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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARK JOSEPH NEJMEH
Plaintiff,
v.
THERIVA BIOLOGICS, INC.,
Defendant.

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

**DEFENDANT THERIVA BIOLOGICS, INC.'S
MOTION FOR EXTENSION OF TIME TO
RESPOND TO COMPLAINT**

(FIRST REQUEST)

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A) and Local Rule IA6-1(a), Defendant Theriva Biologics, Inc. ("Theriva") moves for an order extending its deadline to answer or otherwise respond to the Verified Complaint (ECF No. 23) of Plaintiff Mark Joseph Nejme ("Plaintiff") to December 1, 2026, sixty days after Plaintiff first filed a copy of the complete Complaint. This is Theriva's first request to extend this deadline, and no prior extension has been sought or granted.

MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT BACKGROUND

Plaintiff, who is proceeding pro se, filed this action and an Emergency Motion for Temporary Restraining Order, Preliminary Injunction, Expedited Discovery, and Order Shortening Time on September 16, 2026. (ECF Nos. 1-2). The Complaint filed was incomplete: it omitted its first fifty-eight paragraphs, roughly eleven pages of a twenty-four-page pleading. (*See* ECF No. 1). On September 25, 2026, the Court ordered Plaintiff to file a complete copy of the Complaint by September 29, 2026. (ECF No. 9). Plaintiff missed that deadline, and on September 30, 2026, the Court again ordered him to file the complete Complaint by October 2, 2026. (ECF No. 20).

On October 1, 2026, Plaintiff filed a Notice of Filing Complete Copy of Verified Complaint. (ECF No. 23). The Court has since treated that filing as the operative pleading. (*See* ECF No. 33 at 1). Plaintiff also attached another copy of the “complete Verified Complaint” as Exhibit R-1 to the declaration supporting his reply brief on the Emergency Motion. (ECF No. 29 ¶ 4). In the reply itself, Plaintiff acknowledged that at least one paragraph of the pleading contains a “drafting error” and represented that he “will correct paragraph 10 in an amended complaint.” (ECF No. 28 at 14). On October 14, 2026, Plaintiff filed a Notice of Corrections, a ten-page document purporting to correct allegations in the Complaint, the Supplemental Exhibits (leave to file these exhibits has been denied), his Reply in Support of Emergency Motion, and other various filings. (ECF No. 35).

On October 13, 2026, the Court denied the Emergency Motion for failure to show irreparable harm. (ECF No. 33 at 5-9). The Court also denied Plaintiff’s three motions for leave to file supplemental materials (ECF Nos. 10, 11, 22), finding that “Plaintiff has filed over 360 pages of supplemental information,” much of it of unclear provenance, marked as drafts, or irrelevant to this action. (*Id.* at 9).

The incomplete Complaint is only part of the record Plaintiff has generated in the first month of this case. Between September 16 and October 14, 2026, Plaintiff filed sixteen separate docket entries, many with voluminous attachments:

1. the original, incomplete Verified Complaint (ECF No. 1);
2. the Emergency Motion (ECF No. 2);

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3. Exhibit Index for the Verified Complaint and Emergency Motion, with exhibits spanning hundreds of pages (ECF No. 4; *see, e.g.*, ECF No. 4-3 at 183);
4. Notice of Administrative Case Classification Discrepancy and Request for Correction (ECF No. 6);
5. Notice and Renewed Demand for Jury Trial (ECF No. 7);
6. Motion for Leave to File Supplement to the Addendum and Supplemental Exhibit Appendix, which embedded a separate emergency motion (ECF No. 10; *see* ECF No. 33 at 4);
7. Motion for Leave to File Supplemental Exhibits SQ, SR, and SS and a Supplemental Statement in Support of Interim Relief, which in turn attaches a separate Motion for Leave to Conduct Expedited Discovery and a Supplemental Statement (ECF Nos. 11, 11-2, 11-8);
8. 96-page Motion for Leave to File Supplemental Summary in Support of Interim Relief with Exhibits ST-1 and ST-2 (ECF No. 22);
9. Notice of Filing Complete Copy of Verified Complaint (ECF No. 23);
10. Consent for Electronic Service of Documents (ECF No. 24);
11. Motion for Exemption from PACER Fees and Authorization to Share Case with Public (ECF No. 25);
12. Motion for Pro Se Litigant to File Electronically (ECF No. 26);
13. Motion for Leave to Exceed Page Limit for Reply (ECF No. 27);
14. Reply in Support of the Emergency Motion (ECF No. 28);
15. 32-page Declaration in Support of the Reply, which attaches another copy of the Verified Complaint and additional exhibits (ECF No. 29); and
16. Notice of Corrections (ECF No. 35).

Plaintiff's serial filings have left Theriva's response deadline uncertain, given that Plaintiff's Complaint now exists in at least three forms: the incomplete Complaint (ECF No. 1); the Complete Verified Complaint filed with Plaintiff's Notice (ECF No. 23); and that pleading as purportedly revised by Plaintiff's Notice of Corrections (ECF No. 35).¹

¹ Theriva reserves the right to object to any treatment of ECF No. 35 as modifying or supplementing the Verified Complaint. The Federal Rules of Civil Procedure allow a party to amend "its pleading."

II. ARGUMENT

Under Rule 6(b)(1)(A), “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time . . . with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” Fed. R. Civ. P. 6(b)(1)(A). Local Rule IA 6-1(a) requires that a motion to extend time “state the reasons for the extension requested and . . . inform the court of all previous extensions of the subject deadline the court granted.” LR IA 6-1(a). “‘Good cause’ is a non-rigorous standard that has been construed broadly across procedural and statutory contexts.” *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010). Accordingly, requests for extensions of time made before the applicable deadline has passed should “normally . . . be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.” *Id.* (quoting 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004)).

Here, good cause exists to extend Theriva’s response deadline to December 1, 2026. A complete pleading did not even exist until October 1, 2026. (*See* ECF No. 23). Theriva cannot meaningfully evaluate, much less respond to, a complaint whose first fifty-eight paragraphs were missing. Those omitted paragraphs were not peripheral—indeed, Plaintiff’s own Emergency Motion relied on allegations that appear only in them. (*See* ECF No. 2). Further, the operative pleading continues to remain a moving target, as less than two weeks after filing the belated completed pleading, Plaintiff filed a “Notice of Corrections,” purporting to correct further allegations in the Complaint. (ECF No. 35). As a result, Theriva cannot determine with certainty what it must respond to or when its response is due. This uncertainty is itself good cause under Rule 6(b)’s “non-rigorous” standard. *Ahanchian*, 624 F.3d at 1259.

Moreover, the volume of Plaintiff’s filings independently justifies additional time. In less than a month, Plaintiff made sixteen separate filings comprising hundreds of pages of briefing, declarations, and exhibits. (*See* ECF No. 33 at 9 (noting that Plaintiff’s supplemental filings alone exceeded 360 pages)). The nature of these filings has made them unusually burdensome to address.

Fed. R. Civ. P. 15(a)(1). Nothing in them allows a party to change its allegations through piecemeal notices spread across the docket. *See* Fed. R. Civ. P. 7(a) (“Only these pleadings are allowed . . .”).

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Plaintiff sought leave to supplement the record three separate times, attaching hundreds of pages of proposed materials to each request, and the Court found that none of the requests showed the good cause Local Rule 7-2(g) requires. (*See* ECF No. 33 at 9). Theriva had to review each submission to determine what it was and whether it warranted a response, only to find that the provenance of many of the materials “is unclear, some of the filings are explicitly marked as drafts, and others appear to be patent filings irrelevant to this action.” (*Id.* at 9). Plaintiff embedded two new motions, including a second emergency motion, inside his requests for leave rather than filing them as separate motions, which required Theriva to comb through hundreds of pages to identify requests for relief directed at it. (*Id.* at 4, 9). Plaintiff’s reply then raised “new and distinct requests for relief,” including the elimination of a purported poison pill and a one-year moratorium on the exercise of the New Warrants, that the Court declined to consider because Theriva had not had an opportunity to respond to them. (*Id.* at 8). And Theriva was simultaneously required to brief the Emergency Motion on an expedited schedule and to file a supplemental opposition after Plaintiff filed the complete Complaint. (*See* ECF Nos. 8, 20, 32). Each of these filings consumed time and resources that Theriva would otherwise have devoted to evaluating the Complaint and preparing its response. *See Ahanchian*, 624 F.3d at 1255, 1260 (reversing denial of a timely extension request where counsel cited, among other grounds, “the large number of supporting exhibits” filed by the opposing party).

Finally, the extension will not prejudice Plaintiff. This case is in its infancy. No scheduling order has been entered, and no discovery deadlines are pending. The Court has already resolved Plaintiff’s Emergency Motion, finding that he failed to show irreparable harm, so no request for interim relief is pending that a short extension could affect. (ECF No. 33 at 5-9). Nor is the request made in bad faith: Theriva seeks a single, defined extension tied to the date Plaintiff first complied with the Court’s orders, and this is Theriva’s first request.²

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² Theriva files this Motion without waiving, and expressly preserves, all defenses and objections available under Federal Rule of Civil Procedure 12(b).

1 **III. CONCLUSION**

2 For the foregoing reasons, Theriva respectfully requests that the Court extend its deadline to
3 answer or otherwise respond to the Verified Complaint (ECF No. 23) to December 1, 2026.

4 **DATED:** October 16, 2026.

5 **MCDONALD CARANO LLP**

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