

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Elysium Health-ChromaDex Litigation

Case No. 1:17-cv-07394 (CM)

STATE OF NEW YORK)
 ss:
COUNTY OF NEW YORK)

AFFIDAVIT OF JOSEPH N. SACCA
IN SUPPORT OF MOTION TO WITHDRAW

I, Joseph N. Sacca, being duly sworn, deposes and states:

1. I am a partner at Baker & Hostetler LLP (“Baker”) and counsel for Defendant Elysium Health, Inc. (“Elysium”) in the above-captioned action (the “Action”).

2. I submit this *ex parte* affidavit under seal in support of Baker’s motion to withdraw Baker’s appearance as counsel for Elysium.

3. For reasons that can be explained in more detail if the Court would find it useful, an irreconcilable conflict has arisen in the attorney-client relationship between Elysium and Baker, and it has become clear that Baker cannot continue to represent Elysium in the above-captioned action.

4. Counsel from Frankfurt Kurnit Klein & Selz PC (“Frankfurt Kurnit”) and Kaplan Hecker & Fink LLP (“Kaplan Hecker”) entered notices of appearance on behalf of Elysium in the above-captioned action on January 29, 2020. *See* ECF Nos. 99-101.

5. Last month, Baker withdrew as counsel and Kaplan Hecker was substituted as counsel of record for Elysium and Mark Morris in the action pending in the United States District Court for the Central District of California captioned *ChromaDex, Inc. v. Elysium Health, Inc. and Mark Morris*, Case No. 8:16-cv-02277-CJC-DFM (the “California Action”). See ECF No. 101.

6. Discovery is proceeding in the Action and no trial date has been set. Previously, Baker has caused the relevant data for the above-captioned action, including materials from the California Action that are relevant to this Action, to be transferred or made available to Kaplan Hecker, including relevant correspondence with the client and with plaintiff’s counsel; all discovery requests, interrogatories, and responses thereto; initial disclosures; analyses of discovery requests; document review information; and data, documents, and evidence gathered. Baker has also introduced Kaplan Hecker to the discovery vendors being utilized on behalf of Elysium in the Action and understands that Kaplan Hecker has been in communication with those vendors. Baker agrees to provide reasonable cooperation to Frankfurt Kurnit and Kaplan Hecker if needed going forward.

7. Pursuant to Local Rule 1.4, I state that Baker is not asserting a retaining or charging lien against Elysium.

8. For the reasons set forth herein and in the accompanying Notice of Withdrawal, I respectfully request the Court grant the motion for Baker to withdraw its appearance as counsel for Elysium.

9. I am causing this motion, including all of the papers submitted with the motion, to be served on Elysium, and request that the Court excuse service of this *ex parte* affidavit upon

Plaintiff ChromaDex, Inc. in light of the circumstances and pursuant to the case law set out in the February 4, 2020 letter and Notice of Withdrawal.



Joseph N. Sacca

Sworn to before me this
4th day of February, 2020



NOTARY PUBLIC

