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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
21 Morris,
22 Defendant.

Case No.: 8:16-cv-02277-CJC (DFM)
[Assigned to the Hon. Cormac J. Carney]

DECLARATION OF JOSEPH N. SACCA IN OPPOSITION OF CHROMADEx, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT

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

Hearing
Date: September 16, 2019
Time: 1:30 PM
Crtm: 7C
[Filed concurrently with Memorandum of Points and Authorities; Statement of Genuine Disputes of Material Facts]
Pretrial Conference: September 18, 2019
Trial: October 15, 2019

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7
8 *Attorneys for Defendant and Counterclaimant*
ELYSIUM HEALTH, INC.

9 *Attorney for Defendant*
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”). I declare that the following statements are true
6 to best of my knowledge, information, and belief, formed after reasonable inquiry of
7 the circumstances. I have personal knowledge of the facts set forth below and, if
8 called as a witness, I could and would testify competently as follows.

9 **Exhibits**

10 1. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from
11 the April 17, 2019 deposition of Robert Fried.

12 2. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from
13 the May 8, 2019 deposition of ChromaDex Inc.’s (“ChromaDex”) 30(b)(6) witness,
14 Thomas Varvaro.

15 3. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from
16 the March 26, 2019 deposition of Aron Erickson.

17 4. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from
18 the April 3, 2019 deposition of Amy Boileau.

19 5. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from
20 the May 13, 2019 deposition of Matthew Moreno.

21 6. Attached hereto as Exhibit 6 is a true and correct copy of an email and
22 attachment from Brett Reynolds to Troy Rhonemus, sent June 16, 2016, bearing bates
23 numbers CDXCA_00131793 – CDXCA_00131815 and produced by Plaintiff
24 ChromaDex in this litigation.

25 7. Attached hereto as Exhibit 7 is a true and correct copy of an email and
26 attachment from Troy Rhonemus to Frank Jaksch, sent May 22, 2017, bearing bates
27 numbers CDXCA_00129397 – CDXCA_00129415 and produced by Plaintiff
28 ChromaDex in this litigation.

1 8. Attached hereto as Exhibit 8 is a true and correct copy of an email and
2 attachment from Mark Morris to Sean Torbati, sent June 10, 2013 bearing bates
3 numbers CDXCA_00151401 – CDXCA_00151403 and produced by Plaintiff
4 ChromaDex in this litigation.

5 9. Attached hereto as Exhibit 9 is a true and correct copy of an email and
6 attachment from Katie Lowerison to Mark Morris, sent October 10, 2013, bearing
7 bates numbers CDXCA_00430489 – CDXCA_00430492 and produced by Plaintiff
8 ChromaDex in this litigation.

9 10. Attached hereto as Exhibit 10 is a true and correct copy of a document
10 titled Trademark License Agreement, bearing bates numbers CDXCA_00024284 –
11 CDXCA_00024288 and produced by Plaintiff ChromaDex in this litigation.

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

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

16 13. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from
17 the March 29, 2019 deposition of Dan Alminana.

18 14. Attached hereto as Exhibit 14 is a true and correct copy of an email from
19 Eric Marcotulli to Frank Jaksch, copying Dan Alminana, sent January 29, 2014,
20 bearing bates numbers CDXCA_00007265 – CDXCA_00007267 and produced by
21 Plaintiff ChromaDex in this litigation.

22 15. Attached hereto as Exhibit 15 is a true and correct copy of an email from
23 Frank Jaksch to Will Black, sent June 29, 2016, bearing bates numbers
24 CDXCA_00067500 – CDXCA_00067506, produced by Plaintiff ChromaDex in this
25 litigation, and previously marked as Exhibit 10 in the April 12, 2019 deposition of
26 Frank Jaksch.

27 16. Attached hereto as Exhibit 16 is a true and correct copy of a document
28 titled Niagen Supply Agreement bearing bates numbers CDXCA_00005450 –

1 CDXCA_00005467 and produced by Plaintiff ChromaDex in this litigation.

2 17. Attached hereto as Exhibit 17 is a true and correct copy of a document
3 titled Supply Agreement bearing bates numbers CDXCA_00027392 –
4 CDXCA_00027400 and produced by Plaintiff ChromaDex in this litigation.

5 18. Attached hereto as Exhibit 18 is a true and correct copy of a document
6 titled Supply Agreement, bearing bates numbers CDXCA_00008604 –
7 CDXCA_00008612 and produced by Plaintiff ChromaDex in this litigation.

8 19. Attached hereto as Exhibit 19 is a true and correct copy of a document
9 titled Supply Agreement bearing bates numbers CDXCA_00008946 –
10 CDXCA_00008953 and produced by Plaintiff ChromaDex in this litigation.

11 20. Attached hereto as Exhibit 20 is a true and correct copy of an email and
12 attachments from Laura Kelly to Will Black, sent October 21, 2016, bearing bates
13 numbers CDXCA_00031406 – CDXCA_00031430 and produced by Plaintiff
14 ChromaDex in this litigation.

15 21. Attached hereto as Exhibit 21 is a true and correct copy of a document
16 titled Supply Agreement, bearing bates numbers CDXCA_00008508 –
17 CDXCA_00008516 and produced by Plaintiff ChromaDex in this litigation.

18 22. Attached hereto as Exhibit 22 is a true and correct copy of a document
19 titled Supply Agreement, bearing bates numbers CDXCA_00008653 –
20 CDXCA_00008662 and produced by Plaintiff ChromaDex in this litigation.

21 23. Attached hereto as Exhibit 23 is a true and correct copy of a document
22 titled Supply Agreement bearing bates numbers CDXCA_00008797 –
23 CDXCA_00008804 and produced by Plaintiff ChromaDex in this litigation.

24 24. Attached hereto as Exhibit 24 is a true and correct copy of a document
25 titled Supply Agreement bearing bates numbers CDXCA_00027271 –
26 CDXCA_00027278 and produced by Plaintiff ChromaDex in this litigation.

27 25. Attached hereto as Exhibit 25 is a true and correct copy of a document
28 titled Supply Agreement bearing bates numbers CDXCA_00027515 –

1 CDXCA_00027520 and produced by Plaintiff ChromaDex in this litigation.

2 26. Attached hereto as Exhibit 26 is a true and correct copy of a document
3 titled Supply Agreement bearing bates numbers CDXCA_00027740 –
4 CDXCA_00027748 and produced by Plaintiff ChromaDex in this litigation.

5 27. Attached hereto as Exhibit 27 is a true and correct copy of an email and
6 attachments from Tom Varvaro to Sam Zietz, Frank Jaksch and Troy Rhonemus, sent
7 February 24, 2016, bearing bates numbers CDXCA_00062187 – CDXCA_00062208
8 and produced by Plaintiff ChromaDex in this litigation.

9 28. Attached hereto as Exhibit 28 is a true and correct copy of an email and
10 attachments from Heather Van Blarcom to Will Black, Frank Jaksch, Tom Varvaro
11 and Troy Rhonemus, sent May 1, 2017, bearing bates numbers CDXCA_00207931
12 – CDXCA_00207941 and produced by Plaintiff ChromaDex in this litigation.

13 29. Attached hereto as Exhibit 29 is a true and correct copy of an email and
14 attachment from Marcea Heck to Heather Van Blarcom and John Mai, sent October
15 12, 2016, bearing bates numbers CDXCA_00210958 – CDXCA_00210966 and
16 produced by Plaintiff ChromaDex in this litigation.

17 30. Attached hereto as Exhibit 30 is a true and correct copy of an email and
18 attachment from Mark Morris to Troy Rhonemus, dated August 27, 2015, bearing
19 bates numbers CDXCA_00243109 – CDXCA_00243115 and produced by Plaintiff
20 ChromaDex in this litigation.

21 31. Attached hereto as Exhibit 31 is a true and correct copy of an email and
22 attachments from Headley to Mark Morris, sent April 18, 2016, bearing bates
23 numbers CDXCA_00245404 – CDXCA_00245421 and produced by Plaintiff
24 ChromaDex in this litigation.

25 32. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from
26 the April 2, 2019 deposition of Thomas Varvaro.

27 33. Attached hereto as Exhibit 33 is a true and correct copy of an email from
28 Dan Magida to Mark Morris, copying Dan Alminana, sent November 23, 2016,

1 bearing bates number ELY_0011734 and produced by Elysium in this litigation.

2 34. Attached hereto as Exhibit 34 is a true and correct copy of excerpts from
3 the August 14, 2019 deposition of Dr. Randal Heeb.

4 35. Attached hereto as Exhibit 35 is a true and correct copy of a compilation
5 of the results for acetamide testing conducted by Gibraltar Laboratories, dated from
6 August 2017 – December 2017 and produced by Elysium in this litigation.

7 36. Attached hereto as Exhibit 36 is a true and correct copy of an email and
8 attachment from Laura Kelly to Derik Ward, sent February 5, 2018, bearing bates
9 numbers CDXCA_00367349 – CDXCA_00367370 and produced by Plaintiff
10 ChromaDex in this litigation.

11 37. Attached hereto as Exhibit 37 is a true and correct copy of excerpts from
12 the April 12, 2019 deposition of Frank Jaksch.

13 38. Attached hereto as Exhibit 38 is a true and correct copy of an email and
14 attachment from Troy Rhonemus to Audrey Kelleman, Frank Jaksch, Brett Reynolds,
15 and Daniel Fabricant, sent January 28, 2015, bearing bates numbers
16 CDXCA_00127438 – CDXCA_00127482, produced by Plaintiff ChromaDex in this
17 litigation, and previously marked as Exhibit 74 at the March 28, 2019 deposition of
18 Troy Rhonemus.

19 39. Attached hereto as Exhibit 39 is a true and correct copy of a letter sent
20 via email from Michael Powell (former counsel for Elysium) to Jon Cieslak (former
21 counsel for ChromaDex) on January 4, 2018.

22 40. Attached hereto as Exhibit 40 is a true and correct copy of an email from
23 Collene Villalobos to Dan Alminana, copying Dan Magida, sent on July 11, 2016,
24 bearing bates number ELY_0001520 and produced by Elysium in this litigation.

25 41. Attached hereto as Exhibit 41 is a true and correct copy of an email and
26 attachments from James Lee to SEC Connect Filing Desk, copying Tom Varvaro,
27 sent November 9, 2016, bearing bates numbers CDXCA_00142486 –
28 CDXCA_00142582 and produced by Plaintiff ChromaDex in this litigation.

1 42. Attached hereto as Exhibit 42 is a true and correct copy of an email and
2 attachment from James Lee to Tom Varvaro, sent September 10, 2013, bearing bates
3 numbers CDXCA_00009965 – CDXCA_00009997 and produced by Plaintiff
4 ChromaDex in this litigation.

5 43. Attached hereto as Exhibit 43 is a true and correct copy of an email and
6 attachments from Tom Varvaro to Troy Rhonemus sent July 10, 2014, bearing bates
7 numbers CDXCA_00160549 – CDXCA_00160581 and produced by Plaintiff
8 ChromaDex in this litigation.

9 44. Attached hereto as Exhibit 44 is a true and correct copy of an email and
10 attachment from Laura Kelly to Frank Jaksch, Tom Varvaro and James Lee, sent May
11 27, 2014, bearing bates numbers CDXCA_00071301 – CDXCA_00071310 and
12 produced by Plaintiff ChromaDex in this litigation.

13 45. Attached hereto as Exhibit 45 is true and correct copy of excerpts from
14 the December 13, 2018 deposition of Daniel Magida.

15 46. Attached hereto as Exhibit 46 is a true and correct copy of a document
16 titled Ingredients-ChromaDex, bearing bates numbers ELY_0125946 –
17 ELY_0125950 and produced by Elysium in this litigation.

18 47. Attached hereto as Exhibit 47 is a true and correct copy of an email and
19 attachment from Jenny Schwanky to Timothy O'Brien, copying Edward Schauder,
20 Tom Varvaro and Frank Jaksch, sent July 12, 2013, bearing bates numbers
21 CDXCA_00000087 – CDXCA_00000105 and produced by Plaintiff ChromaDex in
22 this litigation.

23 48. Attached hereto as Exhibit 48 is a true and correct copy of an email and
24 attachment from Frank Jaksch to Laura Kelly, sent August 8, 2014, bearing bates
25 numbers CDXCA_00073425 – CDXCA_00073464 and produced by Plaintiff
26 ChromaDex in this litigation.

27 49. Attached hereto as Exhibit 49 is a true and correct copy of an email and
28 attachment from Fran Jaksch to Hugh Dunkerley, Jeff, Baxter, Reid Dabney, Rob

1 Fried, Steve Allen, Steve Block and Tom Varvaro, sent on March 16, 2016, bearing
2 bates numbers CDXCA_00076402 – CDXCA_00076447 and produced by Plaintiff
3 ChromaDex in this litigation.

4 50. Attached hereto as Exhibit 50 is a true and correct copy of a document
5 titled ChromaDex Investor Presentation December 2015, bearing bates numbers
6 CDXCA_00000201 – CDXCA_00000231.

7 51. Attached hereto as Exhibit 51 is a true and correct copy of an email and
8 attachment from Frank Jaksch to Karin Writes, sent June 25, 2016, bearing bates
9 numbers CDXCA_00067450 – CDXCA_00067497 and produced by Plaintiff
10 ChromaDex in this litigation.

11 52. Attached hereto as Exhibit 52 is a true and correct copy of an email and
12 attachment from Scott Glowinski to Frank Jaksch, Tom Varvaro, Troy Rhonemus,
13 Dung Nguyen, Ryan Plusch, Mark Rosenblum and Evan Barre, sent May 3, 2014,
14 bearing bates numbers CDXCA_00105748 – CDXCA_00105825 and produced by
15 Plaintiff ChromaDex in this litigation.

16 53. Attached hereto as Exhibit 53 is a true and correct copy of an email and
17 attachment from Tom Varvaro to Troy Rhonemus and Frank Jaksch, sent April 23,
18 2014, bearing bates numbers CDXCA_00107355 – CDXCA_00107441 and
19 produced by Plaintiff ChromaDex in this litigation.

20 54. Attached hereto as Exhibit 54 is a true and correct copy of an email and
21 attachment from Mark Rosenblum to Frank Jaksch and Tom Varvaro, sent April 29,
22 2014, bearing bates numbers CDXCA_00107442 – CDXCA_00107523 and
23 produced by Plaintiff ChromaDex in this litigation.

24 55. Attached hereto as Exhibit 55 is a true and correct copy of an email and
25 attachment from Tom Varvaro to Troy Rhonemus and Frank Jaksch, sent April 29,
26 2014, bearing bates numbers CDXCA_00107524 – CDXCA_00107606 and
27 produced by Plaintiff ChromaDex in this litigation.

28 56. Attached hereto as Exhibit 56 is a true and correct copy of an email and

1 attachment from Troy Rhonemus to Mark Morris and Ryan Dellinger, sent April 29,
2 2014, bearing bates numbers CDXCA_00126637 – CDXCA_0016719 and produced
3 by Plaintiff ChromaDex in this litigation.

4 57. Attached hereto as Exhibit 57 is a true and correct copy of an email and
5 attachment from ChromaDex, Inc. to Andrew J, sent January 6, 2016, bearing bates
6 numbers CDXCA_00087744 – CDXCA_00087747 and produced by Plaintiff
7 ChromaDex in this litigation.

8 58. Attached hereto as Exhibit 58 is a true and correct copy of an email and
9 attachment from Frank Jaksch to Deirdre Newman, sent March 2, 2016, bearing bates
10 numbers CDXCA_00299908 – CDXCA_00299916 and produced by Plaintiff
11 ChromaDex in this litigation.

12 59. Attached hereto as Exhibit 59 is a true and correct copy of an email from
13 Frank Jaksch to Natalie Mikolich and Will Black, sent December 27, 2016, bearing
14 bates numbers CDXCA_00154104 – CDXCA_00154106 and produced by Plaintiff
15 ChromaDex in this litigation.

16 60. Attached hereto as Exhibit 60 is a true and correct copy of an email from
17 Frank Jaksch to Mark Morris, Siva Hari, Stephen Olmstead, Shana, and Ed Hauck,
18 sent July 25, 2014, bearing bates numbers CDXCA_00169741 – CDXCA_00169744
19 and produced by Plaintiff ChromaDex in this litigation.

20 61. Attached hereto as Exhibit 61 is a true and correct copy of a document
21 titled Supply Agreement bearing bates numbers CDXCA_00008496 –
22 CDXCA_00008504 and produced by Plaintiff ChromaDex in this litigation.

23 62. Attached hereto as Exhibit 62 is a true and correct copy of a document
24 titled Supply Agreement bearing bates numbers CDXCA_00027515 –
25 CDXCA_00027520 and produced by Plaintiff ChromaDex in this litigation.

26 63. Attached hereto as Exhibit 63 is a true and correct copy of an email and
27 attachment from Heather Van Blarcom to Will Black, Frank Jaksch, Tom Varvaro
28 and Troy Rhonemus, sent May 1, 2017, bearing bates numbers CDXCA_00207931

1 – CDXCA_00207941 and produced by Plaintiff ChromaDex in this litigation.

2 64. Attached hereto as Exhibit 64 is a true and correct copy of excerpts from
3 the July 26, 2019 expert report of Dr. Randal Heeb.

4 65. Attached hereto as Exhibit 65 is a true and correct copy of a document
5 titled Trademark License Agreement bearing bates numbers CDXCA_00008958 –
6 CDXCA_00008965 and produced by Plaintiff ChromaDex in this litigation.

7 66. Attached hereto as Exhibit 66 is a true and correct copy of a document
8 titled Trademark License Agreement bearing bates numbers CDXCA_00008928 –
9 CDXCA_00008934 and produced by Plaintiff ChromaDex in this litigation.

10 67. Attached hereto as Exhibit 67 is a true and correct copy of excerpts from
11 the April 18, 2019 deposition of Will Black.

12 68. Attached hereto as Exhibit 69 is a true and correct copy of an email and
13 attachment from James Lee to Tom Varvaro, sent July 6, 2016, bearing bates numbers
14 CDXCA_0061398 – CDXCA_00061408 and produced by Plaintiff ChromaDex in
15 this litigation.

16 69. Attached hereto as Exhibit 69 is a true and correct copy of an email and
17 attachments from James Lee to Mark Morris, copying Troy Rhonemus, sent April
18 28, 2015, bearing bates numbers CDXCA_00006939 – CDXCA_00006940 and
19 produced by Plaintiff ChromaDex in this litigation.

20 70. Attached hereto as Exhibit 70 is a true and correct copy of an email and
21 attachment from Dan Alminana to James Lee and Tom Varvaro, copying Frank
22 Jaksch, Mark Morris, Eric Marcotulli, sent June 17, 2015, bearing bates numbers
23 CDXCA_00006947 – CDXCA_0006948 and produced by Plaintiff ChromaDex in
24 this litigation.

25 71. Attached hereto as Exhibit 71 is a true and correct copy of an email and
26 attachment from Dan Alminana to Frank Jaksch, James Lee, Tom Varvao, copying
27 Eric Marcotulli and Mark Morris, sent September 27, 2015, bearing bates numbers
28 CDXCA_00059348 – CDXCA_0059349 and produced by Plaintiff in this litigation.

1 72. Attached hereto as Exhibit 72 is a true and correct copy of an email and
2 attachment from Dan Alminana to James Lee, Tom Varvaro, copying Frank Jaksch,
3 Mark Morris and Eric Marcotulli, sent December 17, 2015, bearing bates numbers
4 CDXCA_00100913 – CDXCA_00100914 and produced by Plaintiff ChromaDex in
5 this litigation.

6 73. Attached hereto as Exhibit 73 is a true and correct copy of an email and
7 attachment from Dan Alminana to James Lee, Tom Varvaro, copying Frank Jaksch,
8 Troy Rhonemus, and Mark Morris, sent March 23, 2016, bearing bates numbers
9 CDXCA_00101782 – CDXCA_00101783 and produced by Plaintiff ChromaDex in
10 this litigation.

11 74. Attached hereto as Exhibit 74 is a true and correct copy of an email and
12 attachment from James Lee to Dan Alminana, Frank Jaksch, Tom Varvaro, Troy
13 Rhonemus and Mark Morris, copying Eric Alminana, sent June 27, 2016, bearing
14 bates numbers CDXCA_00007067 – CDXCA_00007068 and produced by Plaintiff
15 ChromaDex in this litigation.

16 75. Attached hereto as Exhibit 75 is a true and correct copy of an email and
17 attachment from Dan Magida and Dan Alminana, sent July 19, 2016, bearing bates
18 numbers ELY_0046778 – ELY_046779.

19 76. Attached hereto as Exhibit 76 is a true and correct copy of a document
20 titled Supply Agreement Proposal bearing bates numbers CDXCA_00152820 –
21 CDXCA_00152821 and produced by Plaintiff ChromaDex in this litigation.

22 77. Attached hereto as Exhibit 77 is a true and correct copy of a document
23 titled Supply Agreement Proposal bearing bates numbers CDXCA_00027653 –
24 CDXCA_00027660 and produced by Plaintiff ChromaDex in this litigation.

25 78. Attached hereto as Exhibit 78 is a true and correct copy of a letter from
26 Will Black to Headley Lee, dated September 12, 2016, bearing bates number
27 CDXCA_00146312 and produced by Plaintiff ChromaDex in this litigation.

28 79. Attached hereto as Exhibit 79 is a true and correct copy of an email and

1 attachment from ChromaDex Customer Service to hle@maac10.com, copying John
2 Mai and Celine Norman, sent December 7, 2016, bearing bates numbers
3 CDXCA_00121739 – CDXCA_00121741 and produced by Plaintiff ChromaDex in
4 this litigation.

5 80. Attached hereto as Exhibit 80 is a true and correct copy of an email and
6 attachment from Charles Brenner to Rob Fried, sent January 18, 2016, bearing bates
7 numbers CDXCA_00276580 – CDXCA_00276602 and produced by Plaintiff
8 ChromaDex in this litigation.

9 81. Attached hereto as Exhibit 81 is a true and correct copy of an email and
10 attachments from Frank Jaksch to Giles Parisot, sent February 12, 2014, bearing bates
11 numbers CDXCA_00072167 – CDXCA_00072238 and produced by Plaintiff
12 ChromaDex in this litigation.

13 82. Attached hereto as Exhibit 82 is a true and correct copy of an email and
14 attachment from Frank Jaksch to shenry@roth.com, copying Andrew Johnson, sent
15 May 7, 2015, bearing bates numbers CDXCA_00075439 – CDXCA_00075481 and
16 produced by Plaintiff ChromaDex in this litigation.

17 83. Attached hereto as Exhibit 83 is a true and correct copy of a native Excel
18 file titled NIAGEN Resellers, bearing bates number CDXCA_00171075 and
19 produced by Plaintiff ChromaDex in this litigation.

20 84. Attached hereto as Exhibit 84 is a true and correct copy of a letter from
21 Heather Van Blarcom to David J. D'Areangelo, dated June 22, 2017, bearing bates
22 numbers CDXCA_00008697 – CDXCA_00008698 and produced by Plaintiff
23 ChromaDex in this litigation.

24 85. Attached hereto as Exhibit 85 is a true and correct copy of a letter from
25 Heather Van Blarcom to Headley Lee, dated April 25, 2017, bearing bates number
26 CDXCA_00008682 and produced by Plaintiff ChromaDex in this litigation.

27 86. Attached hereto as Exhibit 86 is a true and correct copy of a letter from
28 Heather Van Blarcom to David Newren, dated May 2, 2017, bearing bates number

1 CDXCA_00008936 and produced by Plaintiff ChromaDex in this litigation.

2 87. Attached hereto as Exhibit 87 is a true and correct copy of a letter from
3 Heather Van Blarcom to Daureen Papinchak, dated November 13, 2017, bearing
4 bates number CDXCA_00429813 and produced by Plaintiff ChromaDex in this
5 litigation.

6 88. Attached hereto as Exhibit 88 is a true and correct copy of a letter from
7 Heather Van Blarcom to Brian Nettles, dated April 26, 2017, bearing bates number
8 CDXCA_00008507 and produced by Plaintiff ChromaDex in this litigation.

9 89. Attached hereto as Exhibit 89 is a true and correct copy of an email and
10 attachment from Heather Van Blarcom to Jim Eaton, sent April 21, 2017, bearing
11 bates numbers CDXCA_00262826 – CDXCA_00262827 and produced by Plaintiff
12 ChromaDex in this litigation.

13 90. Attached hereto as Exhibit 90 is a true and correct copy of an email and
14 attachment from Heather Van Blarcom to Ben Teicher, sent April 21, 2017, bearing
15 bates numbers CDXCA_00262822 – CDXCA_02262823 and produced by Plaintiff
16 ChromaDex in this litigation.

17 91. Attached hereto as Exhibit 91 is a true and correct copy of an email and
18 attachment from Heather Van Blarcom to David Leonardi, sent April 22, 2017,
19 bearing bates numbers CDXCA_00262828 – CDXCA_00262830 and produced by
20 Plaintiff ChromaDex in this litigation.

21 92. Attached hereto as Exhibit 92 is a true and correct copy of a letter from
22 Heather Van Blarcom to Gabe Macon, dated May 25, 2017, bearing bates number
23 CDXCA_00008811 and produced by Plaintiff ChromaDex in this litigation.

24 93. Attached hereto as Exhibit 93 is a true and correct copy of a letter from
25 Heather Van Blarcom to Angelo Pollastrone, dated July 5, 2015, bearing bates
26 number CDXCA_00008787 and produced by Plaintiff ChromaDex in this litigation.

27 94. Attached hereto as Exhibit 94 is a true and correct copy of a letter from
28 Heather Van Blarcom to Fashad Tafazzoli, dated December 15, 2016, bearing bates

1 number CDXCA_00008479 and produced by Plaintiff ChromaDex in this litigation.

2 95. Attached hereto as Exhibit 95 is a true and correct copy of an email and
3 attachment from Will Black to Kartik Chandrasekara, bearing bates numbers
4 CDXCA_00030354 – CDXCA_00030372 and produced by Plaintiff ChromaDex in
5 this litigation.

6 96. Attached hereto as Exhibit 96 is a true and correct copy of a document
7 titled Where to Buy Niagen, bearing bates number ELY_0123390 – ELY_0123392
8 and produced by Elysium in this litigation.

9 97. Attached hereto as Exhibit 97 is a true and correct copy of an email from
10 Collene Villalobos to Daureen Papinchak, copying Jim Rofus, sent on April 14, 2016,
11 bearing bates numbers CDXCA_00184514 – CDXCA_00184515 and produced by
12 Plaintiff ChromaDex in this litigation.

13 98. Attached hereto as Exhibit 98 is a true and correct copy of an email from
14 Reto Rieder to John Mai, sent December 8, 2016, bearing bates numbers
15 CDXCA_00121899 – CDXCA_00121892 and produced by Plaintiff ChromaDex in
16 this litigation.

17 99. Attached hereto as Exhibit 99 is a true and correct copy of an email from
18 Dan Alminana to Will Black, copying Eric Marcotulli, Troy Rhonemus, Frank
19 Jaksch, and Tom Varvaro, sent August 20, 2016, bearing bates numbers
20 ELY_0047070 – ELY_0047082 and produced by Elysium in this litigation.

21 100. Attached hereto as Exhibit 100 is a true and correct copy of an email
22 from Collene Villalobos to Frank Jaksch sent January 26, 2016, bearing bates
23 numbers CDXCA_00203570 – CDXCA_00203572 and produced by Plaintiff
24 ChromaDex in this litigation.

25 101. Attached hereto as Exhibit 101 is a true and correct copy of a native
26 Excel file bearing bates number CDXCA_00464432 and produced by Plaintiff
27 ChromaDex in this litigation.

28 102. Attached hereto as Exhibit 102 is a true and correct copy of a document

1 titled Experimental Summary Report Draft, dated November 13, 2018, bearing bates
2 numbers CDXCA_00463693 - CDXCA_00463706 and produced by Plaintiff
3 ChromaDex in the litigation.

4 103. Attached hereto as Exhibit 103 is a true and correct copy of a
5 compilation of quotes and invoices from Gibraltar Laboratories dated from
6 September 2017 to December 2017 and produced by Elysium in this litigation.

7 104. Attached hereto as Exhibit 104 is a true and correct copy of a
8 compilation of invoices from Elysium's NR contract manufacturer dated from
9 January 2017 to December 2017 and produced by Elysium this litigation.

10 105. Attached hereto as Exhibit 105 is a true and correct copy of Exhibit 2 of
11 the June 21, 2019 expert report of Dr. Iain Cockburn.

12 106. Additionally, Defendants rely on the following documents previously
13 filed by the parties:

- 14 a. a true and correct copy of excerpts from the March 27, 2019 deposition
15 of Eric Marcotulli, filed as Exhibit 74 to the August 16, 2019
16 Declaration of Barrett J. Anderson (ECF No. 240-02);
- 17 b. a true and correct copy of the ChromaDex's Amended and
18 Supplemental Reponses to Elysium's Second Set of Interrogatories
19 dated February 19, 2019, and filed as Exhibit 22 to the August 16,
20 2019 Declaration of Barrett J. Anderson (ECF No. 239-11);
- 21 c. a true and correct copy of an email and attachments from Frank
22 Jaksch to Eric Marcotulli and Dan Alminana, copying Robert Prag,
23 sent December 13, 2013, bearing bates numbers PRAG_000796 –
24 PRAG_000816, produced by third party Robert Prag in this
25 litigation, previously marked as Exhibit 5 in the April 12, 2019
26 deposition of Frank Jaksch, and filed as Exhibit 11 to the August
27 16, 2019 Declaration of Barrett J. Anderson (ECF No. 238-05);
- 28 d. a true and correct copy of an email from Bob Prag to Frank Jaksch,

1 sent October 10, 2013, bearing bates numbers CDXCA_00077165 –
2 CDXCA_00077178, produced by Plaintiff ChromaDex in this
3 litigation, and filed as Exhibit 10 to the August 16, 2019 Declaration
4 of Barrett J. Anderson (ECF No. 238-04);

5 e. a true and correct copy of a document titled “NR Ingredient Sales
6 Data for all customers,” bearing bates number ELY_0046025,
7 produced by Elysium in this litigation, previously marked as of
8 Exhibit 148 in the April 24, 2019 deposition of Mark Morris, and
9 filed under seal as Exhibit 43 to the August 16, 2019 Declaration of
10 Joseph N. Sacca (ECF No. 245-02).

11 f. a true and correct copy of an email and attachment from Frank Jaksch
12 to Eric Marcotulli, copying Dan Alminana, Robert Prag and Leonard
13 Pershing Guarente, sent December 20, 2013, bearing bates numbers
14 PRAG_000850 – PRAG_000864, produced by third party Robert
15 Prag in this litigation, and filed as Exhibit 13 to the August 16, 2019
16 Declaration of Barrett J. Anderson (ECF No. 239-02);

17 g. a true and correct copy of an email and attachments from Dan
18 Alminana to Frank Jaksch, copying Eric Marcotulli, sent January 10,
19 2014, bearing bates numbers CDXCA_00071523 –
20 CDXCA_00071546, produced by Plaintiff ChromaDex in this
21 litigation, and filed as Exhibit 15 to the August 16, 2019 Declaration
22 of Barrett J. Anderson (ECF No. 239-04);

23 h. a true and correct copy of a document titled “Amendment to Supply
24 Agreement,” bearing bates numbers ELY_0036835 –
25 ELY_0036838, produced by Elysium in this litigation, previously
26 marked as Exhibit 202 in the March 29, 2019 deposition of Dan
27 Alminana, and filed as Exhibit 21 to the August 16, 2019 Declaration
28 of Barrett J. Anderson (ECF No. 239-10);

- 1 i. a true and correct copy of an email from Frank Jaksch to Will Black,
2 sent June 29, 2016, bearing bates numbers CDXCA_00067500 –
3 CDXCA_00067506, produced by Plaintiff ChromaDex in this
4 litigation, and filed as Exhibit 49 to the August 16, 2019 Declaration
5 of Joseph N. Sacca (ECF No. 245-08);
- 6 j. a true and correct copy of an email from Dan Alminana to Frank
7 Jaksch, copying Troy Rhonemus, Tom Varvaro, Mark Morris,
8 Collene Villalobos, Eric Marcotulli, and Will Black, sent June 30,
9 2016, bearing bates numbers, CDXCA_00061379 –
10 CDXCA_00061384, produced by Plaintiff ChromaDex in this
11 litigation, and filed as Exhibit 50 to the August 16, 2019 Declaration
12 of Joseph N. Sacca (ECF No. 245-09);
- 13 k. a true and correct copy of an email from Frank Jaksch to Dan
14 Alminana, copying Troy Rhonemus, Tom Varvaro, Mark Morris,
15 Collene Villalobos, Eric Marcotulli, and Will Black, sent June 30,
16 2016, bearing bates numbers ELY_0036459 – ELY_0036464,
17 produced by Elysium in this litigation, and filed as Exhibit 35 to the
18 August 16, 2019 Declaration of Joseph N. Sacca (ECF No. 244-04);
- 19 l. an email from Dan Alminana to Tom Varvaro, copying Eric
20 Marcotulli, Frank Jaksch, and Troy Rhonemus, sent August 10,
21 2016, bearing bates numbers CDXCA_00007084 –
22 CDXCA_00007085, produced by Plaintiff ChromaDex in this
23 litigation, and filed as Exhibit 36 to the August 16, 2019 Declaration
24 of Joseph N. Sacca (ECF No. 244-05);
- 25 m. a true and correct copy of excerpts from the March 27, 2019
26 deposition of Eric Marcotulli, filed as Exhibit 37 to the August 16,
27 2019 Declaration of Joseph N. Sacca (ECF No. 244-06);
- 28 n. a true and correct copy of an email from Eric Marcotulli to Dan

1 Alminana, sent June 30, 2016, bearing bates number ELY_0046720,
2 produced by Elysium in this litigation, previously marked as Exhibit
3 143 in the March 27, 2019 deposition of Eric Marcotulli, and filed as
4 Exhibit 38 to the August 16, 2019 Declaration of Joseph N. Sacca
5 (ECF No. 244-07);

6 o. a true and correct copy of excerpts from the April 12, 2019
7 deposition of Frank Jaksch, filed as Exhibit 32 to the August 16, 2019
8 Declaration of Joseph N. Sacca (ECF No. 244-01);

9 p. a true and correct copy of an email from Dan Alminana to Tom
10 Varvaro, copying Eric Marcotulli, Frank Jaksch, and Troy
11 Rhonemus, sent August 10, 2016, bearing bates numbers
12 CDXCA_00007084 – CDXCA_00007085, produced by Plaintiff
13 ChromaDex in this litigation, and filed as Exhibit 30 to the August
14 16, 2019 Declaration of Barrett J. Anderson (ECF No. 240-01);

15 q. a true and correct copy of an email and attachment from Will Black
16 to Frank Jaksch, sent November 17, 2016, bearing bates numbers
17 CDXCA_00153608 – CDXCA_00153611, produced by Plaintiff
18 ChromaDex in this litigation, previously marked as Exhibit 18 in the
19 April 18, 2019 deposition of Will Black, and filed as Exhibit 16 to
20 the August 16, 2019 Declaration of Joseph N. Sacca (ECF No. 237-
21 06);

22 r. a true and correct copy of an email from Frank Jaksch to Jeff Baxter,
23 Steve Allen, Stephen Block, Rob Fried, and Kurt Gustafson, sent
24 November 20, 2016, bearing bates numbers CDXCA_00270547 –
25 CDXCA_00270549, produced by Plaintiff ChromaDex in this
26 litigation, previously marked as Exhibit 26 in the February 20, 2019
27 deposition of Stephen Block and filed as Exhibit 9 to the August 16,
28 2019 Declaration of Joseph N. Sacca (ECF No. 235-09);

- 1 s. a true and correct copy of excerpts of the June 6, 2019 deposition of
2 Elysium's 30(b)(6) witness Dr. Thomas Wilhelm, filed as Exhibit 69
3 to the August 16, 2019 Declaration of Barrett J. Anderson (ECF No.
4 240-02);
- 5 t. a true and correct copy of excerpts of the December 13, 2018
6 deposition of Daniel Magida, filed as Exhibit 73 to the August
7 16, 2019 Declaration of Barrett J. Anderson (ECF No. 240-02);
- 8 u. a true and correct copy of an email from Elysium's NR contract
9 manufacturer to Mark Morris, attaching acetamide testing
10 chromatographs, bearing bates numbers ELY_0063253 –
11 ELY_0063298, produced by Elysium in this litigation, previously
12 marked as Exhibit 35 in the November 29, 2018 deposition of
13 Elysium's NR contract manufacturer, and filed as Exhibit A to the
14 August 21, 2019 Declaration of Joseph N. Sacca ISO Elysium's and
15 Morris's Motion *in limine* to Exclude the Supplemental Expert
16 Report of Carla Kagel (ECF No. 266-2);
- 17 v. a true and correct copy of an email from Mark Morris to Ramon
18 Padilla, sent August 3, 2017, bearing bates numbers ELY_0068285
19 – ELY_0068286, produced by Elysium in this litigation, and filed as
20 Exhibit 50 to the August 16, 2019 Declaration of Barrett J. Anderson
21 (ECF No. 240-01);
- 22 w. a true and correct copy an email and attachment from Frank Jaksch
23 to Dan Alminana and Eric Marcotulli, copying Steve Block, sent
24 November 1, 2016, bearing bates numbers ELY_0048077 –
25 ELY_0048079, produced by Elysium in this litigation, previously
26 marked as Exhibit 23 in the February 20, 2019 deposition of Stephen
27 Block, and filed as Exhibit 6 to the August 16, 2019 Declaration of
28 Joseph N. Sacca (ECF No. 235-06);

- 1 x. true and correct copy of an email from Dan Alminana to Eric
2 Marcotulli, sent September 7, 2016, bearing bates number
3 ELY_0047185, produced by Elysium in this litigation, previously
4 marked as Exhibit 201 in the March 29, 2019 deposition of Daniel
5 Alminana, and filed as Exhibit 57 to the August 16, 2019 Declaration
6 of Barrett J. Anderson (ECF No. 240-02);
- 7 y. a true and correct copy of Elysium's Rule 26(a) Initial Disclosures,
8 dated March 28, 2017 and filed as Exhibit 62 to the August 16, 2019
9 Declaration of Barrett J. Anderson (ECF No. 240-02);
- 10 z. a true and correct copy of Elysium's Amended and Mark Morris's
11 Rule 26(a) Initial Disclosures, dated January 7, 2019 and filed as
12 Exhibit 63 to the August 16, 2019 Declaration of Barrett J. Anderson
13 (ECF No. 240-02)
- 14 aa. a true and correct copy of Elysium's Supplemental Responses and
15 Objections to ChromaDex's First and Second Set of Interrogatories
16 to Elysium, dated January 10, 2019 and filed as Exhibit 64 to the
17 August 16, 2019 Declaration of Barrett J. Anderson (ECF No. 240-
18 02);
- 19 bb. a true and correct copy of excerpts from the August 6, 2019
20 deposition of Dr. Iain Cockburn and filed as Exhibit 71 to the August
21 16, 2019 Declaration of Barrett J. Anderson (ECF No. 240-02);
- 22 cc. a true and correct copy of ChromaDex's Amended Notice of
23 Deposition Pursuant to Fed. R. Civ. P. 30(b)(6), dated November 30,
24 2018 and filed as Exhibit 66 to the August 16, 2019 Declaration of
25 Barret J. Anderson (ECF No. 240-02);
- 26 dd. a true and correct copy of an excerpt of an email from Mathew
27 Moreno to Claire Kruger, Troy Rhonemus, Derik Ward, copying
28 Dietrich Conze, sent January 13, 2017, bearing bates numbers

1 CDXCA_00281587–CDXCA_00281593, produced by Plaintiff
2 ChromaDex in this litigation, previously marked as Exhibit 3 at the
3 May 13, 2019 deposition of Matthew Moreno and filed as Exhibit 53
4 to the August 16, 2019 Declaration of Barrett J. Anderson (ECF No.
5 240-02);

6 ee. a true and correct a true and correct copy of the Expert Report of Dr.
7 Carla Kagel dated June 21, 2019 and filed as Exhibit 79 to the August
8 16, 2019 Declaration of Barrett J. Anderson (ECF No. 240-03);

9 ff. a true and correct copy of the Supplemental Expert Report of Dr.
10 Carla Kagel dated July 26, 2019 and filed as Exhibit 80 to the August
11 16, 2019 Declaration of Barrett J. Anderson (ECF No. 240-04);

12 gg. a true and correct copy of ChromaDex’s March 2019 Investor
13 Presentation bearing bates numbers ELY_0122932 – ELY_0122963,
14 produced by Elysium in this litigation and filed as Exhibit 1 to the
15 August 16, 2019 Declaration of Barrett J. Anderson (ECF No. 236-
16 01);

17 hh. a true and correct copy of an excerpt of the document titled Sales and
18 Marketing Strategy, bearing bates numbers CDXCA_00464084 –
19 CDXCA_00464127, produced by Plaintiff ChromaDex in this
20 litigation and filed as Exhibit 46 to the August 16, 2019 Declaration
21 of Barrett J. Anderson (ECF No. 240-01);

22 ii. a true and correct copy of a document titled Niagen Supply
23 Agreement, bearing bates numbers CDXCA_00008919 –
24 CDXCA_00008927, produced by Plaintiff ChromaDex in this
25 litigation and filed as Exhibit 8 to the August 16, 2019 Declaration
26 of Barrett J. Anderson (EFC No. 238-02);

27 jj. a true and correct copy of a document titled Trademark License and
28 Royalty Agreement, bearing bates numbers ELY_0036850 –

