>Fax:</b>  <b>E-mail:</b> agandhi@aclaristx.com <b>DISBURSEMENT ADDRESS</b>		
<b>Other Names Used with Debtor:</b>		<b>Amends Claim:</b> No <b>Acquired Claim:</b> No
<b>Basis of Claim:</b> See addendum attached.		<b>Last 4 Digits:</b> No <b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> 4,617,278.52		<b>Includes Interest or Charges:</b> Yes
<b>Has Priority Claim:</b> Yes		<b>Priority Under:</b> 11 U.S.C. §507(a)(2): unliquidated
<b>Has Secured Claim:</b> No <b>Amount of 503(b)(9):</b> No <b>Based on Lease:</b> No <b>Subject to Right of Setoff:</b> No		<b>Nature of Secured Amount:</b> <b>Value of Property:</b> <b>Annual Interest Rate:</b> <b>Arrearage Amount:</b> <b>Basis for Perfection:</b> <b>Amount Unsecured:</b>
<b>Submitted By:</b> Meghan Dunsmore on 23-Oct-2023 5:28:50 p.m. Eastern Time <b>Title:</b> Vice President, Finance <b>Company:</b> Aclaris Therapeutics, Inc.		

**Optional Signature Address:**

Meghan Dunsmore  
Aclaris Therapeutics, Inc.  
640 Lee Road, Suite 200

Wayne, PA, 19087  
USA

**Telephone Number:**

484-321-5551

**Email:**

[mdunsmore@aclaristx.com](mailto:mdunsmore@aclaristx.com)

Your claim can be filed electronically on KCC's website at <https://epoc.kccllc.net/Novan>

United States Bankruptcy Court for the District of Delaware

Indicate Debtor against which you assert a claim by checking the appropriate box below. **(Check only one Debtor per claim form.)**

Novan, Inc. (Case No. 23-10937)

EPI Health, LLC (Case No. 23-10938)

## Official Form 410 Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

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Fill in all the information about the claim as of the date the case was filed.

### Part 1: Identify the Claim

1. Who is the current creditor?	Aclaris Therapeutics, Inc. Name of the current creditor (the person or entity to be paid for this claim)		
	Other names the creditor used with the debtor _____		
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	<b>Where should notices to the creditor be sent?</b> DLA Piper LLP (US); Attn: Aaron S. Applebaum Name 1201 N. Market Street, Suite 2100 Number Street Wilmington DE 19801 City State ZIP Code United States Country Contact phone (302) 468.5662 Contact email aaron.applebaum@us.dlapiper.com		<b>Where should payments to the creditor be sent? (if different)</b> Aclaris Therapeutics, INC. Name 640 Lee Road, Suite 200 Number Street Wayne PA 19087 City State ZIP Code United States Country Contact phone (484) 321-2487 Contact email agandhi@aclaristx.com
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____	Filed on _____ MM / DD / YYYY
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 4,617,278.52 Does this amount include interest or other charges?  
 No  
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8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
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See addendum attached.

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature of property:**  
 Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
**Basis for perfection:** \_\_\_\_\_  
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
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**Annual Interest Rate** (when case was filed) \_\_\_\_\_%  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- No
- Yes. Check all that apply:

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_
- Up to \$3,350\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_
- Wages, salaries, or commissions (up to \$15,150\* earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_
- Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies. \$ unliquidated

\* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

- No
- Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

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A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

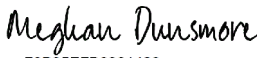
- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/23/2023  
MM / DD / YYYY

DocuSigned by:  
  
 79B95EFB8981422...

Print the name of the person who is completing and signing this claim:

Name Meghan Dunsmore  
First name Middle name Last name

Title Vice President, Finance

Company Aclaris Therapeutics, Inc.  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 640 Lee Road, Suite 200  
Number Street

Wayne PA 19087 USA  
City State ZIP Code Country

Contact phone (484) 321-5551 Email mdunsmore@aclaristx.com



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

In re:

Novan, Inc., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 23-10937 (LSS)

(Jointly Administered)

**ADDENDUM TO PROOF OF CLAIM**

Aclaris Therapeutics, Inc. (“**Aclaris**”), a creditor in the jointly administered bankruptcy cases of the above-captioned debtors (the “**Debtors**”), hereby asserts this proof of claim (the “**Claim**”) against debtor EPI Health, LLC (“**EPI Health**”) for presently due and future royalties and other amounts arising out of the asset purchase agreement between Aclaris and EPI Health.

On October 10, 2019, Aclaris and EPI Health entered into a certain Asset Purchase Agreement (as amended, the “**Aclaris Agreement**”). Through the Aclaris Agreement, among other things, Aclaris conveyed to EPI Health its rights and interests in certain assets related to the RHOFADÉ pharmaceutical product, including contracts, patents, trademarks, domain names and inventory. Under the Aclaris Agreement, EPI Health acquired the right to manufacture and sell RHOFADÉ, subject to certain sales milestones, ex-U.S. sublicensing consideration, and a seven percent (7%) royalty (the “**Royalty**”).

On July 17, 2023 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”).

On September 12, 2023, the Court entered the *Order (I) Approving Asset Purchase Agreement, (II) Authorizing the Sale of the Debtor’s Assets Free and Clear of All Encumbrances*

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<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of the Debtors’ federal tax identification number (if applicable), are: Novan, Inc. (7682) and EPI Health, LLC (9118). The corporate headquarters and the mailing address for the Debtors is 4020 Stirrup Creek Drive, Suite 110, Durham, NC 27703.

to Mayne Pharma LLC, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief [D.I. 292] (the “**Sale Order**”), through which the Court approved the sale of the Debtors’ RHOFADÉ pharmaceutical assets to Mayne Pharma LLC (“**Mayne**”). In connection with entry of the Sale Order, the Court ruled that the Debtors could sell the RHOFADÉ assets to Mayne free and clear of the Royalty, including any Royalty that would only arise, if at all, upon and as a result of the post-closing conduct of Mayne related to Mayne’s operation, manufacture and sale of the RHOFADÉ assets. Aclaris has appealed this aspect of the Sale Order, which appeal remains pending in the United States District Court for the District of Delaware.

Subject to a ruling in Aclaris’ favor on the appeal, Aclaris hereby asserts claims for all present and future Royalty payments, present ex-U.S. sublicensing consideration, and damages under the Aclaris Agreement. Aclaris does not waive, and hereby expressly reserves, all rights of appeal, reconsideration and other similar rights with respect to the Sale Order.

As of the Petition Date, EPI Health owed Aclaris at least **\$1,347,981.94**, comprised as follows:

<b>Claim Item</b>	<b>Amount</b>
Remaining upfront payment for Additional Ex-U.S. Consideration, excluding interest	\$937,500
Royalty – 2022 Q4 (incomplete payment received)	\$15,096.66
Royalty – 2023 Q1	\$76,905.38
Royalty – 2023 Q2	\$260,853.73
Interest Due	\$76,792.84
Interest Received	(\$19,166.67)
<b>Prepetition Balance (TOTAL)</b>	<b>\$1,347,981.94</b>

The Debtors have also continued to sell RHOFADÉ after the Petition Date, and Mayne is expected to continue to sell RHOFADÉ following the closing of the sale. Aclaris reserves the right to assert all administrative expense claims with respect to EPI Health’s post-petition sales under section 503(b) of the Bankruptcy Code.

Subject to allowance and payment of Aclaris’ anticipated administrative expense claim and the outcome of Aclaris’ appeal, Aclaris also asserts and includes herein the amounts that will come due for all future Royalty payments under the Aclaris Agreement. Based on EPI Health’s historical sales figures, and reasonably extrapolating through the third quarter of 2026, Aclaris hereby asserts a claim for future Royalty payments, in the total amount of \$3,269,296.58, comprised as follows:

<b>Quarter</b>	<b>Projected Net Sales</b>	<b>Royalty</b>
2023 Q3	\$4,252,340	\$297,664
2023 Q4	\$4,252,340	\$297,664
2024 Q1	\$4,252,340	\$297,664
2024 Q2	\$4,252,340	\$297,664
2024 Q3	\$4,252,340	\$297,664
2024 Q4	\$4,252,340	\$297,664
2025 Q1	\$4,252,340	\$297,664
2025 Q2	\$4,252,340	\$297,664
2025 Q3	\$4,252,340	\$297,664
2025 Q4	\$4,252,340	\$297,664
2026 Q1	\$4,252,340	\$297,664
2026 Q2	\$4,252,340	\$297,664
2026 Q3	\$4,252,340	\$297,664
<b>TOTAL</b>	<b>\$55,280,420</b>	<b>\$3,869,629</b>
Discount Rate		10%
<b>Present Value of Future Royalty</b>		<b>\$3,269,296.58</b>

Accordingly, Aclaris hereby asserts a total claim in the amount of \$4,617,278.52, comprised as follows:

<b>Claim</b>	<b>Amount</b>
Pre-Petition Payments	<b>\$1,347,981.94</b>
Future Royalty Payments (discounted to present value)	<b>\$3,269,296.58</b>
<b>TOTAL</b>	<b>\$4,617,278.52</b>

Aclaris expressly reserves the right to further amend, modify, re-characterize and/or supplement this Claim in any way, including, without limitation, to (i) assert additional claims, including related to (a) setoff, (b) recoupment, (c) indemnification, (d) reimbursement, (e) subrogation and (f) any rights of the undersigned pursuant to a contract or under statutory, regulatory or common law, and/or (ii) recharacterize any amount of the Claim as a priority or an administrative expense claim, and/or (iii) any equitable relief to which Aclaris may be entitled.

Aclaris also expressly reserves the right to assert this or any other claim against any other of the Debtors or any other non-debtor entities who may be determined to be jointly and severally liable with EPI Health under the Aclaris Agreement, including, for avoidance of doubt, all entities who received assignment or otherwise obtained rights to the RHOFADE intellectual property and other assets transferred under the Aclaris Agreement. Aclaris also expressly reserves all rights in connection with its pending appeal, including without limitation all rights to assert and collect future Royalty payments from Mayne on account of Mayne's operation, manufacture and sale of RHOFADE.

The filing of this Claim is not a waiver or release of Aclaris' rights against any person, entity or property, and nothing contained herein shall limit the right of Aclaris to file any proceeding or take any action concerning the Claim or any other of Aclaris' rights in this or any other court.