

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

In re:

Recombinetics, Inc., *et al.*,

Debtors.¹

Chapter 11 (Subchapter V)

No. 24-12593 ()

(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO (A) CONTINUE USING EXISTING BANK
ACCOUNTS, BUSINESS FORMS, CASH MANAGEMENT SYSTEM, AND PAY ALL
FEES RELATED THERETO AND (B) IMPLEMENT ORDINARY COURSE CHANGES
TO CASH MANAGEMENT SYSTEM, INCLUDING OPENING AND CLOSING BANK
ACCOUNTS; AND (II) GRANTING RELATED RELIEF**

Recombinetics, Inc. and its above-captioned affiliates (collectively, the “Debtors”), the debtors and debtors in possession in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), hereby file this motion (this “Motion”) for the entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** (the “Proposed Interim Order”) and **Exhibit B** (the “Proposed Final Order,” and together with the Proposed Interim Order, the “Proposed Orders”), (i) authorizing the Debtors to (a) continue using their existing bank accounts, business forms, cash management system, and paying all fees related thereto, and (b) implement ordinary-course changes to the cash management system, including opening and closing bank accounts as deemed necessary and appropriate in the Debtors’ business judgment; and (ii) granting related relief. In support of the Motion, the Debtors rely upon and incorporate by reference the *Declaration of Rocco Morelli in Support of Debtors’ Chapter 11 Petitions and First*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Recombinetics, Inc. (1470), Acceligen, Inc. (N/A), Regenevida, Inc. (N/A), Surrogen, Inc. (N/A), and Therillume, Inc. (4995). The mailing address for each of the Debtors is 3388 Mike Collins Drive, Eagan, Minnesota 55121.

Day Motions and Applications (the “First Day Declaration”).² In further support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the “Amended Standing Order”). This is a core proceeding pursuant to 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 Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory and legal predicates for the relief sought herein are sections 105(a), 345, 363, and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and Rules 2015, 6003, and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

GENERAL BACKGROUND

3. On the date hereof (the “Petition Date”), each of the Debtors filed with the Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their businesses and manage their properties as debtors and debtors in possession pursuant to section 1184 of the Bankruptcy Code. No request has been made for the appointment of a trustee or an examiner. The Debtors have requested that the Chapter 11 Cases be jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b).

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the First Day Declaration.

³ Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtors consent to the Court’s entry of a final judgment or order with respect to this Motion if it is determined that the Court, absent consent of the parties, cannot enter a final order consistent with Article III of the United States Constitution.

4. The Debtors have elected to proceed as subchapter V debtors and, accordingly, a Subchapter V Trustee will be appointed in these Chapter 11 Cases on or shortly after the Petition Date.

5. As set forth in the First Day Declaration, the Debtors are a gene editing company that focuses on the editing of animal cells and embryos for strategic commercial applications worldwide, with the aim of improving human health outcomes as well as the sustainability of animal agriculture and aquaculture. Additional information regarding the Debtors' businesses, capital structure, and the circumstances leading to the filing of the Chapter 11 Cases is set forth in the First Day Declaration.

BACKGROUND RELATING TO THE MOTION

A. The Cash Management System

6. In the ordinary course of their business, the Debtors maintain a centralized cash management system, as described in detail below (the "Cash Management System"). The Cash Management System allows the Debtors to efficiently collect, identify, manage, and disburse the Debtors' cash assets. The Cash Management System is important to the efficient execution and achievement of the Debtors' business objectives, and, ultimately, to maximizing the value of the Debtors' estates.

7. The Cash Management System generally operates similarly to the centralized cash management systems used by other similarly sized companies to manage the cash of the organization in a cost-effective, efficient manner. A diagram depicting the flow of funds in the Cash Management System is attached hereto as **Exhibit C**.

i. Bank Accounts

8. The Cash Management System consists of the eight (8) bank accounts identified in the table set forth in paragraph 9, below (collectively, the "Bank Accounts"). Each of the accounts

is maintained at Wells Fargo Bank (“Wells Fargo”). Wells Fargo is on the list of approved depositories for the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”).

9. The following chart summarizes the role of each Bank Account:

Account	Description
Commercial Business Checking Account – Wells Fargo (x9260) Account Owner: Debtor Recombinetics, Inc.	This is the Debtors’ primary operating account (the “Primary Operating Account”). All wires/ACH, checks, and cash received from customers are deposited into this account and all vendors and other operating costs are paid from this account.
Commercial Business Checking Account – Wells Fargo (x5227) Account Owner: Debtor Acceligen, Inc	This account is used exclusively to transact the business of Debtor Acceligen, Inc.
Investment/Money Market Account – Wells Fargo (x7605) Account Owner: Debtor Recombinetics, Inc.	This is a typical money market account used to generate yield on the Debtors’ cash. Historically, this account was used to hold unrestricted funds, including funds received from debt and equity financings, which funds were then disbursed to the Primary Operating Account to pay vendors and other operating costs. Currently, this account is used to hold contractually restricted funds, and funds are released to the Primary Operating Account only when the contractual requirements have been satisfied.
Investment/Money Market Account – Wells Fargo (x0651) Account Holder: Debtor Recombinetics, Inc.	This is a typical money market account used to generate yield on the Debtors’ cash. Grants and other restricted funds are deposited into this account and disbursed to the Primary Operating Account for permitted purposes.
Checking Account – Well Fargo (x4988) Account Holder: Debtor Recombinetics, Inc.	This account is dormant. It was previously used to hold and transfer funds to employee 401K accounts.
Business Checking Account – Wells Fargo (x5219) Account Holder: Debtor Surrogen, Inc.	This account is dormant. It was previously used to transact the business of Debtor Surrogen, Inc.

Account	Description
Business Checking Account – Wells Fargo (x8907) Account Holder: Debtor Regenevida, Inc.	This account is dormant. It was previously used to transact the business of Debtor Regenevida, Inc.
Checking Account – Wells Fargo (x9849) Account Holder: Debtor Recombinetics, Inc.	This account is dormant. It was previously used to bring in investor funding.

ii. Service Charges

10. The Debtors incur between \$100 and \$300 per month in service charges and other fees in connection with the Bank Accounts and maintenance of the Cash Management System (collectively, the “Bank Fees”). The Bank Fees are paid monthly and debited directly from the Bank Accounts. The Debtors estimate there is less than \$150 in accrued but unpaid Bank Fees as of the Petition Date.

11. Additionally, the Debtors incur processing fees for customer payments that are made by credit card (“Credit Card Processing Fees”). The Credit Card Processing Fees are handled by a third party, Priority Payment Systems, LLC, who collects the fees on behalf of the applicable credit card company by netting the fee from the purchase price at the point of sale. The Debtors estimate they pay approximately \$1,100 per month in Credit Card Processing Fees. The Credit Card Processing fees consist of an initial processor company fee that is automatically charged and collected at the point of sale, as well as an underlying credit card fee associated with the sale that is accrued and charged to the Debtors on a monthly basis. As of the Petition Date, the Debtors believe there is approximately \$1,050 in accrued but unpaid Credit Card Processing Fees.

B. Existing Business Forms

12. The Debtors use various business forms, such as checks, invoices, and letterhead, in the ordinary course of business (the “Business Forms”). Because the Business Forms were used

prepetition, they do not reference the Debtors' current status as debtors in possession. Nonetheless, most parties doing business with the Debtors will be aware of the Debtors' status as debtors in possession as a result of the publicity surrounding the Chapter 11 Cases and the notice of commencement served on parties-in-interest.

RELIEF REQUESTED

13. By this Motion, the Debtors request that the Court enter the Proposed Orders (i) authorizing the Debtors to (a) continue using their existing Bank Accounts, Business Forms, Cash Management System, and paying all fees related thereto, and (b) implement ordinary-course changes to the Cash Management System including opening and closing bank accounts as deemed necessary and appropriate in the Debtors' business judgment; and (ii) granting related relief.

14. The Debtors further request that the Court authorize and direct Wells Fargo to (i) continue to maintain, service, and administer the Bank Accounts and (ii) debit the Bank Accounts in the ordinary course of business on account of (a) wire transfers or checks drawn on the Bank Accounts, provided that any payments drawn, issued, or made prior to the Petition Date shall not be honored absent direction of the Debtors and a separate order of the Court authorizing such pre-petition payment, or (b) undisputed service charges and other fees owed to Wells Fargo for maintenance of the Debtors' Cash Management System, if any.

15. The Proposed Orders (i) authorize and direct financial institutions to receive, process, honor, and pay certain checks presented for payment and electronic payment requests relating to the foregoing to the extent the Debtors have sufficient funds standing to their credit with Wells Fargo, whether such checks were presented or electronic requests were submitted before or after the Petition Date, and (ii) provide that all such financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as

appropriate pursuant to this Motion or any other Order of this Court without any duty of further inquiry and without liability for following the Debtors' instructions.

BASIS FOR RELIEF REQUESTED

A. The Court Should Authorize the Debtors' Uninterrupted Use of the Cash Management System

16. The Debtors seek authority to continue utilizing their current Cash Management System, as described above. It is critical that the Debtors be able to consolidate management of cash and centrally coordinate transfers of such funds to efficiently and effectively operate their business. Maintenance of the existing Cash Management System will prevent any unexpected or inopportune interruption to the Debtors' business operations while protecting the Debtors' cash for the benefit of their estates. Requiring the Debtors to change the Cash Management System at this critical time would cause unnecessary disruption to the Debtors and their business affairs.

17. The Cash Management System utilizes the Bank Accounts to effectively and efficiently collect, transfer, and disburse funds as needed in the Debtors' general business operations. The Cash Management System provides significant benefits to the Debtors, including the ability to: (i) closely track, and thus control, all corporate funds; (ii) ensure cash availability; and (iii) reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balance and presentment information. A disruption in the Cash Management System could cause delays in the collection and disbursement of funds, thus impeding the Debtors' ability to operate effectively during the pendency of the Chapter 11 Cases.

18. The Debtors can proceed through the chapter 11 process in an efficient and cost-effective manner only if the Bank Accounts are continued in their current form. The Debtors will ensure that appropriate procedures are in place so that checks issued prior to the Petition Date, but

presented after the Petition Date, will not be honored absent approval from the Court. The Debtors will also maintain records of post-petition transfers within the Cash Management System, so that transfers and transactions will be documented in their books and records to the same extent such information was maintained by the Debtors prior to the Petition Date.

19. Accordingly, the Debtors respectfully request that the Court authorize the continued use of the Cash Management System, provided that no prepetition checks, drafts, wire transfers, or other forms of tender that have not yet cleared the relevant drawee bank as of the Petition Date will be honored unless authorized by separate order of this Court.

20. The Debtors also request that if Wells Fargo honors a prepetition check or other item drawn on any account that is the subject of this Motion, (i) at the direction of the Debtors; (ii) in a good-faith belief that the Court has authorized such prepetition check or item to be honored; or (iii) as a result of an innocent mistake made despite implementation of reasonable item-handling procedures, it not be liable to the Debtors or to their estates on account of such prepetition check or other item being honored post-petition. Such flexibility is necessary to induce Wells Fargo to continue providing cash management services without additional credit exposure.

21. Additionally, in the ordinary course of operating their businesses, it may be necessary for the Debtors to make changes to the Cash Management System, including opening new bank accounts or closing existing accounts. The Debtors intend to continue to maintain strict accounting records, including with respect to receipts and disbursements, and any changes to the Cash Management System or Bank Accounts, so that the U.S. Trustee and parties-in-interest may readily monitor the Debtors' financial activities.

22. Based on the foregoing, maintenance of the existing Cash Management System is in the best interest of the Debtors and their estates.

B. The Court Should Grant the Debtors a Waiver of the U.S. Trustee Guidelines

23. The Debtors further request from the Court a waiver of certain bank-account and related requirements of the U.S. Trustee to the extent that such requirements are inconsistent with (i) the Debtors' practices in connection with the Cash Management System, or (ii) any action taken by the Debtors in accordance with any order granting the relief requested in this Motion or any other order entered in the Chapter 11 Cases.

24. The U.S. Trustee has issued certain chapter 11 operating guidelines pursuant to 28 U.S.C. § 586 (the "U.S. Trustee Guidelines"). The U.S. Trustee Guidelines require that a chapter 11 debtor, among other things:

- (i) close all existing, prepetition bank accounts;
- (ii) open new bank accounts in a depository approved by the U.S. Trustee that are designated as debtor-in-possession accounts ("DIP Accounts"), with separate DIP Accounts established for an operating account, a tax account (to the extent that payroll or other taxes are an issue for the debtor), and a payroll account (to the extent that the debtor had a separate payroll account prepetition);
- (iii) obtain and utilize new checks for all DIP Accounts that bear the designation "Debtor-in-Possession" and contain other information about the debtor's chapter 11 case, and insure that the signature cards for all DIP Accounts clearly indicate that the debtor is a "Debtor-in-Possession";
- (iv) deposit all receipts and make all disbursements only through the approved DIP Accounts, with any funds in excess of those required for current operations being maintained in an interest-bearing account;
- (v) deposit to the tax DIP Account sufficient funds to pay any tax liability (when incurred) associated with the debtor's payroll; and
- (vi) deposit all estate funds into DIP Accounts with a financial institution that agrees to comply with the requirements of the U.S. Trustee (which will be monitored by the U.S. Trustee), with no DIP Account exceeding the insured or collateralized limits of that approved depository.

25. Given the nature of the Debtors' business, such requirements would cause enormous disruption to the Debtors' business and would impair the Debtors' chapter 11 efforts.

The Bank Accounts are part of an established Cash Management System that the Debtors need to maintain to ensure smooth collections and disbursements in the ordinary course of their business. Therefore, to avoid delays in paying debts incurred post-petition, and to ensure as smooth a transition into chapter 11 as possible, the Debtors should be permitted to continue to maintain the Bank Accounts and, if necessary, open new accounts and close existing accounts in the ordinary course of business. Otherwise, transferring the Bank Accounts will be disruptive, time-consuming, and expensive.

26. The Court has the authority to grant the requested relief pursuant to its equitable powers under section 105(a) of the Bankruptcy Code. Section 105(a) provides, in relevant part, that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). The relief requested herein is both necessary and appropriate to allow the Debtors to successfully administer the Chapter 11 Cases, to optimize their post-petition business performance, and to maximize the value of their estates.

27. Accordingly, the Debtors request that the Court waive the strict enforcement of the requirement that the Debtors open new bank accounts. The Debtors further request that their existing Bank Accounts be deemed debtor-in-possession accounts and that the Debtors be authorized to maintain and continue using the Bank Accounts in the same manner and with the same account numbers, styles, and document forms as those employed during the prepetition period.

28. A centralized cash management system “allows efficient utilization of cash resources and recognizes the impracticability of maintaining separate cash accounts for the many different purposes that require cash.” *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 934 (Bankr.

D. Del. 1992), *aff'd in part, rev'd in part on other grounds*, 997 F.2d 1039 (3d Cir. 1993). The Third Circuit agreed, emphasizing that requiring the maintenance of all accounts separately “would be a huge administrative burden and economically inefficient.” *In re Columbia Gas Sys, Inc.*, 997 F.2d at 1061; *see also In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995) (explaining that a cash management system allows a debtor “to administer more efficiently and effectively its financial operation and assets”).

29. Accordingly, bankruptcy courts routinely grant debtors authority to continue utilizing existing cash management systems and treat requests for such authority as a relatively “simple matter.” *In re Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987); *see Charter Co. v. Prudential Ins. Co. of Am. (In re Charter Co.)*, 778 F.2d 617, 621 (11th Cir. 1985) (holding that allowing the debtors to use their prepetition “routine cash management system” was entirely consistent with applicable provisions of the Bankruptcy Code).

30. The Debtors will implement appropriate mechanisms to ensure that no payments will be made on any debts incurred by them prior to the Petition Date, other than those authorized by the Court. To prevent the possible inadvertent payment of prepetition claims, except for those otherwise authorized by the Court, the Debtors will work closely with Wells Fargo to ensure appropriate procedures are in place to prevent checks issued prepetition from being honored absent the Court’s approval.

31. As provided by Local Rule 2015-2(a), with respect to existing check stock, to minimize expenses to their estates, the Debtors request authority to continue to use all existing check stock, without reference to the Debtors’ status as debtors-in-possession. To operate in an orderly fashion, the Debtors need to be permitted to use their existing check stock without alteration or change. Any change in the Debtors’ check stock would create a sense of disruption

and potential confusion within the Debtors' organization and for the Debtors' customers and vendors and employees employed for the Debtors' benefit. The Debtors respectfully submit that to require otherwise would be unnecessary and that appropriate care can be taken to assure the proper use of the existing check stock.

C. The Court Should Permit the Debtors to Satisfy Prepetition Bank Fees and Credit Card Processing Fees

32. The Court should authorize the payment of the Bank Fees and Credit Card Processing Fees pursuant to section 363(b) of the Bankruptcy Code. Section 363(b) provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Under this section, a court may authorize a debtor to pay certain prepetition claims. *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (authorizing payment of prepetition claims where the debtors “articulate some business justification, other than the mere appeasement of major creditors”); *In re James A. Phillips, Inc.*, 29 B.R. 391, 395-97 (S.D.N.Y. 1983) (authorizing, pursuant to section 363 of the Bankruptcy Code, a contractor to pay prepetition claims of some suppliers who were potential lien claimants because the payments were necessary for the general contractors to release funds owed to the debtors).

33. Additionally, as highlighted above, section 105(a) of the Bankruptcy Code authorizes the Court to issue “any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). A bankruptcy court’s use of its equitable powers to “authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 175. Under section 105(a) of the Bankruptcy Code and the “necessity of payment” doctrine, the Court “can permit pre-plan payment of a pre-petition obligation when essential to the

continued operation of the debtor.” *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992); *see also In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (stating that the necessity of payment doctrine “teaches no more than, if payment of a claim which arose prior to reorganization is essential to the continued operation of the [business] during reorganization, payment may be authorized even if it is made out of corpus.”); *In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) (“to invoke the necessity of payment doctrine, a debtor must show that payment of the pre-petition claims is ‘critical to the debtor’s reorganization’”) (citation omitted).

34. In light of the Debtors’ chapter 11 strategy and the efforts to maximize value for the benefit of all creditors, the relief requested herein is necessary and appropriate. The success of the Debtors’ chapter 11 efforts is dependent upon, among other things, the ability to maintain the Bank Accounts and current Cash Management System. The ability to pay the Bank Fees and Credit Card Processing Fees, including related prepetition amounts, is critical to the Debtors’ successful prosecution of the Chapter 11 Cases, as any inability on the Debtors’ part to continue to satisfy prepetition obligations with respect to the Bank Fees and Credit Card Processing Fees would threaten the Debtors’ ability to maximize estate value. Accordingly, the relief requested herein is warranted and a sound exercise of business judgment.

35. In light of the foregoing, the Debtors submit that the relief requested herein with respect to the Bank Fees and Credit Card Processing Fees is necessary, prudent, and in the best interests of their estates and creditors and should therefore be granted.

D. The Court Should Authorize the Debtors to Maintain Their Existing Business Forms

36. The U.S. Trustee Guidelines require debtors in possession to obtain checks that bear the designation “debtor in possession.”

37. The Debtors seek authority to waive the requirements of the U.S. Trustee Guidelines so that they may continue to use prepetition Business Forms, without requiring the

Debtors to modify their existing Business Forms to make reference to their status as debtors-in-possession.

38. Changing Business Forms is unnecessary and unduly burdensome. Accordingly, the Debtors request that they be authorized to use their existing Business Forms without being required to label each with the “Debtor-in-Possession” designation. If, however, the Debtors exhaust their supply of Business Forms, they will replace such forms and print “debtor-in-possession” on such forms.

39. The Debtors request that the Court authorize them to use their prepetition Business Forms without the stamped designation, until they have exhausted their existing supply.

E. Compliance with Section 345(b) of the Bankruptcy Code.

40. Section 345 of the Bankruptcy Code governs a debtor’s deposits and investments during a chapter 11 case and authorizes deposits or investments of money “such as will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment.” 11 U.S.C. § 345(a). For deposits or investments that are not “insured or guaranteed by the United States or by a department, agency or instrumentality of the United States or backed by the full faith and credit of the United States,” section 345(b)(1) of the Bankruptcy Code requires that the estate secure from the entity with which the money is deposited or invested a bond in favor of the United States, secured by the undertaking of an adequate corporate surety. In the alternative, section 345(b)(2) of the Bankruptcy Code states that the estate shall require the deposit of securities pursuant to 31 U.S.C. § 9303 from the entity with which the money is deposited or invested. *See* 11 U.S.C. § 345(b).

41. The Debtors are in compliance with the requirements of section 345(b) of the Bankruptcy Code because all of the Bank Accounts are maintained at authorized depositories under the U.S. Trustee Guidelines and are insured by the Federal Deposit Insurance Corporation.

42. Out and abundance of caution, to the extent the Court does not determine that the requirements of section 345(b) of the Bankruptcy Code are satisfied, the Debtor requests a 45-day waiver of the requirements of section 345(b), subject to the Debtor's right to seek further extension thereof.

SATISFACTION OF BANKRUPTCY RULE 6003(b)

43. Pursuant to Bankruptcy Rule 6003(b), any motion seeking to use property of the estate pursuant to section 363 of the Bankruptcy Code or to satisfy prepetition claims within twenty-one days of the Petition Date requires that the Debtors demonstrate that such relief "is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003(b). As set forth herein, the Cash Management System is critical to the Debtors' ongoing operations. Disruption to the Cash Management System will cause delays, impede the Debtors' ability to efficiently track the flow of funds and would ultimately substantially diminish or impair the Debtors' efforts in the Chapter 11 Cases to preserve and maximize the value of their estates.

44. For this reason and those set forth above, the Debtors respectfully submit that Bankruptcy Rule 6003(b) has been satisfied and the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

45. Pursuant to Bankruptcy Rule 6004(h), "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As set forth throughout this Motion, any disruption in the current Cash Management System would be detrimental to the Debtors, their estates, and their creditors, and would impair the Debtors' ability to optimize their business performance at this critical time as they begin the chapter 11 process.

46. For this reason and those set forth above, the Debtors submit that ample cause exists to justify a waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent applicable to the Proposed Orders.

RESERVATION OF RIGHTS

47. Nothing in the Proposed Orders or this Motion (i) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors and their estates, (ii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority, or amount of any claim against the Debtors and their estates, (iii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to any and all claims or causes of action related to the Cash Management System or Wells Fargo, or (iv) shall be construed as a promise to pay a claim.

NOTICE

48. The Debtors will provide notice of this Motion to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Office of the United States Attorney for the District of Delaware; (iii) the Subchapter V Trustee appointed in these Chapter 11 Cases, (iv) the Internal Revenue Service; (v) the Debtors' twenty (20) largest unsecured creditors (excluding insiders); (vi) counsel to the Prepetition and DIP Lender; (vi) Wells Fargo; and (vii) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. Notice of this Motion and any order entered hereon will be served in accordance with Rule 9013-1(m) of the Local Rules. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Debtors respectfully request entry of the Proposed Orders, granting the relief requested herein and such other and further relief as is just and proper.

Dated: November 11, 2024
Wilmington, Delaware

FAEGRE DRINKER BIDDLE & REATH LLP

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Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

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

In re:

Recombinetics, Inc., *et al.*,

Debtors.¹

Chapter 11(Subchapter V)

Case No. 24-12593 (____)

(Jointly Administered)

Ref. D.I. ____

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO
(A) CONTINUE USING EXISTING BANK ACCOUNTS, BUSINESS
FORMS, CASH MANAGEMENT SYSTEM, AND PAY ALL FEES RELATED
THERE TO AND (B) IMPLEMENT ORDINARY COURSE CHANGES TO CASH
MANAGEMENT SYSTEM, INCLUDING OPENING AND CLOSING BANK
ACCOUNTS; AND (II) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of interim and final orders, pursuant to sections 105(a), 345, 363, and 364 of the Bankruptcy Code; Bankruptcy Rules 2015, 6003, and 6004; and Local Rule 2015-2, (i) authorizing the Debtors to (a) continue using their existing bank accounts, business forms, cash management system, and payment of all fees related thereto, and (b) implement ordinary course changes to the cash management system including without limitation, opening and closing bank accounts as deemed necessary and appropriate in the Debtors’ business judgment, and (ii) granting related relief, all as more fully set forth in the Motion; and upon consideration of the record of the Chapter 11 Cases; and the Court having found that due and proper notice of the Motion has been given and no other or further notice of the Motion is required; and the Court having found that it has jurisdiction to consider the Motion under

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Recombinetics, Inc. (1470), Acceligen, Inc. (N/A), Regenevida, Inc. (N/A), Surrogen, Inc. (N/A), and Therillume, Inc. (4995). The mailing address for each of the Debtors is 3388 Mike Collins Drive, Eagan, Minnesota 55121.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Motion.

28 U.S.C. §§ 1334 and 157, and the Amended Standing Order; and the Court having found that its consideration of the Motion and the relief requested therein is a core proceeding under 28 U.S.C. § 157(b) and that it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of these proceedings and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found and determined that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.
2. A final hearing on the relief sought in the Motion shall be conducted on _____, 2024, at _____ (ET) (the “Final Hearing”). Any party-in-interest objecting to the relief sought at the Final Hearing or the Proposed Final Order shall file and serve a written objection, which objection shall be served upon proposed counsel for the Debtors, in each case no later than _____, 2024, at 4:00 p.m. (ET). If no objections to the entry of the Proposed Final Order are timely filed, this Court may enter the Proposed Final Order without further notice or a hearing. The Debtors shall file a notice of the Final Hearing within two business days after entry of this Order.
3. The Debtors are authorized in the reasonable exercise of their business judgment to continue the Cash Management System in the ordinary course of business including (i) designating, maintaining, and continuing to use, with the same account numbers, all of their Bank Accounts, including, without limitation, those bank accounts identified in the table set forth in paragraph 8 of the Motion; (ii) using, in their present form, all existing check stock, without reference to their status as debtors-in-possession, and other documents related to the Bank

Accounts; and (iii) treating the Bank Accounts for all purposes as accounts of the Debtors as debtors-in-possession and to maintain and continue using these accounts in the same manner and with the same account numbers, styles, and document forms as used prior to the Petition Date.

4. Wells Fargo is hereby authorized to continue to service and administer all of the Bank Accounts as accounts of the Debtors as debtors-in-possession without interruption and in the ordinary course in a manner consistent with any agreements between Wells Fargo and the Debtors that existed prior to the Petition Date, and to receive, process, honor, and pay any and all checks, drafts, wires, or other electronic transfer requests issued, payable through, or drawn on, such Bank Accounts after the Petition Date by the holders or makers thereof or other parties entitled to issue instructions with respect thereto, as the case may be; provided, however, that any such checks, drafts, wires, or other electronic transfer requests issued by the Debtors before the Petition Date may be honored by Wells Fargo only if specifically authorized by order of this Court.

5. Except for those that comply with an order of this Court authorizing payment of certain prepetition claims, no checks, drafts, wires, or other electronic transfer requests drawn, issued, or requested on the Bank Accounts before the Petition Date but presented for payment after the Petition Date shall be honored or paid.

6. The operation of the Cash Management System in accordance with the Debtors' normal and customary practice is adequate and sufficient and may be continued on and after the Petition Date in the ordinary course of the Debtors' business.

7. Wells Fargo shall not be liable to the Debtors or to their estates and shall not be deemed to be in violation of this Order for honoring a prepetition check or other item drawn on any account that is the subject of this Order (i) at the direction of the Debtors, (ii) in a good faith

belief that this Court has authorized such prepetition check or item to be honored, or (iii) as a result of an innocent mistake made despite implementation of reasonable item handling procedures.

8. The Debtors are authorized to continue to use their check stock existing immediately before the Petition Date without reference to the Debtors' status as debtors-in-possession; provided, however, that once the Debtors' existing checks have been used, the Debtors shall, when reordering checks, require the designation "Debtor in Possession" and the corresponding bankruptcy case number on all checks; provided further that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend on such items within ten (10) days of the date of entry of this Order.

9. Nothing contained herein shall prevent the Debtors from opening any new bank accounts or closing any of the Bank Accounts as the Debtors may deem necessary and appropriate; provided, however, that prior to opening any new bank accounts or closing any of the Bank Accounts, the Debtors shall provide notice within fifteen (15) days, to (i) the U.S. Trustee, (ii) the Subchapter V Trustee appointed in these Chapter 11 Cases, and (iii) counsel to the Prepetition and DIP Lender; provided further, however, that the Debtors (a) shall not open any new bank accounts without the consent of the Prepetition and DIP Lender, and (b) shall only open any such new bank accounts at banks that have executed a Uniform Depository Agreement (a "UDA") with the U.S. Trustee, or at such banks that are willing to promptly execute such an agreement.

10. To the extent any of the banks utilized by the Debtors are party to a UDA with the U.S. Trustee, as soon as reasonably practicable after entry of this Order, the Debtors shall (i) contact each bank; (ii) provide each bank with each of the Debtors' employer identification numbers; and (iii) identify each of their Bank Accounts held at such banks as being held by a debtor-in-possession.

11. Wells Fargo is hereby authorized to debit or otherwise satisfy the Bank Fees from the Bank Accounts without further order of this Court, provided that such fees and charges are authorized under the applicable account agreement with the Debtors and provided further that nothing set forth herein shall authorize Wells Fargo to debit any claim or charges not in the ordinary course of business and not permitted under the applicable account agreements.

12. The Debtors are in compliance with the requirements of section 345(b) of the Bankruptcy Code.

13. The Debtors are authorized to pay the accrued but unpaid prepetition Credit Card Processing Fees and to continue honoring the Credit Card Processing Fees associated with certain sale transactions completed by credit card, in the ordinary course, without further order of the Court.

14. As soon as reasonably practicable after entry of this Order, the Debtors shall (i) serve a copy of this Order on Wells Fargo, and (ii) request that Wells Fargo internally code each of the Bank Accounts as “debtor-in-possession” accounts.

15. Nothing in this Order (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors and their estates; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority, or amount of any claim against the Debtors and their estates; (c) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to any and all claims or causes of action related to the Cash Management System or any of the banks utilized by the Debtors; or (d) shall be construed as a promise to pay a claim.

16. Notwithstanding anything to the contrary in the Motion or this Order, any payment made by the Debtors pursuant to the authority granted in this Order must be in compliance with and any authorization of the Debtors contained herein is subject to: (a) any interim or final orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and/or authorizing the use of cash collateral; (b) the documentation in respect of any such debtor-in-possession financing or use of cash collateral; and (c) any budget or cash flow forecasts in connection therewith (in each case, the "DIP Order"). To the extent there is any inconsistency between the terms of the DIP Order and this Order, the terms of the DIP Order shall control.

17. Notwithstanding the Debtors' authorized use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of who pays the disbursement.

18. The Debtors shall properly ascertain, record, and trace all prepetition and postpetition transactions, including any intercompany transactions.

19. The Debtors are authorized to take any and all actions necessary to effectuate the relief granted herein.

20. The requirements of Bankruptcy Rule 6003(b) are satisfied.

21. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

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

23. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Exhibit B

Proposed Final Order

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

In re:

Recombinetics, Inc., *et al.*,

Debtors.¹

Chapter 11 (Subchapter V)

Case No. 24-12593 (___)

(Jointly Administered)

Ref. D.I. __ & __

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE USING
EXISTING BANK ACCOUNTS, BUSINESS FORMS, CASH MANAGEMENT SYSTEM,
AND PAY ALL FEES RELATED THERETO AND (B) IMPLEMENT ORDINARY
COURSE CHANGES TO CASH MANAGEMENT SYSTEM, INCLUDING OPENING
AND CLOSING BANK ACCOUNTS; AND (II) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of interim and final orders, pursuant to sections 105(a), 345, 363, and 364 of the Bankruptcy Code; Bankruptcy Rules 2015, 6003, and 6004; and Local Rule 2015-2, (i) authorizing the Debtors to (a) continue using their existing bank accounts, business forms, cash management system, and payment of all fees related thereto, and (b) implement ordinary course changes to the cash management system including without limitation, opening and closing bank accounts as deemed necessary and appropriate in the Debtors’ business judgment, and (ii) granting related relief, all as more fully set forth in the Motion; and upon consideration of the record of the Chapter 11 Cases; and the Court having found that due and proper notice of the Motion has been given and no other or further notice of the Motion is required; and the Court having found that it has jurisdiction to consider the Motion under

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Recombinetics, Inc. (1470), Acceligen, Inc. (N/A), Regenevida, Inc. (N/A), Surrogen, Inc. (N/A), and Therillume, Inc. (4995). The mailing address for each of the Debtors is 3388 Mike Collins Drive, Eagan, Minnesota 55121.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Motion.

28 U.S.C. §§ 1334 and 157, and the Amended Standing Order; and the Court having found that its consideration of the Motion and the relief requested therein is a core proceeding under 28 U.S.C. § 157(b) and that it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of these proceedings and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found and determined that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on a final basis as set forth herein.
2. The Debtors are authorized in the reasonable exercise of their business judgment to continue the Cash Management System in the ordinary course of business including (i) designating, maintaining, and continuing to use, with the same account numbers, all of their Bank Accounts, including, without limitation, those bank accounts identified in the table set forth in paragraph 8 of the Motion; (ii) using, in their present form, all existing check stock, without reference to their status as debtors-in-possession, and other documents related to the Bank Accounts; and (iii) treating the Bank Accounts for all purposes as accounts of the Debtors as debtors-in-possession and to maintain and continue using these accounts in the same manner and with the same account numbers, styles, and document forms as used prior to the Petition Date.
3. Wells Fargo is hereby authorized to continue to service and administer all of the Bank Accounts as accounts of the Debtors as debtors-in-possession without interruption and in the ordinary course in a manner consistent with any agreements between Wells Fargo and the Debtors that existed prior to the Petition Date, and to receive, process, honor, and pay any and all checks, drafts, wires, or other electronic transfer requests issued, payable through, or drawn on, such Bank

Accounts after the Petition Date by the holders or makers thereof or other parties entitled to issue instructions with respect thereto, as the case may be; provided, however, that any such checks, drafts, wires, or other electronic transfer requests issued by the Debtors before the Petition Date may be honored by Wells Fargo only if specifically authorized by order of this Court.

4. Except for those that comply with an order of this Court authorizing payment of certain prepetition claims, no checks, drafts, wires, or other electronic transfer requests drawn, issued, or requested on the Bank Accounts before the Petition Date but presented for payment after the Petition Date shall be honored or paid.

5. The operation of the Cash Management System in accordance with the Debtors' normal and customary practice is adequate and sufficient and may be continued on and after the Petition Date in the ordinary course of the Debtors' business.

6. Wells Fargo shall not be liable to the Debtors or to their estates and shall not be deemed to be in violation of this Order for honoring a prepetition check or other item drawn on any account that is the subject of this Order (i) at the direction of the Debtors, (ii) in a good faith belief that this Court has authorized such prepetition check or item to be honored, or (iii) as a result of an innocent mistake made despite implementation of reasonable item handling procedures.

7. The Debtors are authorized to continue to use their check stock existing immediately before the Petition Date without reference to the Debtors' status as debtors-in-possession; provided, however, that once the Debtors' existing checks have been used, the Debtors shall, when reordering checks, require the designation "Debtor in Possession" and the corresponding bankruptcy case number on all checks; provided further that, with respect to checks which the Debtors or their agents print themselves, the Debtors shall begin printing the "Debtor in Possession" legend on such items within ten (10) days of the date of entry of this Order.

8. Nothing contained herein shall prevent the Debtors from opening any new bank accounts or closing any of the Bank Accounts as the Debtors may deem necessary and appropriate; provided, however, that prior to opening any new bank accounts or closing any of the Bank Accounts, the Debtors shall provide notice within fifteen (15) days, to (i) the U.S. Trustee, (ii) the Subchapter V Trustee appointed in these Chapter 11 Cases, and (iii) counsel to the Prepetition and DIP Lender; provided further, however, that the Debtors shall only open any such new bank accounts at banks that have executed a Uniform Depository Agreement (a “UDA”) with the U.S. Trustee, or at such banks that are willing to promptly execute such an agreement.

9. To the extent any of the banks utilized by the Debtors are party to a UDA with the U.S. Trustee, as soon as reasonably practical after entry of this Order, the Debtors shall (i) contact each bank; (ii) provide each bank with each of the Debtors’ employer identification numbers; and (iii) identify each of their Bank Accounts held at such banks as being held by a debtor-in-possession.

10. Wells Fargo is hereby authorized to debit or otherwise satisfy the Bank Fees from the Bank Accounts without further order of this Court, provided that such fees and charges are authorized under the applicable account agreement with the Debtors and provided further that nothing set forth herein shall authorize Wells Fargo to debit any claim or charges not in the ordinary course of business and not permitted under the applicable account agreements.

11. The Debtors are authorized to pay the accrued but unpaid prepetition Credit Card Processing Fees and to continue honoring the Credit Card Processing Fees associated with certain sale transactions completed by credit card, in the ordinary course, without further order of the Court.

12. The Debtors are in compliance with the requirements of section 345(b) of the Bankruptcy Code.

13. As soon as reasonably practical after entry of this Order, the Debtors shall (i) serve a copy of this Order on Wells Fargo and (ii) request that Wells Fargo internally code each of the Bank Accounts as “debtor-in-possession” accounts.

14. Nothing in this Order (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors and their estates; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to the validity, priority, or amount of any claim against the Debtors and their estates; (c) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors and their estates with respect to any and all claims or causes of action related to the Cash Management System or any bank utilized by the Debtors; or (d) shall be construed as a promise to pay a claim.

15. Notwithstanding anything to the contrary in the Motion or this Order, any payment made by the Debtors pursuant to the authority granted in this Order must be in compliance with and any authorization of the Debtors contained herein is subject to: (a) any interim or final orders entered by the Court approving the Debtors’ entry into any postpetition debtor-in-possession financing facility and/or authorizing the use of cash collateral; (b) the documentation in respect of any such debtor-in-possession financing or use of cash collateral; and (c) any budget or cash flow forecasts in connection therewith (in each case, the “DIP Order”). To the extent there is any inconsistency between the terms of the DIP Order and this Order, the terms of the DIP Order shall control.

16. Notwithstanding the Debtors' authorized use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of who pays the disbursement.

17. The Debtors shall properly ascertain, record, and trace all prepetition and post-petition transactions, including any intercompany transactions.

18. The Debtors are authorized to take any and all actions necessary to effectuate the relief granted herein.

19. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be effective and enforceable immediately upon its entry.

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

21. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

EXHIBIT C

Cash Management System

