

CELL THERAPEUTICS INC  
Form SC TO-I/A  
June 04, 2009

# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## SCHEDULE TO

TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) OR 13(e)(1)

OF THE SECURITIES EXCHANGE ACT OF 1934

Amendment No. 8

## CELL THERAPEUTICS, INC.

(Name of Subject Company (Issuer) and Filing Person (Offeror))

**4% Convertible Senior Subordinated Notes due 2010**

**5.75% Convertible Senior Notes due 2011**

**6.75% Convertible Senior Notes due 2010**

**7.5% Convertible Senior Notes due 2011**

**9.0% Convertible Senior Notes due 2012**

(Title of Class of Securities)

**150934AF4**

**150934AL1& 150934AM9**

**150934AH0 & 150934AG2**

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150934AK3 & 150934AJ6

150934AN7

(CUSIP Numbers of Class of Securities)

James A. Bianco, M.D.

Chief Executive Officer

501 Elliott Avenue Suite 400

Seattle, WA 98119

(206) 282-7100

(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing persons)

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Calculation of Filing Fee

Transaction Valuation\*

\$118,943,000

Amount of Filing Fee\*\*

\$6,638

\* The transaction value is estimated only for purposes of calculating the filing fee. This amount is based on the purchase of an aggregate of \$118,943,000 principal amount of the outstanding 4% Convertible Senior Subordinated Notes due 2010, 5.75% Convertible Senior Notes

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due 2011, 6.75% Convertible Senior Notes due 2010, 7.5% Convertible Senior Notes due 2011, and 9.0% Convertible Senior Notes due 2012 (collectively, the Notes ), at the maximum purchase price, as described herein, assuming the holders of the Notes tender the full \$118,943,000 aggregate principal amount of the Notes.

\*\* \$55.80 per million dollars of transaction value, in accordance with Rule 0-11(b) and Fee Rate Advisory No. 5 for fiscal year 2009.

x Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$4,978

Form or Registration No.: Schedule TO

Filing Party: Cell Therapeutics, Inc.

Date Filed: May 12, 2009

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.  
Check the appropriate boxes to designate any transactions to which the statement relates:

.. third party tender offer subject to Rule 14d-1.

x issuer tender offer subject to Rule 13e-4.

.. going-private transaction subject to Rule 13e-3.

.. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer. ..

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**INTRODUCTORY STATEMENT**

This Amendment No. 8 (this Amendment) amends and restates the Tender Offer Statement on Schedule TO (the Original Schedule TO), originally filed with the Securities and Exchange Commission (the SEC) on May 12, 2009, by Cell Therapeutics, Inc., a Washington corporation (the Company), as amended by that certain Amendment No. 1 to Schedule TO filed with the SEC on May 12, 2009 (Amendment No. 1), that certain Amendment No. 2 to Schedule TO filed with the SEC on May 15, 2009 (Amendment No. 2), that certain Amendment No. 3 to Schedule TO filed with the SEC on May 19, 2009 (Amendment No. 3), that certain Amendment No. 4 to Schedule TO filed with the SEC on May 20, 2009 (Amendment No. 4), that certain Amendment No. 5 to Schedule TO filed with the SEC on May 28, 2009 (Amendment No. 5), that certain Amendment No. 6 to Schedule TO filed with the SEC on May 29, 2009 (Amendment No. 6) and that certain Amendment No. 7 to Schedule TO filed with the SEC on June 3, 2009 (Amendment No. 7) and together with the Original Schedule TO, Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, Amendment No. 6 and Amendment No. 7, the Schedule TO). The Schedule TO relates to the offer by the Company to exchange, in separate concurrent exchange offers (each, an Exchange Offer and together, the Exchange Offers), shares of the Company's common stock, no par value, and cash for any and all of its:

(i) \$55,150,000 aggregate outstanding principal amount of 4% Convertible Senior Subordinated Notes due 2010;

(ii) \$23,000,000 aggregate outstanding principal amount of 5.75% Convertible Senior Notes due 2011;

(iii) \$7,000,000 aggregate outstanding principal amount of 6.75% Convertible Senior Notes due 2010;

(iv) \$33,458,000 aggregate outstanding principal amount of 7.5% Convertible Senior Notes due 2011; and

(v) \$335,000 aggregate outstanding principal amount of 9.0% Convertible Senior Notes due 2012; upon the terms and subject to the conditions set forth in the Amended and Restated Offer to Exchange, dated June 2, 2009 (as amended or supplemented from time to time, the Offer to Exchange), the accompanying Amended and Restated Letter of Transmittal filed as Exhibit (a)(1)(xii) to Amendment No. 7 (as amended or supplemented from time to time), and the other related offering documents (as they may be amended or supplemented from time to time).

This Amendment is being filed to include summary historical consolidated financial data in Item 10.

The information contained in the Offer to Exchange is amended and supplemented by Supplement No. 1 to the Amended and Restated Offer to Exchange, dated June 4, 2009, attached hereto as Exhibit (a)(1)(xvi) (the Supplement).

All information in the Supplement is hereby expressly incorporated by reference to supplement Items 1 through 11 of the Schedule TO to the extent such Items incorporate by reference the information contained in the Offer to Exchange, and as more particularly set forth below:

**ITEM 10. FINANCIAL STATEMENTS.**

(a) *Financial Information.* The information set forth under Item 8, Consolidated Financial Statements and Supplementary Data in the Company's annual report on Form 10-K for the fiscal year ended December 31, 2008, filed with the SEC on March 16, 2009, and in Part I of the Company's quarterly report on Form 10-Q for the quarter ended March 31, 2009, filed with the SEC on May 8, 2009, is incorporated herein by reference. The Company's annual report on Form 10-K and quarterly reports on Form 10-Q may also be accessed electronically on the SEC's website at <http://www.sec.gov>.

The information set forth in the Offer to Exchange under the caption Summary Term Sheet Book Value is incorporated herein by reference.

The information set forth in the Offer to Exchange under the caption Summary Term Sheet Summary Historical Consolidated Financial Data is incorporated herein by reference.



The Company's deficiency of earnings to fixed charges for the indicated periods are set forth below. The information set forth below should be read in conjunction with the financial information incorporated by reference herein.

	Three months ended March 31, 2009	Fiscal year ended December 31, 2008	2007
<b>Ratio of earnings to fixed charges</b>			

The ratios are calculated by dividing earnings by fixed charges. For the purposes of computing the ratio of earnings to fixed charges, earnings consist of net loss attributable to common stockholders plus fixed charges. Fixed charges consist of interest expensed and capitalized and an estimate of interest within rental expense of 15% of the total rental expense. Earnings for the three months ended March 31, 2009 and the years ended December 31, 2008 and 2007 were insufficient to cover fixed charges by \$13.1 million, \$202.9 million and \$148.3 million, respectively.

(b) *Pro Forma Information.* The information set forth in the Offer to Exchange under the caption "Unaudited Pro Forma Financial Data" is incorporated herein by reference.

**ITEM 12. EXHIBITS.**

- (a)(1)(i)\* Offer to Exchange, dated May 12, 2009.
- (a)(1)(ii)\* Letter of Transmittal (including Substitute Form W-9 and Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9).
- (a)(1)(iii)\* Notice of Guaranteed Delivery.
- (a)(1)(iv)\* Letter to Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.
- (a)(1)(v)\* Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.
- (a)(1)(vi)\* Supplement No. 1 to Offer to Exchange, dated May 19, 2009.
- (a)(1)(vii)\* Amended and Restated Letter of Transmittal (including Substitute Form W-9 and Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9).
- (a)(1)(viii)\* Amended and Restated Notice of Guaranteed Delivery.
- (a)(1)(ix)\* Amended and Restated Letter to Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.
- (a)(1)(x)\* Amended and Restated Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.
- (a)(1)(xi)\* Amended and Restated Offer to Exchange, dated June 2, 2009.
- (a)(1)(xii)\* Amended and Restated Letter of Transmittal (including Substitute Form W-9 and Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9).
- (a)(1)(xiii)\* Amended and Restated Notice of Guaranteed Delivery.
- (a)(1)(xiv)\* Amended and Restated Letter to Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.
- (a)(1)(xv)\* Amended and Restated Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and other Nominees.

- (a)(1)(xvi) Supplement No. 1 to Amended and Restated Offer to Exchange, dated June 4, 2009.
- (a)(5)(i)\* Press Release, dated May 11, 2009.
- (a)(5)(ii)\* Press Release, dated May 12, 2009.
- (a)(5)(iii)\* Press Release, dated May 18, 2009.
- (a)(5)(iv)\* Press Release, dated June 2, 2009.
- (b) Not applicable.
- (d)(1) Indenture, dated as of June 23, 2003, by and between the Company and U.S. Bank National Association, as Trustee, relating to the 4% Convertible Senior Subordinated Notes due 2010 (incorporated herein by reference to Exhibit 4.5 to the Company's quarterly report on Form 10-Q filed with the SEC on August 6, 2003).
- (d)(2) Indenture, dated as of November 4, 2005, by and between the Company and U.S. Bank National Association, as Trustee relating to the 6.75% Convertible Senior Notes due 2010 (incorporated herein by reference to Exhibit 4.1 to the Company's current report on Form 8-K filed with the SEC on November 10, 2005).
- (d)(3) Indenture, dated as of April 27, 2006, by and between the Company and U.S. Bank National Association, as Trustee relating to the 7.5% Convertible Senior Notes due 2011 (incorporated herein by reference to Exhibit 4.1 to the Company's current report on Form 8-K filed with the SEC on April 28, 2006).
- (d)(4) Indenture, dated as of December 12, 2007, by and between the Company and U.S. Bank National Association, as Trustee relating to the 5.75% Convertible Senior Notes due 2011 (incorporated herein by reference to Exhibit 4.1 to the Company's current report on Form 8-K filed with the SEC on December 13, 2007).
- (d)(5) Indenture, dated as of March 3, 2008, by and between the Company and U.S. Bank National Association, as Trustee relating to the 9% Convertible Senior Notes due 2012 (incorporated herein by reference to Exhibit 4.1 to the Company's current report on Form 8-K filed with the SEC on March 5, 2008).
- (d)(6) Registration Rights Agreement, dated June 23, 2003, between the Company and the initial purchasers relating to the 4.0% Convertible Senior Subordinated Notes due 2010 (incorporated herein by reference to Exhibit 10.23 to the Company's quarterly report on Form 10-Q filed with the SEC on August 6, 2003).
- (d)(7) Registration Rights Agreement, dated November 4, 2004, between the Company and the initial purchasers relating to the 6.75% Convertible Senior Notes due 2010 (incorporated herein by reference to Exhibit 4.2 to the Company's current report on Form 8-K filed with the SEC on November 10, 2005).
- (d)(8) Registration Rights Agreement, dated April 27, 2006, between the Company and the initial purchasers relating to the 7.5% Convertible Senior Notes due 2010 (incorporated herein by reference to Exhibit 4.2 to the Company's current report on Form 8-K filed with the SEC on April 28, 2006).
- (d)(9) Registration Rights Agreement, dated December 12, 2007, between the Company and the initial purchasers relating to the 5.75% Convertible Senior Notes due 2011 (incorporated herein by reference to Exhibit 4.2 to the Company's current report on Form 8-K filed with the SEC on December 13, 2007).
- (d)(10) Form of Exchange Agreements, by and between the Company and certain initial purchasers relating to the 5.75% Convertible Senior Notes due 2011 (incorporated herein by reference to Exhibit 10.1 to the Company's current report on Form 8-K filed with the SEC on December 13, 2007).

- (g) Not applicable.
- (h) Not applicable.

\* Previously filed with the Schedule TO.



**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Schedule TO is true, complete and correct.

**CELL THERAPEUTICS, INC.**

/s/ JAMES A. BIANCO, M.D.

James A. Bianco, M.D.

Chief Executive Officer

Date: June 4, 2009

**Index to Exhibits**

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