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13 *Counsel continued on following page*

14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**  
16 **WESTERN DIVISION**

17 ChromaDex, Inc.,  
18 Plaintiff,  
19 v.  
20 Elysium Health, Inc. and Mark  
Morris,  
21 Defendants.

Case No.: 8:16-cv-02277-CJC-DFM  
[Assigned to the Hon. Cormac J. Carney]  
**DECLARATION OF JOSEPH N.  
SACCA IN SUPPORT OF ELYSIUM  
HEALTH INC.'S AND MARK  
MORRIS'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

22  
23 Elysium Health, Inc.,  
24 Counterclaimant,  
25 v.  
26 ChromaDex, Inc.,  
27 Counter-Defendant.

Trial Date: October 15, 2019

28

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ELYSIUM HEALTH, INC.

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10 **MARK MORRIS**

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BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

1 I, Joseph N. Sacca, hereby declare:

2 I am an attorney duly licensed in the State of New York and authorized to  
3 practice before this Court. I am a partner in the law firm of Baker & Hostetler LLP,  
4 attorneys for Defendant and Counterclaimant Elysium Health, Inc. (“Elysium”) and  
5 Defendant Mark Morris (“Morris”). Pursuant to Local Rule 7-3, on Friday,  
6 August 9, 2019, counsel for Defendants conferred with counsel for ChromaDex  
7 regarding the substance of Defendants’ motion for partial summary judgment.

8 **Exhibits**

9 1. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from  
10 the March 29, 2019 deposition of Dan Alminana.

11 2. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from  
12 the June 6, 2019 deposition of Elysium’s 30(b)(6) witness Dr. Thomas Wilhelm.

13 3. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from  
14 the April 24, 2019 deposition of Mark Morris.

15 4. Attached hereto as Exhibit 4 is a true and correct copy of an email from  
16 Dan Alminana to Frank Jaksch, copying Leonard Guarente, Bob Prag, Eric  
17 Marcotulli, and Laura Carney, sent August 27, 2013, bearing bates  
18 CDXCA\_00007237 – CDXCA\_00007239 and produced by Plaintiff ChromaDex,  
19 Inc. (“ChromaDex”) in this litigation.

20 5. Attached hereto as Exhibit 5 is a true and correct copy of the Trademark  
21 License and Royalty Agreement executed by ChromaDex and Elysium on February  
22 3, 3014, bearing bates numbers CDXCA\_00145908 – CDXCA\_00145914 and  
23 produced by Plaintiff ChromaDex in this litigation.

24 6. Attached hereto as Exhibit 6 is a true and correct copy an email and  
25 attachment from Frank Jaksch to Dan Alminana and Eric Marcotulli, copying Steve  
26 Block, sent November 1, 2016, bearing bates numbers ELY\_0048077 –  
27 ELY\_0048079, produced by Elysium in this litigation, and previously marked as  
28 Exhibit 23 in the February 20, 2019 deposition of Stephen Block.

1           7. Attached hereto as Exhibit 7 is a true and correct copy of an email and  
2 attachments from Dan Alminana to Frank Jaksch, copying Troy Rhonemus, Tom  
3 Varvaro, Mark Morris, Collene Villalobos, Eric Marcotulli, Will Black, sent June 30,  
4 2016, bearing bates numbers ELY\_0046722 – ELY\_0046725 and produced by  
5 Elysium in this litigation.

6           8. Attached hereto as Exhibit 8 is a true and correct copy of a text message  
7 sent by Frank Jaksch to Will McCamy, bearing bates number CDXCA\_00289645  
8 and produced by Plaintiff ChromaDex in this litigation.

9           9. Attached hereto as Exhibit 9 is a true and correct copy of an email from  
10 Frank Jaksch to Jeff Baxter, Steve Allen, Stephen Block, Rob Fried, and Kurt  
11 Gustafson, sent November 20, 2016, bearing bates numbers CDXCA\_00270547 –  
12 CDXCA\_00270549, produced by Plaintiff ChromaDex in this litigation, and  
13 previously marked as Exhibit 26 in the February 20, 2019 deposition of Stephen  
14 Block.

15           10. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from  
16 the April 2, 2019 deposition of Thomas Varvaro.

17           11. Attached hereto as Exhibit 11 is a true and correct copy of an email from  
18 Mark Morris to Eric Marcotulli and Ryan Dellinger, copying Dan Alminana, sent  
19 April 17, 2015, bearing bates numbers CDXCA\_00240318 – CDXCA\_00240321  
20 and produced by Plaintiff ChromaDex in this litigation.

21           12. Attached hereto as Exhibit 12 is a true and correct copy of an email and  
22 attachments from Erin Swick to Rob Fried, Tom Varvaro, and Frank Jaksch, copying  
23 Teddy Klinghoffer and Heather Van Blarcom, sent August 28, 2015, bearing bates  
24 numbers CDXCA\_00059151 – CDXCA\_00059290 and produced by Plaintiff  
25 ChromaDex in this litigation.

26           13. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from  
27 the April 17, 2019 deposition of Robert Fried.

28           14. Attached hereto as Exhibit 14 is a true and correct copy of Form 8-K

1 filed with the U.S. Securities & Exchange Commission (“SEC”) by ChromaDex on  
2 April 19, 2018.

3 15. Attached hereto as Exhibit 15 is a true and correct copy of a text message  
4 sent by Robert Fried to Dan Levitan, bearing bates number CDXCA\_00289554 and  
5 produced by Plaintiff ChromaDex in this litigation.

6 16. Attached hereto as Exhibit 16 is a true and correct copy of an email and  
7 attachment from Will Black to Frank Jaksch, sent November 17, 2016, bearing bates  
8 numbers CDXCA\_00153608 – CDXCA\_00153611, produced by Plaintiff  
9 ChromaDex in this litigation and previously marked as Exhibit 18 in the April 18,  
10 2019 deposition of Will Black.

11 17. Attached hereto as Exhibit 17 is a true and correct copy of Form 10-K  
12 filed by ChromaDex with the SEC for the fiscal year ending December 30, 2017.

13 18. Attached hereto as Exhibit 18 is a true and correct copy of an email and  
14 attachments from Frank Jaksch to Jeff Baxter, Kurt Gustafson, Rob Fried, Steve  
15 Allen, and Steve Block, sent November 22, 2016, bearing bates numbers  
16 CDXCA\_00173464 – CDXCA\_00173472 and produced by Plaintiff ChromaDex in  
17 this litigation.

18 19. Attached hereto as Exhibit 19 is a true and correct copy of ChromaDex’s  
19 Answer and Counterclaims Against Novex Biotech LLC, filed on May 24, 2019 in  
20 the litigation captioned *Novex Biotech, LLC v. ChromaDex, Inc.*, Case No. 2:19-cv-  
21 00271-JNP-PMW (D. Utah) (ECF No. 26).

22 20. Attached hereto as Exhibit 20 is a true and correct copy of Form 8-K  
23 filed by ChromaDex with the SEC on January 8, 2018, previously marked as Exhibit  
24 67 from the March 28, 2019 deposition of Troy Rhonemus.

25 21. Attached hereto as Exhibit 21 is a true and correct copy of a native Excel  
26 file, bearing bates number CDXCA\_00429638 and produced by Plaintiff  
27 ChromaDex in this litigation.

28 22. Attached hereto as Exhibit 22 is a true and correct copy of an email and

1 attachments from Dan Alminana to Frank Jaksch, copying Eric Marcotulli, sent June  
2 27, 2014, bearing bates numbers CDXCA\_00071711 – CDXCA\_00071713 and  
3 produced by Plaintiff ChromaDex in this litigation.

4 23. Attached hereto as Exhibit 23 is a true and correct copy of an email and  
5 attachments from Dan Alminana to Collene Villalobos, copying Frank Jaksch, Mark  
6 Morris, and Eric Marcotulli, sent February 10, 2015, bearing bates numbers  
7 CDXCA\_00071798 – CDXCA\_00071800 and produced by Plaintiff ChromaDex in  
8 this litigation.

9 24. Attached hereto as Exhibit 24 is a true and correct copy of an email and  
10 attachments from Dan Alminana to Frank Jaksch, Mark Morris, and Collene  
11 Villalobos, copying Eric Marcotulli, sent May 27, 2015, bearing bates numbers  
12 CDXCA\_00071833 – CDXCA\_00071835 and produced by Plaintiff ChromaDex in  
13 this litigation.

14 25. Attached hereto as Exhibit 25 is a true and correct copy of an email and  
15 attachments from Dan Alminana to Frank Jaksch, Mark Morris, and Collene  
16 Villalobos, copying Eric Marcotulli, sent July 2, 2015, bearing bates numbers  
17 CDXCA\_00071836 – CDXCA\_00071839 and produced by Plaintiff ChromaDex in  
18 this litigation.

19 26. Attached hereto as Exhibit 26 is a true and correct copy of an email and  
20 attachments from Dan Alminana to Frank Jaksch, Mark Morris, and Collene  
21 Villalobos, copying Eric Marcotulli, sent October 2, 2015, bearing bates numbers  
22 CDXCA\_00071840 – CDXCA\_00071844 and produced by Plaintiff ChromaDex in  
23 this litigation.

24 27. Attached hereto as Exhibit 27 is a true and correct copy of an email and  
25 attachments from Dan Alminana to Frank Jaksch, Mark Morris, and Collene  
26 Villalobos, copying Eric Marcotulli, sent November 5, 2015, bearing bates numbers  
27 CDXCA\_00070645 – CDXCA\_00070649 and produced by Plaintiff ChromaDex in  
28 this litigation.

1           28. Attached hereto as Exhibit 28 is a true and correct copy of an email and  
2 attachments from Dan Alminana to Frank Jaksch, Troy Rhonemus, Mark Morris, and  
3 Collene Villalobos, copying Eric Marcotulli, sent February 22, 2016, bearing bates  
4 numbers CDXCA\_00108258 – CDXCA\_00108262 and produced by Plaintiff  
5 ChromaDex in this litigation.

6           29. Attached hereto as Exhibit 29 is a true and correct copy of an email and  
7 attachments from Dan Alminana to Frank Jaksch, Troy Rhonemus, Tom Varvaro,  
8 Mark Morris, and Collene Villalobos, copying Eric Marcotulli, sent April 1, 2016,  
9 bearing bates numbers CDXCA\_00101784 – CDXCA\_00101788 and produced by  
10 Plaintiff ChromaDex in this litigation.

11           30. Attached hereto as Exhibit 30 is a true and correct copy of an email from  
12 Dan Alminana to Frank Jaksch, copying Eric Marcotulli, sent May 30, 2016, bearing  
13 bates numbers ELY\_0046604 and produced by Elysium in this litigation.

14           31. Attached hereto as Exhibit 31 is a true and correct copy of an email and  
15 attachment from Frank Jaksch to Dan Alminana, copying Eric Marcotulli, sent June  
16 13, 2016, bearing bates numbers CDXCA\_00172596 – CDXCA\_00172600,  
17 produced by Plaintiff ChromaDex in this litigation, and previously marked as Exhibit  
18 12 in the February 20, 2019 deposition of Stephen Block.

19           32. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from  
20 the April 12, 2019 deposition of Frank Jaksch.

21           33. Attached hereto as Exhibit 33 is a true and correct copy of an email from  
22 Dan Alminana to Frank Jaksch, copying Eric Marcotulli, sent June 13, 2016, bearing  
23 bates numbers CDXCA\_00071855 – CDXCA\_0071860 and produced by Plaintiff  
24 ChromaDex in this litigation.

25           34. Attached hereto as Exhibit 34 is a true and correct copy of an email and  
26 attachments from Dan Alminana to Frank Jaksch, Troy Rhonemus, Tom Varvaro,  
27 Mark Morris, and Collene Villalobos, copying Eric Marcotulli, sent June 28, 2016,  
28 bearing bates numbers ELY\_0046716 – ELY\_0046718 and produced by Elysium in



1 this litigation.

2 35. Attached hereto as Exhibit 35 is a true and correct copy of an email from  
3 Frank Jaksch to Dan Alminana, copying Troy Rhonemus, Tom Varvaro, Mark  
4 Morris, Collene Villalobos, Eric Marcotulli, and Will Black, sent June 30, 2016,  
5 bearing bates numbers ELY\_0036459 – ELY\_0036464 and produced by Elysium in  
6 this litigation.

7 36. Attached hereto as Exhibit 36 is a true and correct copy of an email from  
8 Dan Alminana to Tom Varvaro, copying Eric Marcotulli, Frank Jaksch, and Troy  
9 Rhonemus, sent August 10, 2016, bearing bates numbers CDXCA\_00007084 –  
10 CDXCA\_00007085 and produced by Plaintiff ChromaDex in this litigation.

11 37. Attached hereto as Exhibit 37 is a true and correct copy of excerpts from  
12 the March 27, 2019 deposition of Eric Marcotulli.

13 38. Attached hereto as Exhibit 38 is a true and correct copy of an email from  
14 Eric Marcotulli to Dan Alminana, sent June 30, 2016, bearing bates number  
15 ELY\_0046720, produced by Elysium in this litigation, and previously marked as  
16 Exhibit 143 in the March 27, 2019 deposition of Eric Marcotulli.

17 39. Attached hereto as Exhibit 39 is a true and correct copy of excerpts from  
18 the April 18, 2019 deposition of Will Black.

19 40. Attached hereto as Exhibit 40 is a true and correct copy of an email from  
20 Frank Jaksch to Dan Alminana, copying Troy Rhonemus, Tom Varvaro, Mark  
21 Morris, Collene Villalobos, Eric Marcotulli, and Will Black, sent June 30, 2016,  
22 bearing bates number ELY\_0046726 and produced by Elysium in this litigation.

23 41. Attached hereto as Exhibit 41 is a true and correct copy of an email from  
24 Will Black to Dan Alminana, sent June 30, 2016, bearing bates number  
25 ELY\_0046727 and produced by Elysium in this litigation.

26 42. Attached hereto as Exhibit 42 is a true and correct copy of an email from  
27 Frank Jaksch to Steve Block, sent October 31, 2016, bearing bates numbers  
28 CDXCA\_00209930 – CDXCA\_00209936, produced by Plaintiff ChromaDex in this



1 litigation, and previously marked as Exhibit 16 in the February 20, 2019 deposition  
2 of Stephen Block.

3 43. Attached hereto as Exhibit 43 is a true and correct copy of a document  
4 bearing the name “NR Ingredient Sales Data for all customers,” bearing bates number  
5 ELY\_0046025, produced by Elysium in this litigation and previously marked as of  
6 Exhibit 148 in the April 24, 2019 deposition of Mark Morris.

7 44. Attached hereto as Exhibit 44 is a true and correct copy of excerpts of  
8 Morris’s Responses and Objections to ChromaDex’s First Set of Interrogatories,  
9 dated January 7, 2019.

10 45. Attached hereto as Exhibit 45 is a true and correct copy of text messages  
11 between Dan Alminana and [fill in] bearing bates number ELY\_0085617, produced  
12 by Elysium in this litigation.

13 46. Attached hereto as Exhibit 46 is a true and correct copy of the June 21,  
14 2019 expert report of Lance Gunderson.

15 47. Attached hereto as Exhibit 47 is a true and correct copy of excerpts from  
16 the August 9, 2019 deposition of Expert Lance Gunderson.

17 48. Attached hereto as Exhibit 48 is a true and correct copy of a Form 8-K  
18 filed by ChromaDex with the SEC on July 9, 2013.

19 49. Attached hereto as Exhibit 49 is a true and correct copy of an email from  
20 Frank Jaksch to Will Black, sent June 29, 2016, bearing bates numbers  
21 CDXCA\_00067500 – CDXCA\_00067506 and produced by Plaintiff ChromaDex in  
22 this litigation.

23 50. Attached hereto as Exhibit 50 is a true and correct copy of an email from  
24 Dan Alminana to Frank Jaksch, copying Troy Rhonemus, Tom Varvaro, Mark  
25 Morris, Collene Villalobos, Eric Marcotulli, and Will Black, sent June 30, 2016,  
26 bearing bates numbers, CDXCA\_00061379 – CDXCA\_00061384 and produced by  
27 Plaintiff ChromaDex in this litigation.

28 51. Attached hereto as Exhibit 51 is a true and correct copy of an email and

1 attachments from Tom Varvaro to Dan Alminana, Eric Marcotulli, copying Frank  
2 Jaksch, Troy Rhonemus, and Will Black, sent September 8, 2016, bearing bates  
3 numbers CDXCA\_00086077 – CDXCA\_00086079 and produced by Plaintiff  
4 ChromaDex in this litigation.

5 52. Attached hereto as Exhibit 52 is a true and correct copy of excerpts from  
6 ChromaDex, Inc.’s Responses and Objections to Mark Morris’s First Set of  
7 Interrogatories dated March 6, 2019.

8 53. Attached hereto as Exhibit 53 is a true and correct copy of Schedule 15  
9 and Schedule 15A from the June 21, 2019 expert report of Lance Gunderson.

10 54. Attached hereto as Exhibit 54 is a true and correct copy of an email and  
11 attachment from Daniel Magida to Dan Alminana, sent June 24, 2016, bearing bates  
12 number ELY\_0046699 – ELY\_0046700, produced by Elysium in this litigation, and  
13 previously marked as Exhibit 45 in the December 13, 2018 deposition of Daniel  
14 Magida.

15 55. Attached hereto as Exhibit 55 is a true and correct copy of an email and  
16 attachments from Dan Magida to Kristah Kohan, sent October 13, 2016, bearing  
17 bates numbers ELY\_0078080 – ELY\_0078099 and produced by Elysium in this  
18 litigation.

19 56. Attached hereto as Exhibit 56 is a true and correct copy of an email and  
20 attachments from Dan Alminana to Thomas Hall, copying Karisa Black and Eric  
21 Marcotulli, sent April 17, 2015, bearing bates numbers ELY\_0022790 –  
22 ELY\_0022820, produced by Elysium in this litigation.

23 57. Attached hereto as Exhibit 57 is a true and correct copy of an email and  
24 attachment from Mark Morris to Loren A. Brown, copying William J. Rowe, sent  
25 August 29, 2017, bearing bates numbers ELY\_0090347 – ELY\_0090347.0002 and  
26 produced by Elysium in this litigation.

27 58. Attached hereto as Exhibit 58 is a true and correct copy of Form 10-Q  
28 filed by ChromaDex with the SEC for the quarterly period ended April 2, 2016 and

1 previously marked as Exhibit 6 in the April 4, 2019 deposition of Frank Jaksch.

2 59. Attached hereto as Exhibit 59 is a true and correct copy of the  
3 “Generally Recognized As Safe (GRAS) Determination for Niagen (Nicotinamide  
4 Riboside Chloride)” filed by ChromaDex, publicly available at  
5 [https://www.fda.gov/files/food/published/GRAS-Notice-000635--Nicotinamide-](https://www.fda.gov/files/food/published/GRAS-Notice-000635--Nicotinamide-riboside-chloride.pdf)  
6 [riboside-chloride.pdf](https://www.fda.gov/files/food/published/GRAS-Notice-000635--Nicotinamide-riboside-chloride.pdf) and last visited on August 16, 2019.

7 60. Attached hereto as Exhibit 60 is a true and correct copy of ChromaDex’s  
8 Second Amended Responses to Morris Interrogatory No. 1, dated August 9, 2019.

9 61. Attached hereto as Exhibit 61 is a true and correct copy of ChromaDex,  
10 Inc.’s Supplemental Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a), dated  
11 January 14, 2019.

12 62. Attached hereto as Exhibit 62 is a true and correct copy of excerpts from  
13 the May 8, 2019 deposition of ChromaDex’s 30(b)(6) witness, Thomas Varvaro.

14 63. Attached hereto as Exhibit 63 is a true and correct copy of a document  
15 titled Separation Checklist, dated July 15, 2016, bearing bates number  
16 CDXCA\_00436845, produced by Plaintiff ChromaDex in this litigation and  
17 previously marked as Exhibit 9 in the April 24, 2019 deposition of Mark Morris.

18 64. Attached hereto as Exhibit 64 is a true and correct copy of a document  
19 titled ChromaDex, Inc. Confidentiality and Non-Solicitation Agreement (For New  
20 Employees), dated July 15, 2016, bearing bates numbers CDXCA\_00420032 –  
21 CDXCA\_00420039, produced by Plaintiff ChromaDex in this litigation and  
22 previously marked as Exhibit 10 in the April 24, 2019 deposition of Mark Morris.

23 65. Attached hereto as Exhibit 65 is a true and correct copy of excerpts from  
24 the June 21, 2019 Expert Report of Dr. Iain Cockburn.

25 66. Attached hereto as Exhibit 66 is a true and correct copy of Exhibit 3  
26 from the June 21, 2019 Expert Report of Dr. Iain Cockburn.

27 67. Attached hereto as Exhibit 67 is a true and correct copy of Exhibit 4  
28 from the June 21, 2019 Expert Report of Dr. Iain Cockburn.

