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

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

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

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR
EXTENSION OF TIME TO
RESPOND TO COMPLAINT (ECF
No. 37)**

14 Plaintiff Mark Joseph NejmeH, self-represented, opposes Defendant Theriva
15 Biologics, Inc.'s Motion for Extension of Time to Respond to Complaint (ECF No. 37)
16 and asks the Court to deny it.

17 1. Plaintiff apologizes to the Court for the volume of his early filings and for
18 papers that carried draft labels. He is self-represented, has applied for electronic filing,
19 and will keep his filings few and complete.

20 2. The Complaint is not a moving target. Theriva acknowledges that the Court
21 has treated the complete Verified Complaint (ECF No. 23) as the operative pleading.
22 (ECF No. 37 at 2.) Plaintiff agrees that his Notice of Corrections (ECF No. 35) did not
23 amend the Complaint. Theriva can answer or otherwise respond to ECF No. 23 as filed.

24 3. Theriva has had the complete Verified Complaint since October 1, 2026, and
25 has already filed a supplemental opposition to Plaintiff's Emergency Motion after that
26 date. (ECF No. 37 at 5.) The extension it asks for would run to December 1, 2026.

27 4. Theriva's own authority says such requests are normally granted "in the
absence of bad faith on the part of the party seeking relief or prejudice to the adverse
party." (*Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010), quoted

1 in ECF No. 37 at 4.) This extension would prejudice Plaintiff, because of what Theriva
2 has told its stockholders it may do before December 1. In its preliminary proxy statement
3 filed with the Securities and Exchange Commission on October 9, 2026 (SEC Accession
4 No. 0001104659-26-115074), Theriva calls a special meeting of stockholders for
5 “November [●], 2026,” to be held in person in Parets del Vallès (Barcelona), Spain, to:

6 (a) increase its authorized common stock to 500,000,000 shares, which “will not
7 be adjusted for any fundamental transactions, including any proportionate reverse
8 stock split”;

9 (b) “ratify and confirm the prior approval” of the issuance of up to 16,184,560
10 shares on exercise of the warrants at issue in this case, whose exercise price
11 Theriva may reduce “to any amount” with the holder’s consent.

12 In the same proxy statement Theriva states that “if we should effect a reverse
13 stock split ... as allowed under Nevada law without stockholder approval, ... we do not
14 believe the number will be sufficient”; lists among the uses of the new shares “reverse
15 mergers or other strategic transactions”; says the shares would “aid in meeting the NYSE
16 American stockholders’ equity requirements”; and says the shares would let it “act
17 quickly ... in most cases without the necessity of obtaining further stockholder approval
18 and holding a special stockholders’ meeting.” The same proxy statement names this case
19 as the reason Theriva learned that its 2026 proxy statement “contained errors.”

20 If the extension is granted, these votes, and the actions they would allow, may
21 take place before Theriva answers the claims about those same warrants. That is the
22 prejudice. It arises from Theriva’s possible actions, as Theriva itself describes them.

23 5. Plaintiff respectfully asks the Court to deny ECF No. 37 and to order Theriva
24 to answer or otherwise respond to the Verified Complaint (ECF No. 23) within fourteen
25 (14) days of the Court’s order.

1 Dated: October 16, 2026

Respectfully submitted,

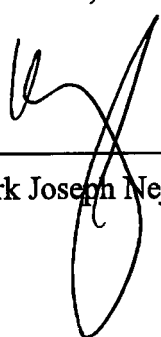
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3 Mark Joseph Nejme
4 Plaintiff, self-represented

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6 **CERTIFICATE OF SERVICE**

7 I certify that I will serve a copy of this Opposition on counsel for Defendant
8 Theriva Biologics, Inc. on October 17, 2026, by the method checked below, addressed
9 to: Adam Hosmer-Henner and Katrina Weil, McDonald Carano LLP, 100 West Liberty
10 Street, Tenth Floor, Reno, Nevada 89501; and Andrew T. Hambelton, Elizabeth V. Young
11 and Michael D. McQueeney, Blank Rome LLP, 1271 Avenue of the Americas, New
York, New York 10020.

12 ☐ First-class U.S. mail ☒ UPS ☐ FedEx, tracking numbers:

13 10-16-2026

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