

Cooley

Laura Grossfield Birger
T: +1 212 479 6079
lbirger@cooley.com

Alan Levine
T: +1 212 479 6260
alevine@cooley.com

November 13, 2018

Honorable Colleen McMahon
Chief U.S. District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

**Re: In Re Elysium Health - Chromadex Litigation
17 Civ. 7394 (CM)**

Dear Judge McMahon:

We are counsel to Chromadex, Inc. We submit this letter motion seeking leave of the Court to file an additional two-page declaration, and accompanying exhibits (attached together as Exhibit A), in further support of ChromaDex's converted motion for summary judgment on *Noerr-Pennington* grounds.

We ask the Court for leave to file this additional declaration to clarify one discrete issue and provide the Court with specific evidence which definitively demonstrates that ChromaDex did not sell to consumers products which contained toluene. In light of Elysium's counsel's memorandum of law (Dkt. No. 52 at page 5) and declaration (Dkt. No. 53 at ¶ 13)—without personal knowledge or evidentiary support—which implies the opposite, we submit that this additional evidence may assist the Court in deciding the motion for summary judgment.

Respectfully submitted,

/s/ Alan Levine
Alan Levine
Laura Grossfield Birger

cc: All Counsel of Record, via ECF

Enclosures

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/16/18

MEMO ENDORSED

[Handwritten Signature]
Via ECF & By Hand

[Handwritten Signature]
11/16/18