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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** **SUPPLEMENTAL VERIFIED PLEADING (Fed. R. Civ. P. 15(d))** **JURY TRIAL DEMANDED**

Plaintiff Mark Joseph Nejmeh, under Federal Rule of Civil Procedure 15(d), sets out the following events that happened after November 13, 2026. This pleading supplements the First Amended Verified Complaint (ECF No. 54) and, if filed, the Second Amended Verified Complaint (ECF No. 57, Exhibit A). Its paragraphs are numbered S-1 and following so that they do not change the numbering of either pleading. All earlier allegations stand as pleaded.

I. THE REVERSE STOCK SPLIT DECIDED BEFORE THE NOVEMBER 18, 2026 VOTE

S-1. On October 20, 2026, Theriva filed and sent its definitive proxy statement for a special meeting of stockholders on November 18, 2026 (the "November Proxy," ECF No. 42-2; Accession No. 0001104659-26-117417). The Board recommended a vote for each proposal.

S-2. Proposal 1 asked the stockholders to increase Theriva's authorized common stock to 500,000,000 shares. The November Proxy stated: "The 500,000,000 shares of

Common Stock will not be adjusted for any fundamental transactions, including any proportionate reverse stock split, occurring prior to the effective date of the filing of the Authorized Increase Charter Amendment with the Secretary of State of the State of Nevada, the timing of which shall be in the Board's discretion."

S-3. The November Proxy described a reverse stock split only as a possibility: "if we should effect a reverse stock split and decrease both the number of authorized shares of Common Stock and the number of outstanding shares of Common Stock proportionately, as allowed under Nevada law without stockholder approval, the number of shares of Common Stock authorized will decrease and we do not believe the number will be sufficient for us to effect needed financings or strategic alternatives."

S-4. As a purpose of the increase, the November Proxy stated that the additional shares would "afford us flexibility in acting upon financing transactions to strengthen our financial position and/or commercial partnership opportunities that may arise and aid in meeting the NYSE American stockholders' equity requirements." It did not refer to any share-price requirement of the NYSE American.

S-5. Proposal 2 asked the stockholders to ratify and, to the extent necessary, newly approve the issuance of up to 16,184,560 New Warrant Shares. The November Proxy stated that Theriva may, with the holder's consent, "voluntarily reduce the then current exercise price to any amount and for any period of time," and that approval would "constitute a new approval of the issuance of the New Warrant Shares at a lower exercise price than the initial exercise price."

S-6. Theriva told this Court that the new vote on the New Warrant Shares would be held "using corrected proxy materials" (ECF No. 15-1 ¶ 21). The Court found Count I likely moot on the expectation that "[a] valid proxy statement would cure Plaintiff's alleged informational injury" and that the issuance "would be cured by the upcoming vote" (ECF No. 56 at 4, quoting ECF No. 33 at 6).

S-7. On November 13, 2026, Theriva's Board of Directors, consisting of Defendants Shallcross, Kraws, Wolf and Monahan, authorized a reverse stock split of one share for every thirty (Exhibit A-1: "The reverse stock split was authorized by the Company's Board of Directors on November 13, 2026.").

S-8. Between November 13 and November 18, 2026, Theriva filed no proxy supplement, no additional soliciting material and no Form 8-K with the Securities and Exchange Commission. Its filing after its November 12, 2026 quarterly report was its November 18, 2026 Form 8-K reporting the vote (Exhibit A-2; Theriva's filing list on the SEC's EDGAR system, CIK 0000894158, https://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0000894158).

S-9. At the November 18, 2026 meeting, Proposal 1 received 10,798,374 votes for and 5,790,533 against, and Proposal 2 received 2,804,211 votes for, 2,516,522 against and 11,373,054 broker non-votes; both were declared approved (Exhibit A-2). The November 18, 2026 Form 8-K does not mention the reverse stock split.

S-10. On November 20, 2026, Theriva announced the reverse stock split, effective at 11:59 p.m. Eastern Time on December 1, 2026, with trading on a split-adjusted basis from December 2, 2026. It stated that its outstanding shares will fall "from 45,892,668 shares to approximately 1,529,756 shares" and its authorized shares "from 350,000,000 shares to 11,666,666 shares," and gave as the reason "to ensure that the Company can meet the per share price requirements of the NYSE American" (Exhibit A-1).

S-11. The same announcement lists as a risk "the Company's ability to raise capital and/or enter into one or more strategic alternatives, that may include a business combination, merger or reverse merger" (Exhibit A-1).

S-12. December 1, 2026 is also the date on which Theriva's response to the complaint is due (ECF No. 40).

S-13. Plaintiff's calculation from Theriva's own figures: after the split, the 16,184,560 New Warrant Shares become about 539,486 shares, equal to about 35% of the approximately 1,529,756 shares then outstanding, or about 26% of all shares if the New Warrants are exercised; and the 500,000,000 authorized shares approved under Proposal 1, if filed after the split as the November Proxy permits, would equal about 327 times the shares then outstanding.

S-14. Plaintiff held 90,191 shares of Theriva common stock on the October 9, 2026 record date and through November 20, 2026, and voted against each proposal.

II. CLAIM

COUNT VII — Section 14(a) of the Exchange Act and Rule 14a-9: the November 18, 2026 special meeting (against all Defendants)

S-15. Plaintiff repeats paragraphs S-1 through S-14.

S-16. Defendants solicited proxies for the November 18, 2026 meeting by means of the November Proxy, which Theriva filed and the Board, consisting of the Director Defendants, recommended.

S-17. Rule 14a-9(a) prohibits a solicitation by means of a proxy statement that "omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading." 17 C.F.R. § 240.14a-9(a).

S-18. After the Board authorized the reverse stock split on November 13, 2026, the following statements of the November Proxy had become misleading and were not corrected before the vote: (a) the statement quoted in paragraph S-3, which described a reverse stock split as something Theriva might do ("if we should effect"), when the Board had already authorized one; (b) the statement quoted in paragraph S-2, which told stockholders that the 500,000,000 shares would not be adjusted for a reverse split without telling them that a split reducing the outstanding shares to about 1,529,756 had

been authorized, so that the 500,000,000 shares would equal about 327 times the outstanding shares; and (c) the statement of purpose quoted in paragraph S-4, which referred to the NYSE American stockholders' equity requirements and did not disclose that the Board had decided on a reverse split for the NYSE American share-price requirement.

S-19. Each Defendant knew of the November 13, 2026 authorization before the November 18, 2026 vote, because the Board that authorized it consisted of the Director Defendants and Defendant Shallcross is Theriva's Chief Executive Officer and Chief Financial Officer.

S-20. The omitted facts were material: there is a substantial likelihood that a reasonable stockholder deciding how to vote on 500,000,000 authorized shares and on the New Warrant Shares at a price that may be reduced to any amount would consider important that the Board had already decided to reduce the outstanding shares thirty-fold.

S-21. The solicitation was an essential link in the approval of Proposals 1 and 2, which were approved by the votes of stockholders other than Defendants (Exhibit A-2).

S-22. Plaintiff, whose interest the approvals permit to be diluted, has been injured and is entitled to the relief requested below.

III. ADDITIONAL RELIEF REQUESTED

In addition to the relief requested in the pleading it supplements, Plaintiff asks the Court to:

M. award Plaintiff damages on Count VII in an amount to be determined by the jury, together with interest and costs;

N. declare that the approvals of Proposals 1 and 2 at the November 18, 2026 special meeting were solicited by a proxy statement that was not corrected after the Board's November 13, 2026 decision, and that they do not cure the matters alleged in Count I;

O. order Theriva to give Plaintiff and the Court not less than sixty (60) days' written notice, by a filing in this action and by Form 8-K, before it signs any agreement to sell, license or transfer VCN-01 or substantially all of its assets, or to merge or combine with another entity, stating the price and every other offer received; this request takes the place of Relief L of the Second Amended Verified Complaint if that pleading is filed;

P. order Theriva to announce publicly, by press release and Form 8-K, within four business days after its Board decides to seek a buyer, licensee or partner for VCN-01 or for the company, that VCN-01 or the company is offered for sale or license, and whether Theriva may pursue a merger or reverse merger if no buyer is found, so that every interested buyer may come forward.

IV. JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: November 23, 2026

/s/ Mark Joseph Nejmeh

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VERIFICATION

I, Mark Joseph Nejmeh, am the Plaintiff in this action. I have read this Supplemental Verified Pleading. The facts stated in it are true of my own knowledge or, where a source is cited, accurately taken from that source, except those stated as Plaintiff's calculation or allegation, and as to those I believe them to be true. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 23, 2026.

/s/ Mark Joseph Nejmeh
Mark Joseph Nejmeh