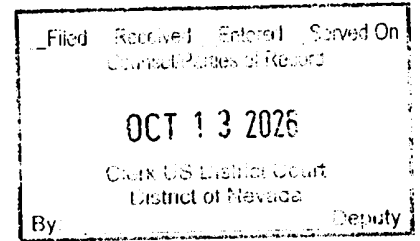


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 3 **Clifton, New Jersey 07012**
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 6 **Plaintiff, self-represented**



7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF NEVADA**

9 **MARK JOSEPH NEJMEH,**
 10 **Plaintiff,**
 11 **v.**
 12 **THERIVA BIOLOGICS, INC.,**
 13 **Defendant.**

14 **Case No. 3:26-cv-00705-ART-CSD**

15 **PLAINTIFF'S NOTICE OF**
 16 **CORRECTIONS**

17 **Plaintiff Mark Joseph NejmeH, self-represented, has reviewed his filings and**
 18 **corrects the following statements. Plaintiff regrets these errors. For each item, the filed**
 19 **words are followed by the corrected words. Nothing already filed has been altered; each**
 20 **paper remains on the docket as filed.**

21 **A. Verified Complaint (ECF Nos. 4, 23)**

22 **1. Complaint ¶ 10 (Gary Pitoniak). Filed words: "He swears that he owned**
 23 **36,111 Theriva shares and that he purchased Theriva shares in approximately November**
 24 **2025."**

25 **Corrected words: "He swears that he owned 36,111 Theriva shares on December**
 26 **15, 2025, held in his E*Trade brokerage account." Mr. Pitoniak's affidavit (Exhibit B,**
 27 **ECF No. 4-3 at 187-191) does not state when he bought his shares. The words "and that**
he purchased Theriva shares in approximately November 2025" are withdrawn. The
November 2025 date was Plaintiff's drafting error; it did not come from Mr. Pitoniak or
his affidavit. Mr. Pitoniak has informed Plaintiff that he began buying Theriva shares
much earlier.

1 **2. Complaint ¶ 56 (response to Plaintiff's demand).** Filed words: "Plaintiff
2 Mark Nejme, the approximately four-year holder who received the post-meeting call,
3 received no substantive response to his demand."

4 Corrected words: "Theriva's counsel emailed Plaintiff a letter dated May 28,
5 2026, rejecting his May 22, 2026 demand (ECF No. 15-20). Plaintiff did not see that
6 email until October 10, 2026."

7 **3. Complaint ¶ 74 (premarket price on May 7, 2025).** Filed words: "a
8 premarket price as high as approximately \$2.86 during the positive-data publicity."

9 Corrected words: "a premarket price as high as approximately \$2.83 during the
10 positive-data publicity." Source: Plaintiff's sworn Declaration in Support of Reply, ECF
11 No. 29 ¶ 6 ("I saw Theriva's stock trading at \$2.83 per share.").

12 **B. Supplemental Exhibits SA-SP (ECF No. 10)**

13 **4. Deemed dividend from the October 2025 warrant inducement.** Filed
14 words: Supplemental Exhibits SA-3 ¶ 10 and SE-3 state that the October 2025 warrant
15 inducement "produced a reported \$5.880 million noncash deemed dividend."
16 Supplemental Exhibits SA-5 ¶ 20 and SE-4 state noncash deemed dividends of "\$7.402
17 million in 2021 ..., \$0.340 million in 2022 ..., and \$5.880 million in 2025 ..., totaling
18 \$13.622 million," and Supplemental Exhibit SE-7 refers to "\$13.622 million of
19 separately identified noncash deemed dividends" (ECF No. 10).

20 Corrected words: The deemed dividend from the October 2025 warrant
21 inducement was \$1.510 million. Theriva's Form 10-K for 2025 (filed March 12, 2026;
22 accession no. 0001104659-26-026767) reports "Less deemed dividend from warrant
23 inducement (1,510)" (in thousands) in its Consolidated Statements of Operations. Its
24 notes state that the increase in value transferred to the warrant holders, "totaling \$ 5.9
25 million," was recognized as an equity issuance cost, and that the amount in excess of the
26 gross proceeds, \$1.5 million, "was accounted for as a deemed dividend." The \$5.880
27 million figure is the 10-K cash-flow line "Noncash equity issuance costs and deemed

dividend,” which combines the two items. The deemed dividends reported for 2021 through 2025 are: \$7.402 million (2021, Series A preferred price adjustment) and \$1.496 million (2021, accretion of the Series B preferred discount), both in Theriva’s Form 10-K for 2022 (accession no. 0001410578-23-000428); \$0.340 million (2022, warrant price adjustment), same 10-K; none in 2023 or 2024 (Form 10-K for 2024, accession no. 0001410578-25-000285); and \$1.510 million (2025). They total \$10.748 million, not \$13.622 million. The exhibits did not list the \$1.496 million Series B item.

5. John Monahan’s service on the Heat Biologics (Scorpius Holdings) board.

Filed words: Supplemental Exhibit SA-8 ¶ 34 states that Dr. Monahan “has served on Scorpius’s board since November 2009,” and the SA-7 table lists him as “Director since November 2009.”

Corrected words: Dr. Monahan served on that board from November 2009 until he resigned on April 21, 2026, as Scorpius Holdings, Inc. reported in its Form 8-K (accession no. 0001079973-26-000533) and as Plaintiff’s later Supplemental Exhibit SR states (ECF No. 11, SR ¶¶ 2, 18).

C. Reply in Support of Emergency Motion (ECF No. 28)

6. “Reverse merger” at Heat Biologics. Filed words: “A reverse merger can carry stockholder value and rights out of the company, as the same directors watched happen at Heat Biologics (Supp. Ex. SR ¶¶ 4, 17)” (ECF No. 28 at 5:16–18).

Corrected words: “Value and rights can be carried out of a company, as the same directors watched value leave Heat Biologics through an asset sale to a company controlled by its Chairman and Chief Executive Officer, a secured-note default and an Article 9 foreclosure (Supp. Ex. SR ¶¶ 4–17).” No reverse merger occurred at Heat Biologics. Theriva’s own statement that its strategic review “may include a business combination, merger or reverse merger” (Form 10-Q for the quarter ended June 30, 2026) stands.

1 **7. Where the \$5.9 million and the deemed dividend were disclosed.** Filed
 2 words: “The June 29, 2026 proxy on which stockholders voted says nothing about the
 3 \$5.9 million in value the October 2025 inducement transferred to the warrant holders for
 4 \$4.4 million in cash, or the \$1.5 million ‘deemed dividend’ Defendant recorded for them;
 5 that appears only in Defendant’s later quarterly report (Form 10-Q, Aug. 2026, Note 10)”
 6 (ECF No. 28 at 6:15–19).

7 Corrected words: Both figures were also disclosed in Theriva’s Form 10-K for
 8 2025, filed March 12, 2026 (see item 4 above). The June 29, 2026 proxy statement states
 9 that the Company was sending that Form 10-K to stockholders “[a]long with the
 10 attached Proxy Statement,” and that it “is not to be regarded as proxy solicitation
 11 material.” The words “that appears only in Defendant’s later quarterly report” are
 12 withdrawn. The statement that the June 29, 2026 proxy statement itself does not describe
 13 the \$5.9 million or the deemed dividend stands; it does not mention either.

14 **8. Timing and prices of at-the-market sales.** Filed words: “It sold them while
 15 the price sat at its lowest: \$0.16 on February 23, 2026, and between \$0.17 and \$0.20
 16 from late January through mid-March” (ECF No. 28 at 7:2–4); “the at-the-market sales
 17 near the lows” (id. at 8:22–23); “through its at-the-market program near the stock’s
 18 lows” (id. at 11:14).

19 Corrected words: The words “while the price sat at its lowest,” “near the lows,”
 20 and “near the stock’s lows” are withdrawn as statements of fact and are restated as
 21 Plaintiff’s questions. The facts as Plaintiff has them are these. Theriva sold 10,204,319
 22 shares under its at-the-market program in the first quarter of 2026 for net proceeds of
 23 about \$2.3 million, or about \$0.23 per share by Plaintiff’s arithmetic (Form 10-K for
 24 2025; Form 10-Q for the quarter ended June 30, 2026). Theriva’s proxy statements place
 25 every one of those sales between January 1 and February 27, 2026: Theriva reported
 26 35,688,349 shares outstanding on December 31, 2025 (record date, proxy statement filed
 27 January 5, 2026) and 45,892,668 shares outstanding on February 27, 2026 (record date,

1 proxy statement filed March 16, 2026), an increase of exactly 10,204,319 shares. The
 2 count was still 45,892,668 on March 10 and August 7, 2026 (Form 10-K and Form 10-Q
 3 covers). Theriva's filings do not disclose the date, price, amount or buyer of any
 4 individual sale. Daily market data (Yahoo Finance) for January 2 through February 27,
 5 2026 show daily lows between \$0.16 and \$0.23, including \$0.16 on February 23, 2026,
 6 and trading volume of about 274 million shares on February 19, 2026 (high \$0.26), the
 7 day after Theriva announced its license of SYN-020 to Rasayana Therapeutics (Form 8-
 8 K filed February 18, 2026; about 7.7 million shares traded that day); on 31 of the other
 9 38 trading days in that period, fewer than 5 million shares traded. Theriva's filings give
 10 three dates for the Rasayana license: the license agreement states it is "made effective
 11 this 17th day of February 2026" (Exhibit 10.40 to the Form 10-K for 2025); the Form
 12 10-K states that Theriva entered into it and received the \$300,000 upfront payment on
 13 February 17, 2026, and in one place that Rasayana's responsibilities began "commencing
 14 February 7, 2026"; and the Form 8-K filed February 18, 2026 states that Theriva entered
 15 into it "[o]n February 18, 2026 (the 'Effective Date')." The same Form 8-K states on its
 16 cover that the "Date of earliest event reported" was February 17, 2026, and states in its
 17 text that Theriva received the \$300,000 upfront payment "on the Effective Date,"
 18 February 18, 2026, while the Form 10-K states it was received on February 17, 2026.
 19 Theriva's press release announcing the license was issued at 8:00 a.m. Eastern on
 20 February 18, 2026 (GlobeNewswire). Plaintiff's questions, which he will pursue in
 21 discovery, are: On what dates, in what amounts, at what prices and to whom were the at-
 22 the-market shares sold, and were they sold at the lows? What made Theriva choose those
 23 dates? What drove the trading volume on February 19, 2026, and were at-the-market
 24 shares sold that day? Which date is correct for the Rasayana license and the \$300,000
 25 payment, and who knew of the license before it was announced on February 18, 2026?

26 **9. "Defendant's own words confirm."** Filed words: "Defendant's own words
 27 confirm that the broker votes, and the proxy's contradictory instructions on which

1 proposals were routine, decided this vote” (ECF No. 28 at 11:20–22).

2 Corrected words: The sentence is restated as follows. Defendant’s own
3 declaration states that 16,880,127 shares were represented at the August 3, 2026
4 meeting, including 10,823,826 broker non-votes, against a quorum threshold of
5 15,297,556 shares (ECF No. 15-1 ¶ 17); without the broker shares, 6,056,301 shares
6 were represented, fewer than the threshold (Plaintiff’s arithmetic). The same declaration
7 refers to “inconsistencies in the June Proxy Statement” and states that Theriva will hold
8 a new vote “using corrected proxy materials,” while not conceding that the
9 inconsistencies were material (id. ¶ 21). The passage Plaintiff cited (ECF No. 21-1 at 15;
10 Shallcross Decl. ¶ 14) concerns only the earlier meetings’ lack of a quorum and does not
11 address the proxy statement’s routine and non-routine statements. Whether those
12 inconsistent statements affected how stockholders and brokers voted is Plaintiff’s
13 contention.

14 **10. “Outvoted by 10,823,826 shares.”** Filed words: “his shares, now registered
15 in his own name (Nejmeh Decl. ¶ 11), were outvoted by 10,823,826 shares that brokers
16 voted for owners who gave no instructions (Form 8-K, Aug. 4, 2026)” (ECF No. 28 at
17 12:21–24).

18 Corrected words: The 10,823,826 shares did not outvote Plaintiff. They were
19 broker non-votes on Proposal 5: they counted toward the quorum through the routine
20 proposals but cast no vote on Proposal 5, which passed 3,665,312 to 2,267,592 (ECF No.
21 15-1 ¶ 17; Form 8-K, Aug. 4, 2026). Without those broker shares, 6,056,301 shares were
22 represented, fewer than the 15,297,556 needed for a quorum (Plaintiff’s arithmetic), so
23 the meeting at which Proposal 5 passed had a quorum only because of them.

24 **D. Notice of Compliance (ECF No. 30)**

25 **11. ECF No. 30 at 2, ¶ 5.** Filed words: “Plaintiff has arranged for Reno/Carson
26 Messenger Service, Inc. to deliver a copy of the Order (ECF No. 8) and of this Notice to
27

1 Defendant's counsel, Adam Hosmer-Henner, McDonald Carano LLP, 100 West Liberty
2 Street, Tenth Floor, Reno, Nevada 89501, on the day this Notice is filed."

3 Corrected words: That is not how the copy was sent. On October 2, 2026,
4 Plaintiff mailed a one-page copy of the Order (ECF No. 8) by first-class United States
5 mail, with postage stamp affixed, from South Bend, Indiana, to Defendant's counsel,
6 Adam Hosmer-Henner, McDonald Carano LLP, at counsel's address of record, 100 West
7 Liberty Street, Tenth Floor, Reno, Nevada 89501. The envelope bears a United States
8 Postal Service postmark of South Bend, Indiana, dated October 2, 2026. The envelope
9 contained the copy of the Order only. Paragraphs 1 through 4 of ECF No. 30 are
10 unchanged.

11 **E. Additional corrections**

12 **12. "Six of the eight" holders.** Filed words: that "six" of the eight New Warrant
13 holders bought into the July 2025 Volcon, Inc. (Empery Digital) private placement (ECF
14 No. 11 at 13, ¶ 2(c); id. at 64, Supp. Ex. SS ¶ 18(e); id. at 66; id. at 71, ¶ 8; ECF No. 22
15 at 6).

16 Corrected words: Counting Anson Investments Master Fund and Anson East
17 Master Fund separately, as Theriva's prospectus does, seven of the eight New Warrant
18 holder rows appear in that placement; Armistice is the one not listed. Counting the two
19 Anson funds as one firm, six of seven firms appear. The Volcon filing lists "a holder
20 listed as Robert Forster" without an address, and does not establish that he is the same
21 person as the Theriva holder.

22 **13. "Poison pill."** Filed words: references to "the poison pill" as an existing
23 device (ECF No. 22 ¶¶ 1C, 1E, 1F, 11; ECF No. 28, including "Removing the poison
24 pill" and "the elimination of the poison pill").

25 Corrected words: Theriva has not adopted a stockholder rights plan that Plaintiff
26 has found. What exists is the board's authority to issue up to 10,000,000 shares of
27 preferred stock without a stockholder vote, which Theriva's own prospectus says "could

operate as a 'poison pill'" (Supp. Ex. ST-1 at 19). Plaintiff's references to "the poison pill" mean that authority.

14. "For every stockholder." Filed words: "Plaintiff brings this case for every stockholder, all of whom face dilution of more than one-third of the company" (ECF No. 28 at 12:20-21).

Corrected words: The words "for every stockholder" are withdrawn. Plaintiff sues for himself only and does not seek to represent other stockholders (Verified Complaint, ECF No. 23 ¶ 20).

Plaintiff will carry these corrections into any amended pleading he files.

Dated: 10-13, 2026

Respectfully submitted,


 Mark Joseph Nejme, Plaintiff, self-represented
 P.O. Box 589, Clinton, NJ 07012
 732-995-3914 · research@warrantwire.com

CERTIFICATE OF SERVICE

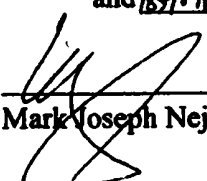
I certify that on October 13, 2026, I served a true copy of the foregoing Plaintiff's Notice of Corrections on Defendant's counsel of record, at the addresses below, by the method checked:

☒ first-class United States mail, postage prepaid ☐ UPS, charges prepaid ☐
 FedEx, charges prepaid

Adam Hosmer-Henner and Katrina Weil, McDonald Carano LLP, 100 West Liberty Street, Tenth Floor, Reno, Nevada 89501

Andrew T. Hambelton, Michael D. McQueeney and Elizabeth V. Young, Blank Rome LLP, 1271 Avenue of the Americas, New York, New York 10020

Tracking or receipt numbers: 958401105270 38006764 34 (McDonald Carano)
 and 189101105270 38006764 27 (Blank Rome)


 Mark Joseph Nejme

Mailing log: Plaintiff's Notice of Corrections (8 pages)

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