

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

CHROMADEX, INC.

Plaintiff(s),

v.

ELYSIUM HEALTH, INC.

Defendant(s).

CASE NO:

8:16-cv-02277-CJC-DFM

**ORDER REGARDING
SETTLEMENT PROCEDURES,
PRE-TRIAL CONFERENCE AND
TRIAL**

This matter is assigned for all purposes to the Honorable Cormac J. Carney, United States District Judge, Courtroom 9B, Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, California, 92701-4516. The Court's mandatory procedures and requirements for Settlement, the Pre-Trial Conference and Trial are as follows:

SETTLEMENT PROCEDURES

1. It is the policy of the Court to encourage disposition of civil litigation by settlement when such is in the best interest of the parties. In the Notice of Intent to Schedule the Case, the parties were ordered to include in the Rule 26(f) report their selection of either the Court's Mediation Panel or private mediation. The Court's ADR Program is described in the "ADR" section of the Court's website

1 <http://www.cacd.uscourts.gov>), which also contains the list of Panel Mediators and
2 requisite ADR forms. This Court does not favor requests for settlement conferences
3 before a Magistrate Judge.

4 Unless otherwise ordered, the parties **must** participate in the selected ADR
5 procedure no later than ten weeks before trial. The Court may, on its own motion,
6 order the parties to ADR following the Pre-Trial Conference. Given the high cost
7 of litigation and the enormous commitment of resources that a trial requires, the
8 parties must explore every option for resolving their disputes, short of trial. The
9 failure of any party to comply with the local rules and engage in meaningful
10 settlement discussions may result in the imposition of sanctions against that
11 noncomplying party.

12 **PRE-TRIAL CONFERENCE**

13 2. Compliance with the requirements of Local Rule 16 is mandatory.
14 Counsel will lodge carefully prepared Memoranda of Contentions of Fact and Law
15 (which may also serve as the trial briefs) and a Final Pre-Trial Conference Order
16 in accordance with the provisions of Local Rules 16-4 and 16-7. The Memoranda
17 of Contentions of Fact and Law will be served no later than twenty-one (21)
18 calendar days before the Pre-Trial Conference. The Final Pre-Trial Conference
19 Order will be lodged five (5) court days before the Pre-Trial Conference. The
20 form of the Final Pre-Trial Conference Order will be in conformity with the form
21 set forth in Appendix A to the Local Rules.

22 **MOTIONS IN LIMINE**

23 3. All Motions in Limine will be heard at the Pre-Trial Conference. The
24 purpose of these motions is to alert the Court to significant evidentiary issues that
25 can be addressed and resolved prior to trial. All Motions in Limine must be filed
26 and served in compliance with Local Rule 6-1. Opposition papers must be filed and
27 served in compliance with Local Rule 7-9. Reply papers must be filed and served in
28 compliance with Local Rule 7-10.

1 **STATEMENT OF THE CASE**

2 4. Counsel will prepare a joint statement of the case which will be read by
3 the Court to the prospective panel of jurors prior to the commencement of voir dire.
4 The statement should not be more than two or three paragraphs. The statement will
5 be filed with the Court five (5) court days before the Pre-Trial Conference or one
6 (1) week prior to the trial if the Pre-Trial Conference is waived.

7 **EXHIBIT LIST AND EXHIBIT PREPARATION**

8 5. A joint exhibit list will be prepared in compliance with Local Rule 16-6.
9 The joint exhibit list will contain the information required by F.R.Civ.P. 26(a)(3)(C).
10 The joint exhibit list will be filed no later than five (5) court days prior to the Pre-
11 trial Conference or one (1) week prior to the trial if the Pre-Trial Conference is
12 waived. In order to produce the joint exhibit list, the parties will meet and confer
13 sufficiently in advance of the required submission date.

14 6. Exhibits are to be delivered to the Courtroom Deputy Clerk not later
15 than 8:30 a.m. on the first day of trial. All exhibits will be placed in loose leaf
16 binders which are tabbed down the right side with exhibit numbers. The spine of
17 the notebook is to be marked with the case name and number and the numbers of
18 the exhibits contained therein. The notebooks are to be prepared with an original
19 for the Clerk, which will be tagged with the appropriate exhibit tags in the upper
20 right-hand corner of the first page of each exhibit, and one copy for the Court.
21 Each notebook will contain a list of the included exhibits. The exhibits are to be
22 numbered in accordance with Local Rule 26-3. Counsel may obtain exhibit tags
23 (yellow for plaintiff and blue for defendant) at the Clerk's Office, Intake Window.
24 Special arrangements for voluminous or over sized exhibits should be made with
25 the Courtroom Deputy Clerk by Wednesday of the week before trial.

26 **WITNESS LISTS**

27 7. A witness list will be prepared in compliance with Local Rule 16-5. The
28 witness list will be filed no later than five (5) court days prior to the Pre-Trial

1 Conference or one (1) week prior to the trial if the Pre-Trial Conference is waived.
2 Counsel will submit the names of the witnesses in the order that they are expected
3 to testify, and provide, to the extent possible, an accurate estimate of the time
4 needed for each witness for direct, cross, redirect and re-cross. Counsel will also
5 provide a brief summary of what each witness will testify to. If more than one
6 witness is offered on the same subject, the summary should be sufficiently detailed
7 to allow the Court to determine if the testimony is cumulative.

8 **JURY INSTRUCTIONS**

9 8. In a jury trial, jury instructions are to be filed no later than five (5) court
10 days prior to the Pre-Trial Conference or one (1) week prior to the trial if Pre-Trial
11 Conference is waived. The parties must submit joint jury instructions. The parties
12 **will** meet and confer sufficiently in advance of the required submission date, in
13 order to prepare the joint jury instructions. The instructions should be submitted in
14 the order in which the parties wish to have the instructions read. This order should
15 reflect a single organized sequence agreed to by all of the parties. The Court
16 upon receiving lucid and accurate instructions setting forth the elements of each
17 party's claims and defenses. The instructions should be tailored to the facts of
18 each case. **INSTRUCTIONS WILL BE BRIEF, CLEAR, CONCISE, WRITTEN**
19 **IN PLAIN ENGLISH, FREE OF ARGUMENT AND WILL BE ORGANIZED**
20 **IN A LOGICAL FASHION SO AS TO AID JURY COMPREHENSION.**

21 9. In the event that agreement cannot be reached, counsel will submit
22 three (3) sets of instructions (with an extra set for the Court's law clerks) in the
23 following format: (1) the agreed upon instructions; (2) the instructions proposed
24 by plaintiff and opposed by defendant; and (3) the instructions proposed by
25 defendant and opposed by plaintiff. Instructions upon which agreement cannot
26 be reached should reflect the basic disagreements among the parties as to the law.
27 The disputed instructions should be presented to the Court within the framework
28 of the overall set of instructions. The parties should put forth differing versions of

1 disputed instructions, and the Court will select one version.

2 10. The instructions submitted to the Court must be numbered, and the
3 parties must also submit an unnumbered index. Attribution and case citation for
4 each instruction will be placed on pages following a proposed instruction. For
5 disputed instructions, a party should note its objections to a proposed instruction
6 and its reasons for putting forth its alternative on pages placed after its own
7 alternative instruction.

8 **VERDICT FORMS**

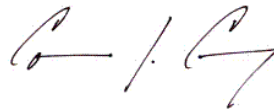
9 11. Counsel are to prepare and file a verdict form in accordance with the
10 same procedures as those required for jury instructions. Counsel are to use their
11 efforts to agree upon a joint verdict form and submit it to the Court no later than
12 five (5) court days prior to the Pre-Trial Conference or one (1) week prior to the
13 trial if the Pre-Trial Conference is waived. If counsel cannot agree as to the form
14 of the verdict, the parties should submit their respective version to the Court on the
15 submission date for the joint verdict form.

16 12. **Counsel are advised that if any inconsistencies exist between the**
17 **submission and lodging dates provided in this Order and the Local Rules, the**
18 **dates in this Order will govern and supercede the Local Rules.**

19 IT IS ORDERED that the Clerk of the Court shall serve copies of this Order
20 on counsel for the parties in this matter.

21 **IT IS SO ORDERED.**

22
23 DATED: September 1, 2017



24 Cormac J. Carney
25 United States District Judge
26
27
28