REPLY EXHIBIT 9

Reply Exhibit 9 – Form 10-K filed March 16, 2022 and Forms 10-Q filed in 2022, showing cash at the 2020 and 2021 period ends (excerpts)

Nejmeh v. Theriva Biologics, Inc., No. 3:26-cv-00705-ART-CSD (D. Nev.)

Source: SEC EDGAR, Accession Nos. 0001410578-22-000405, 0001410578-22-001679, 0001410578-22-002238, 0001410578-22-003167.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2021

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1934**

For the transition period from to

Commission File Number: 001-12584

SYNTHETIC BIOLOGICS, INC.

(Exact Name of Registrant as Specified in Its Charter)

Nevada	**13-3808303**
(State or Other Jurisdiction of Incorporation or Organization)	*(I.R.S. Employer Identification Number)*
9605 Medical Center Drive, Ste. 270 Rockville, MD	**20850**
(Address of Principal Executive Offices)	*(Zip Code)*

Registrant's telephone number, including area code:
(301) 417-4364

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	SYN	NYSE American

Securities registered pursuant to Section 12(g) of the Act:
None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes ☐ No ☒

Indicate by check mark whether the issuer: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer, "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer	☐	Accelerated Filer	☐
Non-accelerated Filer	☒	Smaller Reporting Company	☒
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant as of June 30, 2021, the last business day of the registrant's recently completed second quarter, was approximately $79.2 million based on $0.60, the closing price of the registrant's common stock as reported by the NYSE American on that date.

As of March 16, 2022, the registrant had 158,437,840 shares of common stock outstanding.

Documents incorporated by reference: **None**

Synthetic Biologics, Inc. and Subsidiaries

Consolidated Balance Sheets
(In thousands except share and par value amounts)

	December 31, 2021	December 31, 2020
Assets		
Current Assets		
Cash and cash equivalents	$ 67,325	$ 6,227
Prepaid expenses and other current assets	1,533	1,707
Total Current Assets	68,858	7,934
Property and equipment, net	101	174
Right of use asset	1,383	279
Deposits and other assets	23	23
Total Assets	**$ 70,365**	**$ 8,410**
Liabilities and Stockholders' Equity (Deficit)		
Current Liabilities:		
Accounts payable	$ 524	$ 886
Accrued expenses	1,928	925
Accrued employee benefits	978	868
Lease liability	124	287
Total Current Liabilities	3,554	2,966
Lease liability - Long term	1,403	186
Total Liabilities	4,957	3,152
Commitments and Contingencies	—	—
Series A Preferred Stock, $0.001 par value; 10,000,000 shares authorized; 0 and 120,000 issued and outstanding as of December 31, 2021 and December 31, 2020, respectively	—	12,798
Stockholders' Equity (Deficit):		
Series B Preferred Stock, $1,000 par value; 10,000,000 shares authorized, 0 and 3,973 issued and outstanding as of December 31, 2021 and December 31, 2020, respectively	—	2,477
Common stock, $0.001 par value; 200,000,000 shares authorized, 132,044,866 issued and 132,042,538 outstanding at December 31, 2021 and 29,252,253 issued and 29,249,925 outstanding at December 31, 2020	132	29
Additional paid-in capital	336,560	240,821
Accumulated deficit	(271,284)	(248,094)
Total Synthetic Biologics, Inc. and Subsidiaries Equity (Deficit)	65,408	(4,767)
Non-controlling interest	—	(2,773)
Total Stockholders' Equity (Deficit)	65,408	(7,540)
Total Liabilities and Stockholders' Equity	**$ 70,365**	**$ 8,410**

See accompanying notes to consolidated financial statements

Synthetic Biologics, Inc. and Subsidiaries

Consolidated Statements of Cash Flows
(In thousands)

	For the year ended December 31,	
	2021	**2020**
Cash Flows From Operating Activities:		
Net loss	$ (14,268)	$ (10,116)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	416	350
Subsidiary stock issuances to vendor	—	178
Depreciation	87	201
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	174	(326)
Right of use asset	166	141
Accounts payable	(363)	(1,429)
Accrued expenses	1,004	(851)
Accrued employee benefits	110	(67)
Lease liability	(216)	(249)
Net Cash Used In Operating Activities	(12,890)	(12,168)
Cash Flows From Investing Activities:		
Purchases of property and equipment	(14)	(9)
Net Cash Used In Investing Activities	(14)	(9)
Cash Flows From Financing Activities:		
Proceeds from “at-the-market” stock issuance	65,960	3,359
Proceeds from issuance of common stock for warrant exercises	8,042	—
Net Cash Provided By Financing Activities	74,002	3,359
Net increase (decrease) in cash and cash equivalents	61,098	(8,818)
Cash and cash equivalents at beginning of year	6,227	15,045
Cash and cash equivalents at end of year	**$ 67,325**	**$ 6,227**
NONCASH FINANCING ACTIVITIES:		
Conversion of Series A Preferred Stock	$ 12,822	$ —
Effect of Series A Preferred Stock price adjustment	$ 7,402	$ —
Return of SYN Biomics Stock	$ 2,774	$ —
Conversion of Series B Preferred Stock	$ 2,477	$ 2,284
Deemed dividends for accretion of Series B Preferred Stock discount	$ 1,496	$ 1,380
Right of use assets from operating lease	$ 1,270	$ —
In-kind dividends in preferred stock	$ 24	$ 254
Effect of Warrant exercise price adjustment	$ —	$ 880

See accompanying notes to consolidated financial statements

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2022

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1934**

For the transition period from _____ to _____

Commission File Number: 001-12584

SYNTHETIC BIOLOGICS, INC.

(Exact name of Registrant as Specified in Its Charter)

Nevada	**13-3808303**
(State or Other Jurisdiction of Incorporation or Organization)	*(I.R.S. Employer Identification No.)*
9605 Medical Center Drive, Suite 270 **Rockville, MD**	**20850**
(Address of Principal Executive Offices)	*(Zip Code)*

(301) 417-4364
(*Registrant's Telephone Number, Including Area Code*)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	SYN	NYSE American

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer, "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer	☐	Accelerated Filer	☐
Non-accelerated Filer	☒	Smaller Reporting Company	☒
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes ☐ No ☒

As of May 13, 2022, the registrant had 158,437,840 shares of common stock, $0.001 par value per share, outstanding.

Synthetic Biologics, Inc. and Subsidiaries
Condensed Consolidated Statements of Cash Flows
(In thousands)
(Unaudited)

	For the Three Months Ended March 31,	
	2022	2021
Cash Flows From Operating Activities:		
Net loss	$ (4,273)	$ (2,537)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	112	101
Depreciation	18	33
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	390	(42)
Right of use asset	45	39
Accounts payable	13	(265)
Accrued expenses	(513)	(71)
Accrued employee benefits	(645)	(518)
Lease liability	(49)	(68)
Net Cash Used In Operating Activities	(4,902)	(3,328)
Cash Flows from Investing Activities		
Purchase of property and equipment	—	(14)
Cash paid for business combination, net of cash acquired	(3,863)	—
Pre-acquisition loan to VCN	(417)	—
Net Cash Used in Investing Activities	(4,280)	(14)
Cash Flows from Financing Activities		
Payment of VCN's CDTI loan	(1,376)	
Proceeds from "at the market" stock issuance	—	65,960
Proceeds from issuance of common stock for warrant exercises	—	8,042
Net Cash Provided by Financing Activities	(1,376)	74,002
Effects of FX on cash	28	—
Net increase (decrease) in cash and cash equivalents and restricted cash	(10,530)	70,660
Cash and cash equivalents and restricted at the beginning of this period	67,325	6,227
Cash and cash equivalents and restricted cash at the end of this period	**$ 56,795**	**$ 76,887**
Reconciliation of cash, cash equivalents, and restricted cash reported in the statement of financial position		
Cash and cash equivalents	$ 56,692	$ 76,887
Restricted cash included in other long-term assets	103	—
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	**$ 56,795**	**$ 76,887**
Supplemental non-cash investing and financing activities:		
Fair value of contingent consideration in a business combination	$ 12,158	$ —
Fair value of equity issued as consideration in a business combination	$ 6,599	$ —
Effective settlement of pre-closing VCN financing	$ 417	$ —
Effect of Series A Preferred Stock price adjustment	$ —	$ 7,402
Conversion of Series B Preferred Stock	$ —	$ 2,477
Deemed dividends for accretion of Series B Preferred Stock discount	$ —	$ 1,497
In-kind dividends paid in preferred stock	$ —	$ 23

See accompanying notes to unaudited condensed consolidated financial statements.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2022

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1934**

For the transition period from _____ to _____

Commission File Number: 001-12584

SYNTHETIC BIOLOGICS, INC.

(Exact name of Registrant as Specified in Its Charter)

Nevada	**13-3808303**
(State or Other Jurisdiction of Incorporation or Organization)	*(I.R.S. Employer Identification No.)*
9605 Medical Center Drive, Suite 270 Rockville, MD	**20850**
(Address of Principal Executive Offices)	*(Zip Code)*

(301) 417-4364
(*Registrant's Telephone Number, Including Area Code*)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	SYN	NYSE American

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer, "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer	☐	Accelerated Filer	☐
Non-accelerated Filer	☒	Smaller Reporting Company	☒
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

As of August 10, 2022, the registrant had 15,844,061 shares of common stock, $0.001 par value per share, outstanding.

Synthetic Biologics, Inc. and Subsidiaries
Condensed Consolidated Statements of Cash Flows
(In thousands)
(Unaudited)

	For the Six Months Ended June 30,	
	2022	2021
Cash Flows From Operating Activities:		
Net loss	$ (9,241)	$ (5,732)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	225	203
Change in fair value of contingent consideration	(483)	—
Depreciation	36	56
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	518	366
Right of use asset	90	81
Accounts payable	(295)	(318)
Accrued expenses	265	(131)
Accrued employee benefits	(272)	(328)
Lease liability	(101)	(121)
Net Cash Used In Operating Activities	(9,258)	(5,924)
Cash Flows from Investing Activities		
Purchase of property and equipment	(14)	(14)
Cash paid for business combination, net of cash acquired	(3,863)	—
Pre-acquisition loan to VCN	(417)	—
Net Cash Used in Investing Activities	(4,294)	(14)
Cash Flows from Financing Activities		
Payment of VCN's CDTI loan	(1,376)	
Proceeds from "at the market" stock issuance	—	65,960
Proceeds from issuance of common stock for warrant exercises	—	8,042
Net Cash Provided (used in) by Financing Activities	(1,376)	74,002
Effects of FX on cash	(35)	—
Net increase (decrease) in cash and cash equivalents and restricted cash	(14,963)	68,064
Cash and cash equivalents and restricted at the beginning of this period	67,325	6,227
Cash and cash equivalents and restricted cash at the end of this period	**$ 52,362**	**$ 74,291**
Reconciliation of cash, cash equivalents, and restricted cash reported in the statement of financial position		
Cash and cash equivalents	$ 52,266	$ 74,291
Restricted cash included in other long-term assets	96	—
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	**$ 52,362**	**$ 74,291**
Supplemental non-cash investing and financing activities:		
Fair value of contingent consideration issued in a business combination	$ 12,158	$ —
Fair value of equity issued as consideration in a business combination	$ 6,599	$ —
Effective settlement of pre-closing VCN financing	$ 417	$ —
Goodwill measurement period adjustment	$ 277	$ —
Effect of Series A Preferred Stock price adjustment	$ —	$ 7,402
Right of use asset from operating lease	$ —	$ 1,270
Conversion of Series B Preferred Stock	$ —	$ 2,477
Deemed dividends for accretion of Series B Preferred Stock discount	$ —	$ 1,497
In-kind dividends paid in preferred stock	$ —	$ 23

See accompanying notes to unaudited condensed consolidated financial statements.

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2022

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES ACT OF 1934**

For the transition period from _____ to _____

Commission File Number: 001-12584

THERIVA BIOLOGICS, INC.

(Exact name of Registrant as Specified in Its Charter)

Nevada	**13-3808303**
(State or Other Jurisdiction of Incorporation or Organization)	*(I.R.S. Employer Identification No.)*
9605 Medical Center Drive, Suite 270 **Rockville, MD**	**20850**
(Address of Principal Executive Offices)	*(Zip Code)*

(301) 417-4364
(*Registrant's Telephone Number, Including Area Code*)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	TOVX	NYSE American

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer, "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer	☐	Accelerated Filer	☐
Non-accelerated Filer	☒	Smaller Reporting Company	☒
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ No ☒

As of November 9, 2022, the registrant had 15,844,061 shares of common stock, $0.001 par value per share, outstanding.

Theriva Biologics, Inc. and Subsidiaries
Condensed Consolidated Statements of Cash Flows
(In thousands)
(Unaudited)

	For the Nine Months Ended September 30,	
	2022	**2021**
Cash Flows From Operating Activities:		
Net loss	$ (14,094)	$ (9,005)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	346	305
Change in fair value of contingent consideration	(257)	—
Depreciation	60	74
Changes in operating assets and liabilities:		
Prepaid expenses and other current assets	780	285
Right of use asset	137	123
Accounts payable	(504)	368
Accrued expenses	(326)	85
Accrued employee benefits	271	(147)
Lease liability	(127)	(168)
Net Cash Used In Operating Activities	(13,714)	(8,080)
Cash Flows from Investing Activities		
Purchase of property and equipment	(25)	(14)
Cash paid for business combination; net of cash acquired	(3,863)	—
Pre-acquisition loan to VCN	(417)	—
Net Cash Used in Investing Activities	(4,305)	(14)
Cash Flows from Financing Activities		
Payment of VCN's CDTI loan	(1,376)	—
Proceeds from sale of Series C Preferred Stock, net of issuance cost	2,006	—
Proceeds from sale of Series D Preferred Stock, net of issuance cost	728	—
Proceeds from "at the market" stock issuance	—	65,960
Proceeds from issuance of common stock for warrant exercises	—	8,042
Net Cash Provided by Financing Activities	1,358	74,002
Effects of FX on cash	(84)	—
Net (decrease) increase in cash and cash equivalents and restricted cash	(16,661)	65,908
Cash and cash equivalents and restricted at the beginning of this period	67,325	6,227
Cash and cash equivalents and restricted cash at the end of this period	**$ 50,580**	**$ 72,135**
Reconciliation of cash, cash equivalents, and restricted cash reported in the statement of financial position		
Cash and cash equivalents	$ 50,490	$ 72,135
Restricted cash included in other long-term assets	90	—
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	**$ 50,580**	**$ 72,135**
Supplemental non-cash investing and financing activities:		
Fair value of contingent consideration issued in a business combination	$ 12,158	$ —
Fair value of equity issued as consideration in a business combination	$ 6,599	$ —
Effective settlement of pre-closing VCN financing	$ 417	$ —
Goodwill measurement period adjustment	$ (884)	$ —
In-process R&D measurement period adjustment	$ 810	$ —
Deferred tax liability measurement period adjustment	$ 202	$ —
Effect of Warrant exercise price adjustment	$ 340	$ —
Effect of Series A Preferred Stock price adjustment	$ —	$ 7,402
Right of use asset from operating lease	$ —	$ 1,270
Conversion of Series B Preferred Stock	$ —	$ 2,477
Deemed dividends for accretion of Series B Preferred Stock discount	$ —	$ 1,497
In-kind dividends paid in preferred stock	$ —	$ 24

See accompanying notes to unaudited condensed consolidated financial statements.