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**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

CHROMADEx, INC.,
Plaintiff,
v.
ELYSIUM HEALTH, INC. and
MARK MORRIS,
Defendants.

ELYSIUM HEALTH, INC.,
Counterclaimant,
v.
CHROMADEx, INC.,
Counter-Defendant.

Case No.: 8:16-cv-02277-CJC-DFM

Judge: Hon. Cormac J. Carney

**[PROPOSED] ORDER
GRANTING DEFENDANTS'
MOTION *IN LIMINE* ON
PERSONAL CONDUCT**

Pretrial Conference: September 18,
2019, at 9:00 a.m.

Trial: October 15, 2019, at 8:30 a.m.

[PROPOSED] ORDER

1
2 THIS MATTER comes before the Court on Defendants’ Motion in Limine to
3 exclude certain evidence concerning the personal conduct of Defendant–
4 Counterclaimant Elysium Health, Inc. (“Elysium”) employees and third parties.
5 Having reviewed the Motion and response thereto, the Court finds that the Motion
6 should be granted.

7 At issue are certain text messages produced by Elysium in discovery
8 concerning personal matters. This evidence is both irrelevant and prejudicial, and it
9 should therefore be excluded.

10 First, the evidence is irrelevant. Rule 402 provides that “[i]rrelevant evidence
11 is inadmissible.” Fed. R. Evid. 402. The Court finds that the evidence at issue is
12 irrelevant to the claims before the Court. The evidence at issue does not make any
13 consequential fact more or less probable. *See Duboise v. Brauer*, 213 F.3d 641 (9th
14 Cir. 2000) (“A fact is of consequence to the determination of the action if it tends to
15 prove a fact in issue.”).

16 Second, the evidence is unfairly prejudicial. “Unfair prejudice is measured by
17 the degree to which a jury responds negatively to some aspect of the evidence
18 unrelated to its tendency to make a fact in issue more or less probable.” *United States*
19 *v. Johnson*, 820 F.2d 1065, 1069 (9th Cir. 1987). The evidence at issue, if admitted,
20 would be unfairly prejudicial to Defendants.

21 Third, ChromaDex has identified no other permissible basis for admission of
22 this evidence. Accordingly, it is hereby

23 **ORDERED** that Defendants’ Motion in Limine is **GRANTED**. ChromaDex,
24 Inc., is hereby prohibited from using at trial text messages produced in discovery by
25 Elysium reflecting personal matters as defined in Elysium’s motion in limine and
26 ChromaDex is prohibited from introducing any testimony or argumentation based
27 on such evidence.

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It is also **ORDERED** that, should ChromaDex seek reconsideration of any aspect of this Order during trial, it provide notice as early as practicable to Elysium and raise its request outside the presence of the jury.

Dated: _____

United States District Judge