Mark Joseph Nejmeh
P.O. Box 589
Clifton, New Jersey 07012
Telephone: 732-995-3914
Email: research@warrantwire.com
Plaintiff, self-represented

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK JOSEPH NEJMEH, Plaintiff, v. **THERIVA BIOLOGICS, INC., STEVEN A. SHALLCROSS, JEFFREY J. KRAWS, JEFFREY WOLF and JOHN MONAHAN,** Defendants.	**Case No. 3:26-cv-00705-ART-CSD** **PLAINTIFF'S MOTION TO DECIDE ECF NO. 42 BEFORE THE MOTION FOR LEAVE TO AMEND**

Plaintiff Mark Joseph Nejmeh, self-represented, moves for an order that the Court decide his Emergency Motion to Postpone Theriva's November 18, 2026 Special Meeting (ECF No. 42) on its present briefing schedule before it decides his Motion for Leave to File First Amended Verified Complaint, filed today; or, in the alternative, that if leave is granted first, ECF No. 42 be treated as renewed and directed to the First Amended Verified Complaint without refiling, with its briefing schedule unchanged. This motion is filed separately from the motion for leave, as LR IC 2-2(b) requires.

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

1. On October 22, 2026, Plaintiff filed ECF No. 42, which asks the Court to postpone the special meeting of stockholders that Defendant Theriva Biologics, Inc. ("Theriva") has called for November 18, 2026. Responses are due November 5, 2026.

2. On October 30, 2026, the Court directed Plaintiff to Local Rule 15-1 and noted that the filing of an amended complaint would necessitate a finding that ECF No. 42 is

moot and would need to be refiled, should the motion to amend be granted, citing *Ramirez v. County of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015).

3. Plaintiff has today filed his Motion for Leave to File First Amended Verified Complaint under Local Rule 15-1.

II. ARGUMENT

Theriva's special meeting is set for November 18, 2026. If leave to amend is granted before ECF No. 42 is decided, ECF No. 42 becomes moot and must be refiled, and a new briefing cycle could not finish before the meeting. The Court has inherent power "to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). Deciding ECF No. 42 on its existing schedule first, or treating it as directed to the amended pleading without refiling, avoids a second round of briefing on the same request. Theriva suffers no prejudice: its November 5, 2026 response date stays the same.

III. RELIEF REQUESTED

Plaintiff respectfully asks the Court to:

(a) decide ECF No. 42 on its present briefing schedule before deciding the Motion for Leave to File First Amended Verified Complaint; or

(b) in the alternative, if the Court grants leave to amend first, treat ECF No. 42 as renewed and directed to the First Amended Verified Complaint as of the date leave is granted, without refiling, with the existing briefing and the November 5, 2026 response date unchanged; and

(c) enter the proposed order filed with this motion.

Dated: October 31, 2026

Respectfully submitted,

/s/ Mark Joseph Nejmeh

Mark Joseph Nejmeh, Plaintiff, self-represented
P.O. Box 589, Clifton, New Jersey 07012
732-995-3914 · research@warrantwire.com