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 FOR RECONSIDERATION OF ORDER GRANTING DEFENDANT'S MOTION FOR EXTENSION OF TIME (ECF No. 60)** **(LR 59-1)**

Plaintiff Mark Joseph Nejmeh, self-represented, respectfully moves under Local Rule 59-1 for reconsideration of the Court's Order of November 24, 2026 (ECF No. 60), which granted Defendant Theriva Biologics, Inc.'s Motion for Extension of Time and Request for Status Conference (ECF No. 59).

In two sentences. The Court granted the extension the day after the motion was filed and thirteen days before Plaintiff's response was due, so it ruled without facts that go directly to good cause: on the morning of November 23 Theriva offered in writing to respond by December 1 if Plaintiff gave up any further amendment, trading in Theriva's stock was halted that morning, and Theriva filed ECF No. 59 three hours after its own report of the halt without mentioning it. Theriva's reverse stock split takes effect at 11:59 p.m. Eastern on December 1, the day its response was due, and ECF No. 60 now postpones that response to no fixed date.

MEMORANDUM OF POINTS AND AUTHORITIES

I. THE COURT RULED BEFORE PLAINTIFF COULD RESPOND

Theriva filed ECF No. 59 at 7:33 p.m. Eastern on November 23, 2026. The Court's Notice of Electronic Filing states: "Responses are due by 12/7/2026." (Ex. 1.) Under Local Rule 7-2(b), the deadline to respond to a motion "is 14 days after service of the motion." ECF No. 60 was entered at 12:05 p.m. Pacific on November 24, 2026.

Plaintiff had completed his opposition at 1:44 p.m. Central on November 24 and was filing it through CM/ECF when ECF No. 60 was entered. (Ex. 6 ¶¶ 2–4.) The opposition, as completed, is Exhibit 5, with Exhibits 1 through 4. At 1:02 p.m. Central, Plaintiff had told the Courtroom Administrator in writing, with Theriva's counsel copied, that he was filing an emergency opposition that day. (Ex. 6 ¶ 3; Ex. 7.) One minute later, at 1:03 p.m. Central, Theriva's counsel asked the Courtroom Administrator whether the Court would "issue a minute order addressing Defendants extension request before the conference." (Ex. 1.) ECF No. 60 was entered at 2:05 p.m. Central.

On November 24, the Court set a telephonic status conference for December 7, 2026 at 11:00 a.m. Pacific. (ECF No. 61; Ex. 6 ¶ 5.) Because Theriva's original response date and the split are December 1, Plaintiff asks the Court to rule on this motion before December 1.

II. THE FACTS THE COURT DID NOT HAVE

Local Rule 59-1(a) asks the movant to "state with particularity the points of law or fact that the court has overlooked or misunderstood." These are the facts. Each is from Theriva's own documents or the record. Facts 1 and 2 were not in the record when the Court ruled. Facts 3 to 5 are in the record (ECF Nos. 50-1, 57 and 58-2), apart from Theriva's November 23 release (Ex. 3), but were not raised in ECF No. 59, and Plaintiff had no chance to raise them before the Court ruled.

1. Theriva offered in writing to respond by December 1. At 9:58 a.m. Eastern on November 23, Theriva's counsel wrote that Theriva was "willing to consent to the filing of the Second Amended Complaint and maintain the December 1 deadline for Theriva's response to the Second Amended Complaint." (Ex. 1.) The condition was

paragraph 4 of Theriva's proposed stipulation: "Plaintiff agrees that he will not seek any further leave to amend his complaint in this Action." (Ex. 2 ¶ 4.) Plaintiff declined the stipulation, "in particular paragraph 4." (Ex. 1.) That evening Theriva told the Court that responding by December 1 would be inefficient. (ECF No. 59 at 4–5.) December 1 was a date Theriva said it could meet. ECF No. 59 does not mention the offer.

2. Trading in Theriva's stock was halted, and ECF No. 59 does not say so. NYSE American halted trading in Theriva's stock at 10:47 a.m. Eastern on November 23. (Ex. 4 ¶ 2.) Theriva's own Form 8-K, accepted at 4:30 p.m. Eastern that day, reports that the halt was "due to the low trading price of the Company's shares of Common Stock for a substantial period of time and the fact that its Common Stock traded below $0.10 on November 23, 2026," and that Theriva "expects that such halt in trading will remain in effect until" the reverse split. (Ex. 3; Ex. 4 ¶ 8.) Theriva filed ECF No. 59 three hours later. It calls the November events "corporate action" (ECF No. 59 at 2) and does not mention the halt.

3. The split takes effect the night Theriva's response was due. Theriva's 1-for-30 reverse split takes effect at 11:59 p.m. Eastern on December 1, 2026, and split-adjusted trading is to begin on December 2, "subject to NYSE American approval." (Ex. 3.) Theriva's Board authorized the split on November 13, and Theriva first announced it on November 20, two days after its stockholders voted on November 18. (ECF No. 58-2.)

4. Theriva's CEO told this Court the stock was at $0.17 one week before the split was authorized. On November 6, Theriva's Chief Executive Officer swore that "[a]s of the market close on November 5, 2026, Theriva's common stock trades at $0.17 per share, well below the $0.54 per share exercise price of the New Warrants." (ECF No. 50-1 ¶ 8.) Seven days later the Board authorized the split, which brings "[p]roportionate adjustments" to the exercise price of Theriva's outstanding warrants. (ECF No. 58-2, Ex. 99.1.) Theriva did not tell the Court.

5. The extension freezes the case while Theriva acts. Theriva's releases of November 20 and November 23 list "a business combination, merger or reverse merger" among its possible strategic alternatives. (ECF No. 58-2, Ex. 99.1; Ex. 3, Ex. 99.1.) While Plaintiff's motion for a preliminary injunction was pending, Theriva sold its SYN-004, SYN-007 and certain SYN-006 assets on October 30, 2026, reported on November 2, 2026. (ECF No. 57.) Once Theriva moves to dismiss, the Private Securities Litigation Reform Act stays "all discovery and other proceedings." 15 U.S.C. § 78u-4(b)(3)(B). ECF No. 60 sets no fixed date: Theriva's response is due fourteen days after rulings on two motions whose briefing is not complete.

6. Conferral. Plaintiff offered to meet Theriva's counsel in person; counsel declined. On November 24 Plaintiff emailed and called Theriva's counsel, and Ms. Young called back; Theriva did not agree to keep December 1. (Ex. 4 ¶ 5; Ex. 1.)

III. WHY RECONSIDERATION IS PROPER

A motion for reconsideration states "the points of law or fact that the court has overlooked or misunderstood," and reconsideration "may be appropriate if … the court committed clear error or the initial decision was manifestly unjust." LR 59-1(a). The facts above were overlooked because Plaintiff's time to respond had not run: facts 1 and 2 were not in the record, and ECF No. 59 did not raise facts 3 to 5. Plaintiff is not repeating any argument (LR 59-1(b)); he has not yet been heard on ECF No. 59. He brings this motion the same day the order was entered (LR 59-1(c)).

The facts bear directly on good cause. A timely request for more time should "normally … be 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) (quoting 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004)) (cited at ECF No. 59 at 4). Here there is prejudice (Part II.5), and a deadline Theriva offered in writing to meet in exchange for a waiver of Plaintiff's right to amend is not one it cannot meet. On these facts, the trading

in Theriva's stock seems to have been manipulated, and Plaintiff believes it fits the pattern of Theriva's earlier reverse splits (Ex. 5, Part V(e)–(f)), which is one more reason the case should not be frozen. Plaintiff respectfully asks the Court to address each of the facts in Part II.

IV. RELIEF REQUESTED

Plaintiff respectfully asks the Court to:

1. Reconsider and vacate ECF No. 60;

2. Deny the extension requested in ECF No. 59 and keep December 1, 2026 as Theriva's response date, the date Theriva itself offered on November 23;

3. Decline any order that would bar Plaintiff from seeking leave under Rule 15(d) to supplement his pleading with events that happen after it; and

4. Grant any other relief the Court finds just.

Dated: November 24, 2026

/s/ Mark Joseph Nejmeh

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

Exhibits: 1 – Email exchange with Theriva's counsel, November 23–24, 2026, the Court's Notice of Electronic Filing for ECF No. 59, and the Courtroom Administrator's email of November 24, 2026 with Theriva's reply; 2 – Proposed stipulation as received, November 23, 2026; 3 – Theriva Form 8-K filed November 23, 2026, with Exhibit 99.1; 4 – Declaration of Mark Joseph Nejmeh of November 24, 2026, with TOVX trading data; 5 – Plaintiff's Emergency Opposition to ECF No. 59, as completed at 1:44 p.m. Central on November 24, 2026; 6 – Declaration of Mark Joseph Nejmeh on the timing of

this motion; 7 – Plaintiff's email to the Courtroom Administrator, November 24, 2026, 1:02 p.m. Central, and his forward of it at 1:43 p.m. Central.