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Alacritech does not oppose intervention by Intel so long as it is timely and non-prejudicial – *i.e.*, it does not undermine the existing orders and schedule already adopted by the Court. But neither Rule 24 nor fundamental considerations of fairness permit a putative intervenor to manipulate the timing of its intervention in order to disrupt or delay the case schedule in a pending lawsuit to the detriment of the plaintiff. Indeed, the Fifth Circuit has characterized the timeliness of a movant’s request to intervene as a “threshold” issue and denied intervention when a movant’s delay threatened to derail the orderly progress of the litigation.<sup>1</sup> Thus, as Alacritech told Intel, Alacritech does not oppose Intel’s intervention, so long as Intel would agree to be bound by orders currently governing this case. Intel would have acceded to this reasonable request if its interest in intervention were simply to protect its alleged financial interest in the litigation. But Intel refused. As its Motion indicates, it wants to intervene *and* attempt to re-do the case schedule and other orders governing the case. This is not allowed.

Intel cannot have it both ways: either intervention is timely and appropriate because it will not disrupt the existing case schedule and other orders, or it is not timely and not appropriate because it will. More simply, Intel should not be able to intervene *and*, through its intervention, create the prejudice Rule 24 is designed to protect against, namely, the parties’ and Court’s interests in the efficient, expeditious resolution of the issues in dispute.<sup>2</sup> For this reason, Alacritech respectfully requests that the Court condition Intel’s intervention on Intel’s agreement to abide by the existing orders, including the Protective Order (Dkt. 75), Docket Control Order (Dkt. 43), and Discovery Order (Dkt. 50), and not revisit briefing or otherwise seek to delay the proceedings or undermine this Court’s authority.

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<sup>1</sup> *Corely v. Jackson Police Dep’t*, 755 F.2d 1207, 1209 (5th Cir. 1985).

<sup>2</sup> *Staley v. Harris Cnty.*, 223 F.R.D. 458, 463 (S.D. Tex. 2004).

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