

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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:

In re : **Chapter 11**

:

INSYS THERAPEUTICS, INC., et al., : **Case No. 19-11292 (JTD)**

:

Debtors.¹ : **Jointly Administered**

:

: **Re: D.I. 1115**

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**CERTIFICATION OF COUNSEL REGARDING ORDER APPROVING
STIPULATION BY AND BETWEEN THE DEBTORS, THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS, AND CLASS
REPRESENTATIVES MODIFYING CERTAIN PLAN DEADLINES**

The undersigned hereby certifies as follows:

1. On January 16, 2020, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended Joint Chapter 11 Plan of Liquidation of Insys Therapeutics, Inc. and its Affiliated Debtors* [D.I. 1115] (the “**Confirmation Order**”), confirming the *Second Amended Joint Chapter 11 Plan of Liquidation of Insys Therapeutics, Inc. and its Affiliated Debtors* (the “**Plan**”).²

2. Section 5.7(i) of the Plan provides that the ILT Claims Arbiter shall have a maximum of 60 days following the Effective Date to determine the appropriate allocation of value between certain types of claims under the Plan. Since the entry of the Confirmation Order, the parties to the Stipulation (as defined below) have determined that, in order to accomplish the purposes set forth in Section 5.7(i)(ii) of the Plan, it is necessary to modify (i) the time period the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Insys Therapeutics, Inc. (7886); IC Operations, LLC (9659); Insys Development Company, Inc. (3020); Insys Manufacturing, LLC (0789); Insys Pharma, Inc. (9410); IPSC, LLC (6577); and IPT 355, LLC (0155). The Debtors’ mailing address is 3100 West Ray Road Ste. 201, Chandler, Arizona 85226.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Confirmation Order or the Plan, as applicable.

ILT Claims Arbiter has to accomplish the purposes set forth in Section 5.7(i)(ii) of the Plan and (ii) the time periods certain claimant groups have to make joint submissions to the ILT Claims Arbiter, as set forth in the ILT Claims Arbiter Submissions Procedures included as Exhibit I to the Plan Supplement [D.I. 1049].

3. The Debtors, the Creditors' Committee, the Insurance Ratepayer Class Representative, the Third Party Payor Class Representatives, the NAS Monitoring Class Representatives and the Hospital Class Representatives have stipulated, subject to approval by the Court, to the modify the foregoing time limits as set forth in the *Stipulation by and Between the Debtors, the Official Committee of Unsecured Creditors, and the Class Representatives Modifying Certain Plan Deadlines* (the "**Stipulation**"), a copy of which is attached as **Exhibit 1** to the proposed form of order (the "**Proposed Order**") attached hereto as **Exhibit A**.

4. The SMT Group Representatives and the Office of the United States Trustee for the District of Delaware do not object to the relief set forth in the Proposed Order.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, at its earliest convenience.

Dated: February 14, 2020
Wilmington, Delaware

/s/ Christopher M. De Lillo
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*Attorneys for the Debtors
and Debtors in Possession*

EXHIBIT A

Proposed Order

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

	X		
	:		
In re	:		Chapter 11
	:		
INSYS THERAPEUTICS, INC., et al.,	:		Case No. 19-11292 (JTD)
	:		
Debtors.¹	:		Jointly Administered
	:		
	:		Re: Docket No. 1115 & _____
	X		

**ORDER APPROVING STIPULATION BY AND BETWEEN THE DEBTORS, THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS, AND THE CLASS
REPRESENTATIVES MODIFYING CERTAIN PLAN DEADLINES**

Upon consideration of: (i) the *Stipulation by and Between the Debtors, the Official Committee of Unsecured Creditors and the Class Representatives Modifying Certain Plan Deadlines* (the “**Stipulation**”),² a copy of which is attached hereto as **Exhibit 1**; (ii) the *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended Joint Chapter 11 Plan of Liquidation of Insys Therapeutics, Inc. and its Affiliated Debtors* [ECF No. 1115] (the “**Confirmation Order**”); and (iii) the Plan (as defined in the Confirmation Order); and the Court having jurisdiction to consider the Stipulation pursuant to 28 U.S.C. § 1334; and approval of the Stipulation being a core matter pursuant to 28 U.S.C. § 157(b)(2); and the Court having authority to enter a final order approving the Stipulation consistent with Article III of the United States Constitution; and all parties in interest affected by the Stipulation having consented to the entry of

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Insys Therapeutics, Inc. (7886); IC Operations, LLC (9659); Insys Development Company, Inc. (3020); Insys Manufacturing, LLC (0789); Insys Pharma, Inc. (9410); IPSC, LLC (6577); and IPT 355, LLC (0155). The Debtors’ mailing address is 3100 West Ray Road Ste. 201, Chandler, Arizona 85226.

² Capitalized terms used but not defined in this Order shall have the meanings ascribed to such terms in the Stipulation.

this Order; and it appearing that no other notice of the same is required under the circumstances; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Stipulation is hereby approved.
2. Immediately upon the entry of this Order, the Stipulation shall become effective and binding on all parties in interest, and the Plan and Confirmation Order shall be deemed modified as described therein.
3. The Parties are authorized to take any and all actions reasonably necessary to implement and effectuate the terms of the Stipulation.
4. This Court retains jurisdiction over all matters arising from or related to the implementation or interpretation of this Order.

EXHIBIT 1

Stipulation

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

	X		
	:		
In re	:		Chapter 11
	:		
INSYS THERAPEUTICS, INC., et al.,	:		Case No. 19-11292 (JTD)
	:		
Debtors.¹	:		Jointly Administered
	:		
	:		
	X		

STIPULATION BY AND BETWEEN THE DEBTORS, THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, AND THE CLASS REPRESENTATIVES MODIFYING CERTAIN PLAN DEADLINES

This stipulation (the “**Stipulation**”) is made and entered into by and between Insys Therapeutics, Inc. and its affiliated debtors, as debtors and debtors in possession (collectively, the “**Debtors**”), the official committee of unsecured creditors (the “**Creditors’ Committee**”), and the Class Representatives² (collectively, the “**Parties**”), by and through their respective undersigned counsel.

RECITALS

WHEREAS, on June 10, 2019 (the “**Petition Date**”), each of the Debtors commenced with the United States Bankruptcy Court for the District of Delaware (the “**Court**”) a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”);

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² The “**Class Representatives**” are the Insurance Ratepayer Class Representative, the Third Party Payor Class Representative, the Hospital Class Representative and the NAS Monitoring Class Representative, each as defined in *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended Joint Chapter 11 Plan of Liquidation of Insys Therapeutics, Inc. and its Affiliated Debtors* [ECF No. 1115] (the “**Confirmation Order**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Confirmation Order or the Plan, as applicable.

WHEREAS, on January 16, 2020, the Court entered the Confirmation Order, confirming the *Second Amended Joint Chapter 11 Plan of Liquidation of Insys Therapeutics, Inc. and its Affiliated Debtors* (as attached to the Confirmation Order, and as may be amended and supplemented, the “**Plan**”);

WHEREAS, pursuant to Section 5.7(i)(i) of the Plan and Paragraph 24 of the Confirmation Order, the ILT Claims Arbiter is required to serve through the earlier of (i) sixty (60) days after the Effective Date and (ii) the date such ILT Claims Arbiter resigns;

WHEREAS, the ILT Claims Arbiter Submission Procedures included as Exhibit I to the Plan Supplement [ECF No. 1049-9] (the “**ILT Claims Arbiter Submission Procedures**”) provide that certain claimant groups shall send joint submissions to the ILT Claims Arbiter by the 21st day after the Effective Date and shall send joint reply submissions to the ILT Claims Arbiter by the 35th day after the Effective Date;

WHEREAS, the parties to this Stipulation have determined that it is necessary to modify the foregoing time periods as set forth herein in order to accomplish the purposes set forth in Section 5.7(i)(ii) of the Plan;

NOW THEREFORE, THE PARTIES, BY AND THROUGH THEIR RESPECTIVE UNDERSIGNED COUNSEL, HEREBY STIPULATE AND AGREE AS FOLLOWS:

1. The above recitals are fully incorporated herein and made an express part of this Stipulation.
2. Upon approval of this Stipulation by the Court, Section 5.7(i)(i) of the Plan shall be deemed amended to read as follows:

“In accordance with the ILT Agreement, the ILT Claims Arbiter shall begin serving in such capacity on June 1, 2020, or such later date as the Class Representatives shall agree (the “**Commencement Date**”), and shall serve in such capacity through the earlier of (i) 60 days

after the Commencement Date and (ii) the date such ILT Claims Arbiter resigns, is terminated, or is otherwise unable to serve for any reason.”

3. Upon approval of this Stipulation by the Court, the ILT Claims Arbiter Submission Procedures shall be deemed amended to replace the words “Effective Date” with “Commencement Date.”

4. To the extent the Class Representatives agree that the Commencement Date shall be later than June 1, 2020, the Class Representatives shall provide notice of such Commencement Date by filing a notice with the Bankruptcy Court at least 21 days prior to the Commencement Date.

5. This Stipulation constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof and, except as otherwise expressly provided herein, is not intended to confer upon any other person any rights or remedies hereunder.

6. Except as expressly set forth in this Stipulation, nothing contained herein shall be an admission or waiver of the substantive or procedural rights, remedies, claims, or defenses of any of the parties in these chapter 11 cases, whether at law or equity.

7. Each of the Parties shall bear its own attorneys’ fees and costs with respect to the execution and delivery of this Stipulation; *provided, however*, that the allowed attorneys’ fees and costs of the Creditors’ Committee shall be paid pursuant to applicable provisions of the Bankruptcy Code and orders of the Court.

8. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

9. This Stipulation may not be amended without the express written consent of all Parties hereto and approval by the Court.

10. It is acknowledged that each Party has participated in and jointly consented to the drafting of this Stipulation and that any claimed ambiguity shall not be construed for or against any Party on account of such drafting.

11. The Court shall retain jurisdiction over any and all disputes or other matters arising under or otherwise relating to this Stipulation.

Dated: February 14, 2020
Wilmington, Delaware

/s/ Christopher M. De Lillo

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