

1 Roberta A. Kaplan (*pro hac vice*)
rkaplan@kaplanhecker.com
2 Gabrielle E. Tenzer (*pro hac vice*)
gtenzer@kaplanhecker.com
3 David Shieh (*pro hac vice*)
4 dshieh@kaplanhecker.com
5 KAPLAN HECKER & FINK LLP
350 Fifth Avenue, Suite 7110
6 New York, NY 10118
7 Telephone: (212) 763-0883

8 Marc S. Williams (Bar No. 198913)
mwilliams@cohen-williams.com
9 Reuven L. Cohen (Bar No. 231915)
rcohen@cohen-williams.com
10 COHEN WILLIAMS LLP
11 724 South Spring Street, 9th Floor
Los Angeles, CA 90014
12 Telephone: (213) 232-5160
13 Facsimile: (213) 232-5167

14 Attorneys for Defendants and Counter-Claimants
15 Elysium Health, Inc. and Mark Morris

16
17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

19 ChromaDex, Inc.,

20
21 Plaintiff,

22 v.

23 Elysium Health, Inc. and Mark Morris,

24 Defendants.
25

26
27 And Related Counterclaims
28

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

DECLARATION OF
DANIEL ALMINANA

REDACTED VERSION OF
DOCUMENT PROPOSED TO BE
FILED UNDER SEAL

1 I, Daniel Alminana, hereby declare and state as follows:

2 1. I am the Chief Operating Officer of Elysium Health, Inc. (“Elysium”). I submit
3 this declaration to change and correct certain testimony about my awareness regarding
4 aspects of my colleague’s personal life that I gave at a deposition in this matter on March 29,
5 2019 (transcript at ECF 284-4). I also submit this declaration under seal pursuant to Local
6 Rule 79-5. I declare that the following statements are true to the best of my knowledge,
7 information, and belief. I have personal knowledge of the facts set forth below and, if called
8 as a witness, I could and would testify competently as follows.
9
10

11 2. On March 29, 2019, I was deposed in the above-captioned action.

12 3. Prior to my deposition, and without my knowledge or consent, Elysium’s prior
13 counsel, Baker & Hostetler LLP (“Baker”), inadvertently produced spreadsheets containing
14 the complete message history of two cell phones I used between 2012 and 2017 for both
15 personal and business matters, as well as the entire message contents of a cell phone used by
16 Elysium’s Chief Executive Officer Eric Marcotulli.
17
18

19 4. Although I understand that Baker made efforts to “claw back” certain of these
20 text messages on privilege grounds, my purely personal text messages that were not subject
21 to a claim of privilege but were also not responsive to any of the document requests in the
22 case were not returned or destroyed.
23
24
25
26
27
28

1 5. I state the following with no intention to waive any privilege or applicable
2 protection. At the time of my deposition, I expected to answer questions regarding the subject
3 matter of the above-captioned case. Specifically, I expected to answer questions relating to
4 Elysium’s contracts with ChromaDex, including negotiations and performance of those
5 contracts; patent issues; and trade secret allegations. I did not realize, know, or anticipate at
6 the time that ChromaDex would question me about sensitive matters personal to my
7 colleague relating to the inadvertently produced text messages.
8
9

10 6. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 7. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 8. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27
28

1 I declare under the penalty of perjury that the foregoing is true and correct to the best
2 of my knowledge.

3
4 Dated: December 10, 2020
5 Murfreesboro, Tennessee

6
7 DocuSigned by:
8 *Dan Alminana*
9 _____
10 6889FCFB813641D...
11 Daniel Alminana

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