



LTL ATTORNEYS LLP  
300 S. GRAND AVENUE, 14TH FLOOR  
LOS ANGELES, CALIFORNIA 90071  
TEL: 213-612-8900 | FAX: 213-612-3773  
WWW.LTLATTORNEYS.COM

LOS ANGELES | SAN FRANCISCO | NEW YORK | ORANGE COUNTY

**VIA ECF**

November 13, 2020

Honorable Lewis J. Liman  
United States District Court  
Southern District of New York  
500 Pearl St.  
New York, NY 10007-1312

*Re: In re Elysium Health-ChromaDex Litigation*, No. 17 Civ. 7394 (LJL)

Dear Judge Liman,

We represent Plaintiff ChromaDex, Inc. (“ChromaDex”) in the above-referenced matter. We respectfully submit this letter jointly with Defendant Elysium Health, Inc. (“Elysium”), pursuant to Paragraph 3(B) of Your Honor’s COVID-19 Emergency Individual Practices and Paragraphs 1(C) and 3(A) of Your Honor’s Individual Practices, to request an extension of the case management deadlines for the reasons set forth below.

During the August 20, 2020 hearing, the parties discussed with the Court several outstanding document discovery issues, including the production of documents from Elysium’s ZenDesk customer communications database. *See generally* Transcript of August 20, 2020 Conference (“Tr.”), ECF No. 160. Since then, as discussed during the October 21, 2020 status conference, the parties have conferred extensively, worked diligently to address these issues, and have made numerous supplemental document productions. Those include: (i) Elysium’s productions of approximately 90 documents in mid-October and 5,300 documents in early November; and (ii) ChromaDex’s productions of approximately 65 documents in October and November.<sup>1</sup>

However, as Elysium explained to the Court on August 20, its ability to access the database on which its ZenDesk records are stored was impaired by the COVID-19 pandemic because Elysium’s e-discovery vendor needed physical access to the database. In response to the Court’s request for “a date by which you would request that the discovery deadline be extended,” Elysium noted the difficulty of estimating the time needed in light of COVID-19, but suggested an extension of one to two months to determine whether Elysium’s office could reopen by that point in order for its e-discovery vendor to access the records. *See* Tr. 10:9-11:1.

---

<sup>1</sup> The parties have also exchanged document hit counts, litigation hold notices, and search terms targeted at certain custodial sources.

Elysium's e-discovery vendor has now been able to access and export approximately 300,000 customer communications from its ZenDesk database. After applying search terms, Elysium has identified approximately 7,400 potentially responsive documents. Due to the unique file format of ZenDesk, Elysium's e-discovery vendor must write code specific to the ZenDesk data to convert it into a reviewable, producible format, which it is in the process of doing. Elysium estimates that it will be able to complete production of responsive, non-privileged documents from its ZenDesk database by the end of November.

At the August 20 hearing, in response to the Court's inquiry of how much time it would take to review newly produced documents, ChromaDex advised that approximately 30 days would be sufficient to review documents before depositions. *See* Tr. 5:10-20. The Court noted that it wanted "to avoid a situation where documents . . . get produced late, and the depositions have to be retaken." Tr. 11:16-22.

Based on the recent productions of documents and the anticipated timeline for completion of Elysium's ZenDesk production, the parties believe that there is insufficient time to review documents and conduct fact depositions by the existing December 11, 2020 deadline. We thus request that the fact deposition deadline, and subsequent case management deadlines, be extended by an additional sixty days. This would also afford the parties sufficient time to resolve any outstanding document discovery issues and review newly produced documents prior to conducting depositions. The additional time would also permit counsel to accommodate anticipated party and third-party witness unavailability during the holidays.

Based on the foregoing, the parties respectfully submit that good cause exists for the requested amendment to the case management schedule. *See* Fed. R. Civ. P. 16(a); *Furry Puppet Studio Inc. v. Fall Out Boy*, No. 19 Civ. 2345 (LJL), 2020 WL 4978080, at \*1 (S.D.N.Y. Feb. 24, 2020). If this extension is granted, the resulting case management schedule would be as follows:<sup>2</sup>

	<b>Current Deadline</b>	<b>Proposed Deadline</b>
Completion of Fact Depositions	December 11, 2020	February 9, 2021
Initial Expert Disclosures	December 28, 2020	February 26, 2021
Rebuttal Expert Disclosures	January 25, 2021	March 26, 2021
Completion of Expert Depositions	February 22, 2021	April 23, 2021
Completion of All Discovery	February 22, 2021	April 23, 2021
Submission of Joint Pretrial Order	April 23, 2021	June 22, 2021

The parties do not currently have any appearances scheduled with the Court. We thank the Court for its consideration of this request.

Sincerely,

*s/ Joe H. Tuffaha*  
Joe H. Tuffaha

<sup>2</sup> The Court previously granted one joint extension request, ECF No. 148, granted another joint extension request in part, ECF No. 149, and denied a request made by Elysium, ECF No. 130.



PAGE 3 OF 3

cc: Via ECF to Counsel of Record

Roberta A. Kaplan, Esq.  
Sean Hecker, Esq.  
Gabrielle E. Tenzer, Esq.  
David Shieh, Esq.

Craig B. Whitney, Esq.  
Tiffany Caterina, Esq.