

BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

1 MICHAEL R. MATTHIAS, Bar No. 057728  
*mmathias@bakerlaw.com*  
 2 ELIZABETH M. TRECKLER, Bar No. 282432  
*etreckler@bakerlaw.com*  
 3 **BAKER & HOSTETLER LLP**  
 11601 Wilshire Boulevard, Suite 1400  
 4 Los Angeles, California 90025-0509  
 Telephone: (310) 820-8800  
 5 Facsimile: (310) 820-8859  
 6 JOSEPH N. SACCA, (admitted *pro hac vice*)  
*jsacca@bakerlaw.com*  
 7 ESTERINA GIULIANI (admitted *pro hac vice*)  
*egiuliani@bakerlaw.com*  
 8 BENJAMIN D. PERGAMENT (admitted *pro hac vice*)  
*bpergament@bakerlaw.com*  
 9 KRISTIN L. KERANEN (admitted *pro hac vice*)  
*kkeranen@bakerlaw.com*  
 10 **BAKER & HOSTETLER LLP**  
 45 Rockefeller Plaza  
 11 New York, New York 10111-0100  
 Telephone: (212) 589-4290  
 12 Facsimile: (212) 589-4201

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]

**ELYSIUM HEALTH, INC.'S AND  
 MARK MORRIS'S NOTICE OF  
 MOTION AND 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 p.m.**  
**Crtm: 7C**

*[Filed concurrently with Memorandum of  
 Points and Authorities; Appendix of  
 Evidence; Statement of Uncontroverted  
 Facts and Conclusions of Law; (Proposed  
 Order)]*

Trial Date: October 15, 2019

1 DONALD R. WARE (admitted *pro hac vice*)  
*dware@foleyhoag.com*  
2 MARCO J. QUINA (admitted *pro hac vice*)  
*mquina@foleyhoag.com*  
3 JULIA HUSTON (admitted *pro hac vice*)  
*jhuston@foleyhoag.com*  
4 **FOLEY HOAG LLP**  
155 Seaport Boulevard  
5 Boston, Massachusetts 02210  
Telephone: (617) 832-1000  
6 Facsimile: (617) 832-7000

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

9 *Attorneys for Defendant*  
**MARK MORRIS**

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

1           **TO THE COURT, TO ALL PARTIES AND TO THEIR ATTORNEYS**  
2 **OF RECORD:**

3           **PLEASE TAKE NOTICE** that at 1:30 p.m. on September 16, 2019, or as  
4 soon thereafter as Defendant and Counterclaimant Elysium Health, Inc. and  
5 Defendant Mark Morris (“Morris” and together, “Defendants”) may be heard,  
6 before the Honorable Cormac J. Carney in Courtroom 7C of the above-entitled  
7 Court, located at 350 W. 1<sup>st</sup> Street, Los Angeles, CA, 90012, Defendants will and  
8 hereby do move, under Federal Rule of Civil Procedure 56, for an order granting  
9 partial summary judgment in favor of Defendants on the First, Second, Third,  
10 Fourth, Fifth, Sixth, Seventh, and Eighth Claims for Relief of Plaintiff and Counter-  
11 Defendant ChromaDex, Inc.’s Fifth Amended Complaint (ECF No. 153) and in  
12 favor of Elysium on its First Counterclaim for Relief (ECF No. 103) as set forth  
13 more fully below.

14           Defendants move for partial summary judgment on the following issues and  
15 claims:

16           1.       Partial summary judgment should be granted in favor of Elysium and  
17 against ChromaDex on Elysium’s First Counterclaim for Relief (breach of the NR  
18 Supply Agreement, ECF No. 103 ¶¶ 143-156 & ECF No. 192 at p. 43), on the issue  
19 of ChromaDex’s liability for its breach of § 3.1 of the NR Supply Agreement;

20           2.       Partial summary judgment should be granted in favor of Elysium and  
21 against ChromaDex because ChromaDex has not proved causation or damages as to  
22 its First Claim for Relief (breach of the pTeroPure Supply Agreement, at ECF No.  
23 153 ¶¶ 150-66), except Elysium does not move for partial summary judgment  
24 insofar as the First Claim for Relief relates to Elysium’s alleged failure to pay  
25 amounts due, if any, under the June 30 purchase orders (ECF No. 153 ¶¶ 153-54);

26           3.       Partial summary judgment should be granted in favor of Elysium and  
27 against ChromaDex because ChromaDex has not proved causation or damages as to  
28 its Second Claim for Relief (breach of the NR Supply Agreement, at ECF No. 153

BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

1 ¶¶ 167-88), except Elysium does not move for partial summary judgment insofar as  
2 the Second Claim for Relief relates to Elysium’s alleged failure to pay amounts  
3 due, if any, under the June 30 purchase orders (ECF No. 153 ¶¶ 153-54);

4 4. Partial summary judgment should be granted in favor of Defendants  
5 against ChromaDex because ChromaDex’s Third Claim for Relief  
6 (misappropriation of trade secrets under California’s Uniform Trade Secrets Act,  
7 ECF No. 153 ¶¶ 189-209) fails as a matter of law because ChromaDex has not  
8 proved causation or damages;

9 5. Partial summary judgment should be granted in favor of Defendants  
10 against ChromaDex because ChromaDex’s Fourth Claim for Relief  
11 (misappropriation of trade secrets under the Defend Trade Secrets Act, ECF No.  
12 153 ¶¶ 210-213) fails as a matter of law because ChromaDex has not proved  
13 causation or damages;

14 6. Partial summary judgment should be granted in favor of Morris  
15 because ChromaDex’s Fifth Claim for Relief (breach of contract, ECF No. 153 ¶¶  
16 214-22) fails as a matter of law because ChromaDex has not proved causation or  
17 damages;

18 7. Partial summary judgment should be granted in favor of Morris  
19 because ChromaDex’s Sixth Claim for Relief (breach of contract, ECF No. 153 ¶¶  
20 223-37) fails as a matter of law because ChromaDex has not proved causation or  
21 damages;

22 8. Partial summary judgment should be granted in favor of Morris  
23 because ChromaDex’s Sixth Claim for Relief (breach of contract, ECF No. 153 ¶¶  
24 223-37) fails as a matter of law because the New Employee Agreement lacks  
25 consideration and is void;

26 9. Partial summary judgment should be granted in favor of Morris  
27 because ChromaDex’s Seventh Claim for Relief (breach of fiduciary duty, ECF No.  
28

BAKER & HOSTETLER LLP  
ATTORNEYS AT LAW  
LOS ANGELES

1 153 ¶¶ 238-43) fails as a matter of law because ChromaDex has not proved  
2 causation or damages; and

3 10. Partial summary judgment should be granted in favor of Elysium  
4 because ChromaDex’s Eighth Claim for Relief (aiding and abetting breach of  
5 fiduciary duty, ECF No. 153 ¶¶ 244-51) fails as a matter of law because  
6 ChromaDex has not proved causation or damages.

7 Defendants’ motion is supported by this Notice of Motion; Defendants’  
8 Memorandum of Points and Authorities in Support of Their Motion for Partial  
9 Summary Judgment; the Declarations of Joseph N. Sacca and Mark Morris, and  
10 attached exhibits; such other evidence and arguments as may be presented at or  
11 before the hearing on this motion; and all other matters of which the Court may take  
12 judicial notice or which it deems appropriate to consider.

13 This motion is made following the conference of counsel pursuant to Local  
14 Rule 7-3, which took place on August 9, 2019. (Declaration of Joseph N. Sacca at  
15 p. 1.)

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: August 16, 2019

**BAKER & HOSTETLER LLP**

By: /s/ Joseph N. Sacca  
JOSEPH N. SACCA

*Attorneys for Defendant and Counterclaimant*  
ELYSIUM HEALTH, INC. and *Defendant*  
MARK MORRIS