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5 Attorneys for  
ARADIGM CORPORATION  
6 Debtor and Debtor-in-Possession

8 UNITED STATES BANKRUPTCY COURT

9 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

10 In re

CASE NO. 19-40363 WJL

11 ARADIGM CORPORATION,

Chapter 11

12  
13 Debtor

**MOTION OF DEBTOR PURSUANT TO  
11 U.S.C. §§ 105, 362, 363, 364, 503 AND  
507, AND FED. R. BANKR. P. 2002, 4001,  
6003, 6004 AND 9014 FOR ORDER (I)  
AUTHORIZING THE DEBTOR TO  
OBTAIN SENIOR SECURED,  
15 SUPERPRIORITY, POSTPETITION  
FINANCING, (II) GRANTING LIENS  
AND SUPERPRIORITY CLAIMS, (III)  
MODIFYING AUTOMATIC STAY, AND  
17 (IV) GRANTING RELATED RELIEF**

Hearing Date: May 29, 2019  
Time: 10:30 a.m.  
Place: 1300 Clay Street, Room 220  
Oakland, CA  
Judge: Hon. William J. Lafferty

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23 Aradigm Corporation (the “**Borrower**” or the “**Debtor**”), as debtor and debtor-in-possession  
24 in the above-captioned Chapter 11 Case (the “**Chapter 11 Case**”), hereby submit this Motion (the  
25 “**Motion**” or “**DIP Motion**”), pursuant to sections 105, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3),  
26 364(e), 503 and 507 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002,  
27 4001, 6003, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy**  
28 **Rules**”) and Rules 2002-1 and 4001-1 of the Bankruptcy Local Rules of the United States

1 Bankruptcy Court for the Northern District of California (the “**Local Rules**”), for authorization to  
2 obtain \$2 million of secured, superpriority postpetition financing (“**DIP Loans**”) on the terms  
3 detailed herein.

4 A proposed form of order granting the relief requested herein (the “**Order**”) is attached  
5 hereto as **Exhibit A**.

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## INTRODUCTORY STATEMENT

By this Motion, the Debtor requests entry of the Order granting, among other things, the following relief:

- (1) **Authorization of DIP Loans** – authorizing the Borrower to obtain postpetition financing pursuant to a senior secured, superpriority debtor-in-possession new money credit facility in an aggregate principal amount of up to \$2,000,000 on the terms and conditions set forth in the senior secured superpriority debtor-in-possession credit, guaranty and security agreement substantially in the form attached hereto as **Exhibit B** (the “**DIP Credit Agreement**”)<sup>1</sup>, by and among the Borrower, and **21 APRIL FUND, LTD.**, an exempted company organized under the laws of the Cayman Islands, and **21 APRIL FUND, L.P.**, a Delaware limited partnership (collectively “**DIP Lenders**”) and shall include the following features:
  - (a) **Interest Rates**: Interest shall accrue at the Base Rate plus 3% per annum. The **Base Rate** will be the highest of (a) 1% and (b) the prime rate as published in the Money Rates Section or column of The Wall Street Journal; however, if such rate is, at any time while the obligations under the DIP Facility remain outstanding, no longer published, the Base Rate will be the average of the prime interest rates that are announced, from time to time, by the three (3) largest banks (by assets) headquartered in the United States that publish a prime, base or reference rate. Default interest shall equal an additional 3% per annum.
  - (b) **Maturity Date**: The earlier of: January 31, 2020; the 363 Asset Sale closing date, the effective date of any chapter 11 plan of Borrower; and the acceleration of the DIP Facility as a result of the occurrence of an Event of Default; provided, that the Maturity Date may be extended by the DIP Lenders in the DIP Lenders’ sole and absolute discretion.
  - (c) **Events of Default**: Material events of default include:
    - i. Default in payment obligations;
    - ii. Inaccuracy of representations and warranties when made or deemed made or breach of covenant;
    - iii. Entry of unstayed judgments;
    - iv. Invalidity of loan documents, or security interests;
    - v. Dismissal or conversion of cases to a case under chapter 7;
    - vi. Appointment of a trustee or an examiner;
    - vii. Entry of an order (1) staying, reversing, vacating, modifying or amending the Order, (2) granting relief from stay, (3) authorizing financing or sale of substantially all assets without the repayment of

<sup>1</sup> Capitalized terms used herein but not otherwise defined herein shall have the meaning given to them in the DIP Credit Agreement.

DIP Loans or (4) except as permitted by the DIP Loan Documents, granting senior or pari passu liens or superpriority claims;

- viii. Filing by the Debtor or any other party of a reorganization plan that does not require the repayment of the DIP Loans;
- ix. Borrower fails to comply with the terms of the Orders or any other Bankruptcy Court order in any material respect; and
- x. Borrower seeks to, or supports (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party in interest executed by or on behalf of Borrower), any other Person's motion to disallow, in whole or in part, DIP Lenders' claim in respect of the Obligations or to challenge the validity, perfection, priority, non-avoidability or enforceability of the Liens in favor of DIP Lender.

(d) Borrowing Limits: \$2 million;

(e) Conditions to Closing: Material closing conditions include:

- i. Execution of DIP Credit Agreement;
- ii. The payment of fees and expenses set forth in the DIP Loan Documents (which will be withheld from the initial Advance);
- iii. Entry of the Order authorizing DIP Loans; and
- iv. No change has occurred that results in a Material Adverse Effect; provided, however, that any changes attributable solely to the commencement of the Chapter 11 Case shall not constitute a Material Adverse Effect.

(f) Indemnification: Borrower shall indemnify and hold harmless the DIP Lenders and their Affiliates, officers, directors, employees, agents, advisors, attorneys, and representatives from and against any and all claims, damages, losses, liabilities and expenses (including reasonable fees of counsel and disbursements), joint or several, that may be incurred by or asserted or awarded, in each case arising out of or in connection with or relating to any investigation, litigation or proceeding, or the preparation of any defense with respect thereto, arising out of or in connection with or relating to the DIP Loan Documents, or the transactions contemplated thereby, or any use made or proposed to be made with the proceeds of the DIP Loans.

(2) **Entry into DIP Loan Documents** – authorizing the Debtor to execute and deliver the DIP Credit Agreement and other documentation, including security agreements, pledge agreements, mortgages, promissory notes, certificates, instruments, commitment letters, and such other documentation which may be necessary or required to implement the DIP Loans and perform thereunder and/or that may be reasonably requested by DIP Lenders;

(3) **Liens and Superpriority Claims** – granting to the DIP Lenders (collectively, the “DIP Secured Parties”) allowed superpriority administrative claims pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all DIP Obligations, and valid, enforceable, non-avoidable and automatically perfected liens on and security

1 interests in all DIP Collateral (as defined below), pursuant to sections 364(c)(2) and  
2 364(c)(3) of the Bankruptcy Code, to secure the DIP Obligations, in each case as  
subject to the Carve-Out set forth in the Order;

- 3 (4) **Payment of Fees and Expenses** – authorizing the Debtor to pay all fees, costs and  
4 expenses due pursuant to the DIP Credit Agreement and the other DIP Loan  
Documents;
- 5 (5) **Stay Relief** – vacating or modifying the automatic stay imposed by section 362 of  
6 the Bankruptcy Code to the extent necessary to implement and effectuate the terms  
and provisions of the Order; and
- 7 (6) **Waiver of Stay** – waiving any applicable stay (including under Bankruptcy Rule  
8 6004) with respect to the effectiveness and enforceability of the Order and providing  
for the immediate effectiveness of the Order.

9 In support of the relief requested herein, the Debtors submit the Declaration of Lisa Thomas  
10 (the “**Thomas Declaration**”) filed contemporaneously herewith.

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DATED: May 1, 2019

By: /s/ Bennett G. Young  
BENNETT G. YOUNG  
Attorney for ARADIGM CORPORATION  
Debtor and Debtor-in-Possession