

**ENTERED**

November 30, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

ATHENEX, INC., *et al.*,Debtors.<sup>1</sup>

Chapter 11

Case No. 23-90295 (MI)

(Jointly Administered)

**ORDER SUSTAINING DEBTORS' SECOND OMNIBUS OBJECTION  
TO CERTAIN CLAIMS (RECLASSIFICATION CLAIMS)**

[Related Docket No. 567]

Upon the objection (the "Objection")<sup>2</sup> of the above-captioned Debtors and the request for entry of an order (this "Order") sustaining the *Debtors' Second Omnibus Objection to Claims Pursuant to Section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007 Seeking to Reclassify Certain Claims (Reclassification Claims)*, all as more fully set forth in the Objection; and upon the Saleem Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Objection in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Objection is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Objection and opportunity for a hearing on the Objection were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Objection;

<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/athenex>.

<sup>2</sup> A capitalized term used but not defined herein shall have the meaning ascribed to it in the Objection.

and this Court having determined that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. Each Reclassification Claim identified in the “Asserted” column on **Schedule 1** attached to this Order is modified and reclassified as a non-priority general unsecured claim, as set forth in the “Modified” column on **Schedule 1**; *provided that* the Debtors and any person or entity with the powers to reconcile claims, including without limitation, the Athenex Liquidating Trust, reserve the right to object to any Proof of Claim identified in the “Modified” column on **Schedule 1** on any applicable grounds.

2. The Debtors’ Claims and Noticing Agent is authorized and directed to update the claims register maintained in these Chapter 11 Cases to reflect the relief granted in this Order.

3. To the extent that a response is filed regarding any Reclassification Claim, each such Claim and the Objection as it pertains to such Claim will constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. This Order will be deemed a separate order with respect to each Objected Claim.

4. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of any party’s right, including, without limitation, the Debtors’ and the Athenex Liquidating Trust’s right, to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this Objection; (e) a request or authorization to assume any

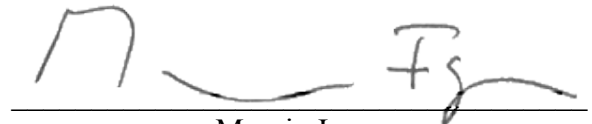
prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' and/or the Athenex Liquidating Trust's rights under the Bankruptcy Code or any other applicable law.

5. Notice of the Objection as provided therein shall be deemed good and sufficient notice of such Objection, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

6. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Objection.

7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: November 29, 2023



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Marvin Isgur  
United States Bankruptcy Judge

**Schedule 1 to Order**  
**Reclassification Claims**

Reclassified Claims

The basis for Reclassification is further discussed in paragraph 19 of the Objection.

Name of Claimant	Asserted Debtor	Date Claim Filed	Claim Number	Asserted Claim Amount					Basis for Modification	Modified Total				
				Administrative	Secured	Priority	Unsecured	Total		Administrative	Secured	Priority	Unsecured	Total
BARONE, JOSEPH S, MD ADDRESS REDACTED	DEBTOR NOT INDICATED BY CLAIMANT--ATHENEX, INC.C7	6/1/2023	10	\$0.00	\$0.00	\$3,100.00	\$0.00	\$3,100.00	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; independent contractor is not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$3,100.00	\$3,100.00
BRAND, BARBARA ADDRESS REDACTED	ATHENEX, INC.	5/18/2023	2	\$0.00	\$0.00	\$1,793.75	\$0.00	\$1,793.75	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; independent contractor is not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$1,793.75	\$1,793.75
CDW ATTN RONELLE ERICKSON 200 N MILWAUKEE AVE VERNON HILLS, IL 60061	ATHENEX, INC.	5/19/2023	7	\$0.00	\$0.00	\$73,592.92	\$59,264.61	\$132,857.53	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; claim relates to software licenses and is not entitled to 503(b)(9) priority for "goods sold"	\$0.00	\$0.00	\$0.00	\$132,857.53	\$132,857.53
CORRIGAN MEDICAL WRITING INC 2315 SUMMIT DR HILLSBOROUGH, NC 27278	ATHENEX, INC.	5/24/2023	10015	\$0.00	\$0.00	\$5,075.00	\$0.00	\$5,075.00	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; independent contractor is not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$5,075.00	\$5,075.00
FPM COMMUNICATIONS LLC 10 LAKE FARRINGTON DR NORTH BRUNSWICK, NJ 08902	ATHENEX, INC.	5/16/2023	1	\$0.00	\$0.00	\$11,475.00	\$0.00	\$11,475.00	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; independent contractor is not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$11,475.00	\$11,475.00
FRISSELLA, KAREN N ADDRESS REDACTED	ATHENEX, INC.	7/17/2023	54	\$0.00	\$0.00	\$8,100.00	\$0.00	\$8,100.00	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; no basis in the Debtors books and records or in the claim for the priority demanded	\$0.00	\$0.00	\$0.00	\$8,100.00	\$8,100.00
GENSCRIPT PROBIO USA INC C/O WILENTZ GOLDMAN & SPITZER PA ATTN DAVID H STEIN, ESQ 90 WOODBRIDGE CENTER DR, BOX 10 WOODBRIDGE, NJ 07095	ATHENEX, INC.	7/19/2023	88	\$16,400.00	\$0.00	\$0.00	\$1,415,238.87	\$1,431,638.87	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; claim relates to services and is not entitled to 503(b)(9) priority for "goods sold"	\$0.00	\$0.00	\$0.00	\$1,431,638.87	\$1,431,638.87
IP.COM LLC ATTN BETH H GALUSHA 370 WOODCLIFF DR, #301 FAIRPORT, NY 14450	CELL MEDICA, INC.	7/25/2023	117	\$0.00	\$0.00	\$71.52	\$999.99	\$1,071.51	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; priority asserted under 507(a)(8), but amount owed to claimant is not an amount owed by the Debtor to a governmental unit	\$0.00	\$0.00	\$0.00	\$1,071.51	\$1,071.51
J GAREFINO CONSULTING LLC 182 SHADY BROOK DR LANGHORNE, PA 19047	ATHENEX, INC.	5/18/2023	10003	\$0.00	\$0.00	\$13,656.25	\$0.00	\$13,656.25	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; independent contractor is not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$13,656.25	\$13,656.25
LIANG, ZUN ADDRESS REDACTED	ATHENEX PHARMACEUTICAL DIVISION, LLC	6/30/2023	10093	\$6,250.00	\$0.00	\$0.00	\$0.00	\$6,250.00	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; employee has already been paid prepetition claims up to the priority cap	\$0.00	\$0.00	\$0.00	\$6,250.00	\$6,250.00
LIANG, ZUN ADDRESS REDACTED	ATHENEX PHARMACEUTICAL DIVISION, LLC	7/20/2023	10297	\$5,972.22	\$0.00	\$5,972.22	\$0.00	\$5,972.22	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; employee has already been paid prepetition claims up to the priority cap	\$0.00	\$0.00	\$0.00	\$5,972.22	\$5,972.22
LIANG, ZUN ADDRESS REDACTED	ATHENEX PHARMACEUTICAL DIVISION, LLC	7/20/2023	10300	\$5,972.22	\$0.00	\$5,972.22	\$0.00	\$5,972.22	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; employee has already been paid prepetition claims up to the priority cap	\$0.00	\$0.00	\$0.00	\$5,972.22	\$5,972.22
LIANG, ZUN ADDRESS REDACTED	ATHENEX PHARMACEUTICAL DIVISION, LLC	7/20/2023	10301	\$5,972.22	\$0.00	\$0.00	\$0.00	\$5,972.22	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; employee has already been paid prepetition claims up to the priority cap	\$0.00	\$0.00	\$0.00	\$5,972.22	\$5,972.22
LIANG, ZUN ADDRESS REDACTED	ATHENEX PHARMACEUTICAL DIVISION, LLC	8/25/2023	10413	\$5,972.22	\$0.00	\$5,972.22	\$0.00	\$5,972.22	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; employee has already been paid prepetition claims up to the priority cap and is not entitled to priority claimed under 503(b)(9) because employee services are not "goods sold"	\$0.00	\$0.00	\$0.00	\$5,972.22	\$5,972.22

Name of Claimant	Asserted Debtor	Date Claim Filed	Claim Number	Asserted Claim Amount					Basis for Modification	Modified Total				
				Administrative	Secured	Priority	Unsecured	Total		Administrative	Secured	Priority	Unsecured	Total
MANAGED HEALTH CARE ASSOCIATES INC 25A VREELAND RD, STE 200 FLORHAM PARK, NJ 07932	ATHENEX PHARMACEUTICAL DIVISION, LLC	7/18/2023	10247	\$20,911.64	\$0.00	\$0.00	\$0.00	\$20,911.64	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; administrative fee described in claim is not entitled to 503(b)(9) priority for "goods sold"	\$0.00	\$0.00	\$0.00	\$20,911.64	\$20,911.64
METLIFE LEGAL PLANS INC ATTN STACEY EILBAUM 200 PARK AVE NEW YORK, NY 10166	ATHENEX, INC.	7/19/2023	10264	\$0.00	\$0.00	\$1,319.50	\$0.00	\$1,319.50	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; claimant is not an employee and not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$1,319.50	\$1,319.50
MOUTVIC, THOMAS ADDRESS REDACTED	ATHENEX PHARMACEUTICAL DIVISION, LLC	6/28/2023	10085	\$0.00	\$0.00	\$110,447.28	\$0.00	\$110,447.28	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; claim seeks priority treatment for deferred compensation; however, amounts claimed- are not either "wages, salaries, or commissions" that were "earned within 180 days before the filing of the petition" (507(a)(4) or "contributions to an employee benefit plan . . . arising from services within 180 days before the filing of the petition"	\$0.00	\$0.00	\$0.00	\$110,447.28	\$110,447.28
RIVAS, MIGUEL A ADDRESS REDACTED	ATHENEX, INC.	7/18/2023	10246	\$0.00	\$0.00	\$586.86	\$0.00	\$586.86	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; no support appended to claim	\$0.00	\$0.00	\$0.00	\$586.86	\$586.86
SCILUCENT INC 770 MONUMENT GULCH WAY BELLVUE, CO 80512	ATHENEX, INC.	5/18/2023	10004	\$21,512.50	\$0.00	\$0.00	\$0.00	\$21,512.50	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; claim relates to services and is not entitled to 503(b)(9) priority for "goods sold"	\$0.00	\$0.00	\$0.00	\$21,512.50	\$21,512.50
SUMMIT MEDICAL WRITING GROUP INC	ATHENEX, INC.	5/31/2023	10021	\$0.00	\$0.00	\$15,150.00	\$16,163.75	\$31,313.75	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; independent contractor is not entitled to priority reserved for employee wage claims	\$0.00	\$0.00	\$0.00	\$31,313.75	\$31,313.75
U.S. BANK, N.A., d/b/a U.S. BANK EQUIPMENT FINANCE 1310 MADRID STREET MARSHALL, MN 56258	ATHENEX, INC.	6/12/2023	16	\$0.00	\$241,129.94	\$0.00	\$0.00	\$241,129.94	Claim appears to asserted secured claim for full amount asserted and related to certain leased equipment. Debtors do not dispute that the claimant is entitled to return of its collateral, which has been offered to the claimant. Claim not otherwise entitled to be paid as a secured claim.	\$0.00	\$0.00	\$0.00	\$241,129.94	\$241,129.94
XENOBIOTIC LABORATORIES INC. 107 MORGAN LN PLAINSBORO, NJ 08536	ATHENEX, INC.	7/17/2023	67	\$18,000.00	\$0.00	\$0.00	\$8,425.00	\$26,425.00	Claim asserts a priority amount or treatment to which it is not entitled under the Bankruptcy Code or other Court order; claim asserts priority under 503(b)(9); however, supporting invoices show most related to services rather than "goods sold" or are for periods beyond 20 days prior to the petition date. \$8,425.00 is a post-petition invoice and is entitled to administrative priority	\$8,425.00	\$0.00	\$0.00	\$18,000.00	\$26,425.00