

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No.	<u>SA CV 16-02277-CJC (DFMx)</u>	Date	<u>June 3, 2019</u>
Title	<u>ChromaDex, Inc. v. Elysium Health, Inc.</u>		

Present: The Honorable Douglas F. McCormick

Nancy Boehme	n/a
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Deputy Clerk	Court Reporter / Recorder
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Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
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n/a	n/a
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Proceedings: (In Chambers) Order Following Telephonic Conference

ChromaDex seeks an order compelling Elysium to produce several categories of documents. The parties agreed to submit their dispute to the Court through its informal telephonic conference procedure. After receiving the parties' letter briefs the Court heard argument on May 31, 2019. The Court now rules as follows:

The parties' first dispute involves the adequacy of Elysium's production of financial documents. ChromaDex seeks what it describes as "the most current information" about Elysium's financial condition, acknowledging that it has received documents about Elysium's finances through the end of 2018. But ChromaDex makes only conclusory allegations about how more recent documents are necessary and thus proportional to the needs of the case under Rule 26(b)(1). The motion to compel this category of documents is therefore denied.

Next, the parties dispute whether Elysium has produced adequate records about the costs of its nicotinamide riboside (NR) supply. Again, ChromaDex acknowledges that Elysium has produced documents in this category, in the form of recent invoices from its manufacturer reflecting the price paid by Elysium for NR. ChromaDex unconvincingly contends that these documents do not reflect other costs, such as R&D, as reflected in other Elysium documents from 2017. The motion to compel documents in this category of documents is also denied.

During the hearing the parties discussed Elysium's production of documents about getting NR from Grace and licensing of Dartmouth's NR-related patents. Those discussions persuaded the Court that additional discussions should occur as Elysium makes some additional productions. Any continuing issues may be brought back to the Court through its informal telephonic conference procedure.

Finally, the parties dispute whether Elysium should be required to produce communications from Slack, a cloud-based collaboration tool used internally by Elysium. ChromaDex's view is that these communications fall squarely within the framework of "instant messages" covered by the parties' stipulated ESI protocol (see Dkt. 62). Elysium counters that the discussion of ESI did not

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contemplate the production of Slack communications. Without additional information, the Court cannot conclude whether any blame should be allocated for the parties' failure to address Slack during their prior discussions about ESI. Put differently, the Court has no evidence that Elysium concealed its use of Slack from ChromaDex. And, more critically, ChromaDex makes no showing that any relevant communications occurred over Slack, i.e., deposition testimony from a witness saying that the witness discussed a germane issue with someone else over Slack. Given the stage of the proceedings—it appears the discovery cutoff was several weeks ago (see Dkt. 150)—the Court is not persuaded that ordering the production of ESI from Slack is proportional to the needs of the case. The motion to compel the production of Slack communications is denied.

Initials of Clerk

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