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,<br>Plaintiff,<br>v.<br>THERIVA BIOLOGICS, INC.,<br>a Nevada corporation,<br>Defendant. | **Case No. 3:26-cv-00705**<br>Judge initials: ______________<br>**MOTION FOR LEAVE TO LODGE COMPLETE COMPLAINT COPY AND FILE PROPOSED SUPPLEMENTAL MEMORANDUM** |

## I. Requested procedure

Plaintiff requests (1) leave to lodge Attachment A, a complete retained copy of the 25-page verified-complaint text, so that the court record can be checked for completeness; and (2) leave under LR 7-2(g) to file Attachment B, the Proposed Supplemental Memorandum, to the extent the Court finds it relevant to the existing warrant-related claims and emergency motion.

The existing Emergency Motion for Temporary Restraining Order, Preliminary Injunction, Expedited Discovery, and Order Shortening Time was submitted September 16, 2026. Its docket reference is ECF No. __________. This request does not renew or replace that motion and does not seek ex parte merits relief.

## II. Complete copy and existing exhibits

A retained copy was missing complaint pages 4-11. Plaintiff does not know whether the received original or the court's electronic copy has that omission. Attachment A reproduces the complete text Plaintiff intended to submit; it is an unsigned retained copy, not a newly sworn or amended pleading. Plaintiff's declaration explains the limited purpose of providing it.

Plaintiff states that he submitted the supporting exhibits in two large booklets. They are not offered again as new exhibits through this motion. Existing exhibit-volume references: Volume 1, ECF No. __________; Volume 2, ECF No. __________. The court record should be checked for their actual docket locations.

Because LR IA 10-3(b) restricts attaching documents already filed in the pending case, Plaintiff requests express leave to lodge Attachment A for the limited completeness review. If the received original is complete, he seeks no replacement of it. If it is incomplete, he requests identification of the omission and direction for a complete corrected or amended filing under the applicable procedure. He does not assume that lodging this copy automatically repairs an incomplete pleading.

**III. Proposed supplemental memorandum**

LR 7-2(g) requires leave supported by good cause for supplemental briefs, authorities, or evidence. Plaintiff therefore submits Attachment B as a proposal for consideration with this motion, not as an independently authorized supplement.

The proposed memorandum organizes issuer disclosures concerning the October 2025 warrants and adviser compensation, accounting corrections, retained and licensed programs, and disclosed professional relationships. Complaint paragraphs 75-79 address the warrant transaction and requested records; paragraphs 89-95 address current warrant status and disclosed strategic alternatives. These are the specific pleaded subjects to which Plaintiff asks the Court to assess relevance.

The immediate purpose is to distinguish the adviser's contractual cash fee from the issuer's noncash deemed-dividend accounting and to identify which transaction and board records could bear on the requested limited relief. The historical comparisons are offered only as disclosed background for the Court's relevance assessment. They are not offered as proof that a person acted improperly here because of a role or outcome at another company.

## IV. Grounds for considering the request now

Plaintiff is organizing this request promptly after identifying inconsistent retained copies and reviewing the supporting research following the September 16 submission. The proposed memorandum separates documented disclosures from inferences and corrects financial and transaction distinctions before Plaintiff asks the Court to rely on them. The underlying historical disclosures predate the complaint; Plaintiff does not describe them as newly occurring events.

Plaintiff submits that accurate treatment of the challenged transaction and a complete record favor consideration of the limited material directly connected to the pleaded claims. He acknowledges that additional background may be unnecessary and requests leave only to the extent the Court finds good cause and relevance. The Court may exclude any proposed section without changing the complaint or the relief already requested.

No new defendant, civil-rights claim, Rule 421 claim, securities-damages claim, or general investigation is requested. This motion does not itself compel documents or witness appearances. Plaintiff requests an opportunity for Theriva to respond on the schedule the Court considers appropriate; he does not characterize the request as unopposed.

## V. Relief requested

Plaintiff requests leave to lodge Attachment A for comparison; any necessary direction concerning an actual omission; and leave to file the permitted portions of Attachment B in support of the identified emergency motion. He requests no extension, suspension of deadlines, or ruling on the merits through this procedural motion.

Dated: 9/18/26

Signature: ______________________________

Mark Joseph Nejmeh, Plaintiff, self-represented

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|---|---|
| MARK JOSEPH NEJMEH,<br>Plaintiff,<br>v.<br>THERIVA BIOLOGICS, INC.,<br>a Nevada corporation,<br>Defendant. | **Case No. 3:26-cv-00705**<br>Judge initials: ______________<br>**DECLARATION CONCERNING RETAINED COPIES AND SUBMITTED EXHIBITS** |

I, Mark Joseph Nejmeh, declare:

1. I am the Plaintiff. I submitted my case-opening papers on September 16, 2026. My intended complaint contains 25 printed pages and includes a jury demand on printed page 24.

2. A retained copy in my possession was missing complaint pages 4-11. I do not know whether the copy received by the Clerk has the same omission. I have located a complete retained copy and provide it for comparison. I am not stating that the Clerk lost or omitted pages.

3. I have reviewed Attachment A before signing this declaration and confirm that it reproduces the complete complaint text I intended to submit. Its signature blocks are blank because it is a retained unsigned copy. I am not presenting it as a clerk-certified copy, changing an existing notarization, or representing that it establishes the contents of the court's received original.

4. I submitted my supporting exhibits in two large booklets. Those exhibits were separate from the scans later supplied for this review. Their absence from a retained scan does not mean they were omitted from my court submission.

5. My intended action concerns the warrants, proxy solicitation, and corporate meeting and voting process. My cover sheet selected securities and Yes for jury demand. I request comparison with the court record and correction of inconsistent administrative entries.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 9/19/2026 at Barnes + Noble Brick NJ

Signature: ______________________

Mark Joseph Nejmeh, Plaintiff, self-represented

# NEW JERSEY NOTARY ACKNOWLEDGEMENT
# (INDIVIDUAL)

State of New Jersey )
) ss
County of Ocean , )

On Sept 19, 20 26 before me, Robert E. Canfield III , Notary Public in and for said county, personally appeared Mark Joseph Nejneh, [signer/witness] who has/have satisfactorily identified him/her/themselves as the signer(s) or witness(es) to the above referenced document.

(Affix Notary Stamp Here)

Notary Public Signature

Robert E. Canfield III
Notary Public, State of New Jersey
ID#- 50061832
My Commission Expires 4- June 2027

My Commission Expires:______________

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| MARK JOSEPH NEJMEH,<br>Plaintiff,<br>v.<br>THERIVA BIOLOGICS, INC.,<br>a Nevada corporation,<br>Defendant. | **Case No. 3:26-cv-00705**<br>Judge initials: ________________<br>**PROPOSED ORDER ON MOTION FOR LEAVE** |

The Court has considered Plaintiff's Motion for Leave to Lodge Complete Complaint Copy and File Proposed Supplemental Memorandum. Only provisions expressly selected or stated below are ordered:

[ ] Plaintiff may lodge Attachment A for comparison with the original and electronic copies of the complaint. Lodging alone does not make it an amended pleading or resolve any factual dispute concerning the original submission.

[ ] The Clerk is directed to review the administrative nature-of-suit, cause-of-action, and jury-demand entries against the case-opening documents and make appropriate administrative corrections.

[ ] Plaintiff may file Attachment B in whole.

[ ] Plaintiff may file only the following portions of Attachment B: __________

______________________________________________________________

[ ] The request to supplement is denied without prejudice.

Additional directions concerning completeness, filing or response: __________

______________________________________________________________

______________________________________________________________

IT IS SO ORDERED.

______________________________________________________________

UNITED STATES DISTRICT JUDGE

Dated: ________________________________________________

# Attachment A

### Complete retained complaint copy

### COPY FOR COMPARISON - NOT AN AMENDED COMPLAINT

Submitted with request for leave to lodge for completeness review.

The following 25 pages are unchanged copies of the complaint pages in Plaintiff's complete retained scan. They include the claims and jury demand. No allegation has been added or rewritten in this attachment. These are unsigned retained pages, not a clerk-certified or newly verified complaint.

The existing signed complaint, declaration, motion and exhibit booklets remain the operative submissions unless the Court orders otherwise or a proper corrected or amended filing is made. This copy is provided to facilitate comparison and identify any actual omission.

The request for leave expressly addresses LR IA 10-3(b). No missing-page event at the court is assumed. The proposed addendum is separate Attachment B and is not represented as part of the originally submitted complaint.

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**UNITED STATES DISTRICT COURT**
**DISTRICT OF NEVADA**

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|---|---|
| MARK JOSEPH NEJMEH,<br><br>Plaintiff,<br><br>v.<br><br>THERIVA BIOLOGICS, INC., a Nevada corporation,<br><br>Defendant. | **Case No. ____________________**<br><br>**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**<br>**Section 14(a) and Rule 14a-9**<br>**Nevada corporate law and bylaws**<br>**Expedited relief requested**<br>**Jury trial demanded** |

Plaintiff Mark Joseph Nejmeh alleges the following based on personal knowledge as to his own conduct, on the cited public filings, and on information and belief after reasonable inquiry as to other matters.

## NATURE OF THE ACTION

1. This action concerns the validity of stockholder approval for the potential issuance of up to 16,184,560 shares of Theriva Biologics, Inc. common stock upon exercise of warrants issued in October 2025.

2. Plaintiff does not ask the Court to infer wrongdoing merely from warrant financing or stock issuance. He challenges specific proxy disclosures and seeks the records needed to test Theriva's quorum, adjournment, and tabulation representations.

3. Theriva's 29 June 2026 proxy told beneficial owners in one place that Proposal 5 was routine and their brokers could vote without instructions. The same proxy elsewhere

classified Proposal 5 as non-routine and stated that brokers could not vote it without instructions. Theriva reported 10,823,826 broker non-votes on Proposal 5.

4. Theriva reported that Proposal 5 passed with 3,665,312 votes for, 2,267,592 votes against, and 123,397 abstentions. On the reported figures, the approval margin above a majority of shares entitled to vote was 637,161 votes.

5. The dispute also arises from the 15 December 2025 special meeting. Theriva's proxy stated a 34% quorum although its bylaws require one-third of voting power. Plaintiff recalls that Chief Executive Officer and Chief Financial Officer Steven A. Shallcross, after initially saying he did not know the outstanding-share count and being told by attorney Leslie Marlow that he had to answer, stated approximately 33,900,000 shares. Gary Pitoniak separately recalls an answer of approximately 35 million. All three in-person attendees provide sworn accounts that 22 December 2025 was announced as the next date and that no attendee objected. Plaintiff further swears that company counsel called him about two hours later and sought his agreement to abandon or change that date, which he refused. Exhibits A through C.

6. Plaintiff alleges that the post-meeting call was not merely an administrative scheduling inquiry. Counsel sought Plaintiff's assent in his capacity as a Theriva stockholder, and Plaintiff understood that counsel was attempting to obtain and use his stockholder assent to cancel or abandon the announced December 22 continuation. Plaintiff pleads the call as an alleged solicitation of his proxy, consent, or authorization and asks the Court to determine its legal effect on the meeting process and warrant solicitation.

7. Plaintiff seeks a temporary status-quo order only if New Warrant Shares remain unissued or further issuance is imminent. He seeks expedited production of the official tabulation and

meeting records, a declaration of the parties' rights, and final relief supported by the completed record.

## PARTIES

8. Plaintiff Mark Joseph Nejmeh is a citizen of New Jersey and a beneficial shareholder of Theriva. His mailing address is P.O. Box 589, Clifton, New Jersey 07012. He has continuously owned Theriva common stock for approximately four years, including throughout the challenged 2025 and 2026 solicitations, and presently owns 90,191 shares through brokerage accounts now maintained at Charles Schwab following transfer from TD Ameritrade. Plaintiff will submit brokerage statements and voting confirmations, with account numbers redacted, to establish continuous ownership and the record-holder chain. Exhibit Q.

9. Defendant Theriva Biologics, Inc. is incorporated in Nevada and maintains its principal executive office at 9605 Medical Center Drive, Suite 270, Rockville, Maryland 20850. Its common stock trades on NYSE American under the symbol TOVX.

## NONPARTY SHAREHOLDER WITNESSES

10. Gary Pitoniak is a nonparty Theriva shareholder witness who resides in Clifton, New Jersey and attended the 15 December 2025 special meeting in person. He swears that he owned 36,111 Theriva shares and that he purchased Theriva shares in approximately November 2025. His affidavit supplies his own recollection of the session; the official proxy and legal-proxy records remain in Theriva's or its agents' control. Exhibit B.

11. Paul Bernhardt is a nonparty Theriva shareholder witness who resides in Toms River, New Jersey and attended the 15 December 2025 special meeting in person. He received correspondence from company counsel responding to a records demand. His affidavit

supplies his own recollection, and the June 24, 2026 counsel letter is attached separately. Exhibits C and O.

## JURISDICTION AND VENUE

12. This Court has federal-question jurisdiction under 28 U.S.C. § 1331 and Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. § 78aa, because Count One arises under Section 14(a) and Rule 14a-9.

13. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over the related Nevada claims because they arise from the same proxy solicitation, warrant approval, meetings, and voting records.

14. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. Temporary and preliminary relief is governed by Federal Rule of Civil Procedure 65.

15. Venue is proper in this District under 28 U.S.C. § 1391 because Theriva is a Nevada corporation subject to personal jurisdiction in Nevada. This action is tendered at the Northern Division clerk's office because the requested internal-affairs relief concerns a Nevada domestic corporation whose registered office and registered agent are in Carson City, within the Northern Division. If the Court determines that a different unofficial division is appropriate under LR IA 1-8, Plaintiff requests transfer within this District rather than dismissal.

## STANDING AND VOTING CAPACITY

16. Plaintiff held a beneficial interest in Theriva common stock during the challenged solicitation and vote and alleges injury to his right to receive materially accurate proxy information and to exercise an informed vote.

17. Plaintiff continues to hold Theriva common stock. Exercise and issuance of the New Warrant Shares would dilute his voting interest and may make post-issuance relief more difficult, particularly if shares are transferred to persons not before the Court.

18. Plaintiff attended the 15 December 2025 meeting as a beneficial owner and presented proof sufficient for admission. Plaintiff does not presently rely on an unproduced legal proxy to establish his voting authority at that session. He seeks the official legal proxies, voting list, represented-share report, and tabulation to determine the voting power represented. His firsthand testimony remains relevant to what was said and done in the room.

19. Gary Pitoniak and Paul Bernhardt likewise provide eyewitness testimony. Plaintiff does not allege, without the official records, that their physical presence or beneficial ownership alone established authority to vote particular shares in person. Theriva and its agents possess the legal-proxy and represented-share records needed to determine that issue.

20. Plaintiff brings this action directly to vindicate his individual proxy, voting, and meeting rights. He does not assert a derivative claim on behalf of Theriva and does not seek to represent the corporation or other stockholders.

## THE GOVERNING CORPORATE DOCUMENTS

21. Theriva's Second Amended and Restated Bylaws became effective on 3 October 2023 and identify Theriva as a Nevada corporation.

22. Section 1.03 requires notice stating the place, date, hour, and, for a special meeting, its purpose. Notice generally must be given between ten and sixty days before the meeting.

23. Section 1.04 provides that a stockholder meeting may adjourn and reconvene at the same or another place. New notice is not required if the time and place are announced at the meeting, unless the adjournment exceeds thirty days or the board fixes a new record date.

24. Section 1.05 sets the quorum at one-third of the voting power entitled to vote. In the absence of a quorum, the stockholders present may, by majority vote, adjourn in the manner provided by Section 1.04 until a quorum attends.

25. Section 1.07 addresses voting and written proxies. Section 1.08 provides that a determination of record holders entitled to vote applies to an adjournment unless the board fixes a new record date.

26. Section 1.09 requires the secretary to prepare a voting list, make it available before the meeting, and produce and keep it at the meeting for inspection by a stockholder present.

27. Section 4.08 requires the secretary to record stockholder-meeting proceedings and serve as custodian of corporate records.

## THE DECEMBER 2025 PROXY

28. Theriva solicited proxies for a special meeting scheduled for 15 December 2025 at its Rockville, Maryland principal office. The proposals sought approval to issue up to 16,184,560 New Warrant Shares and authority to adjourn for further solicitation.

29. The proxy identified 30 October 2025 as the record date and reported 33,739,643 outstanding shares.

30. In its general-information paragraph, the proxy described Theriva as a Delaware corporation. Theriva was and remains a Nevada corporation.

31. The proxy stated that a quorum required holders of 34% of outstanding shares to be present or represented. Thirty-four percent of the reported outstanding shares is 11,471,479 shares, rounded up.

32. The bylaws instead required one-third of voting power, or 11,246,548 shares based on the reported outstanding count. The two thresholds differ by approximately 224,931 shares.

33. The proxy told street-name holders that proof of ownership would allow admission but that a legal proxy from the broker, bank, or nominee was required to vote in person.

34. The proxy represented that one or more inspectors of election would tabulate and certify the votes.

## THE 15 DECEMBER MEETING AND THE DISPUTED ADJOURNMENT

35. Plaintiff Mark Nejmeh and nonparty shareholder witnesses Gary Pitoniak and Paul Bernhardt appeared in person at Theriva's Rockville office on 15 December 2025. Each presented identification and proof sufficient to be admitted to the meeting room. Plaintiff does not allege that admission alone established a legal proxy for any particular voting power.

36. The witnesses report that an individual in the room controlled the meeting computer. Gary Pitoniak recalls that person being identified as 'TJ'; Plaintiff Mark Nejmeh cannot independently identify him. Steven A. Shallcross and Leslie Marlow participated remotely, could be heard, and were not visible to the in-person attendees. The person's full name, title, and role are among the records sought in expedited discovery.

37. Theriva later reported that it called the special meeting to order but that an insufficient number of shares was present or represented to constitute a quorum. Theriva did not disclose the represented-share count in its Form 8-K.

38. During the in-room session, Plaintiff asked Chief Executive Officer and Chief Financial Officer Steven A. Shallcross how many shares were outstanding. Plaintiff recalls that Mr. Shallcross first stated that he did not know. Attorney Leslie Marlow then stated in substance that he had to answer, after which Mr. Shallcross stated approximately 33,900,000 shares. Gary Pitoniak separately recalls an answer of approximately 35 million. Exhibits A, B, and R.

39. The reported answer is close to, but not identical with, the proxy's 33,739,643-share count as of the 30 October record date. It is consistent with a rounded current estimate and does not itself establish a discrepancy. Discovery should establish whether 35 million was a rounded live count, a record-date count, or another measure. The record-date shares entitled to vote—not a later live estimate—ordinarily control the quorum denominator. The December statement also does not establish the number outstanding before the May 2025 offering.

40. The 16,184,560 New Warrant Shares were not outstanding common stock on 15 December because the New Warrants remained unexercisable pending stockholder approval. Those unissued underlying shares could not vote and should not have been included in the quorum denominator. By contrast, the 8,092,280 Existing Warrant Shares issued through the 17 October exercise were outstanding and formed part of the later capitalization.

41. During the called session, a remotely participating company representative announced in substance that the meeting would reconvene or be held on 22 December 2025. The witnesses do not claim to remember a stated time or a different place, and Plaintiff seeks the company's recording, notes, and communications concerning the announcement.

42. Plaintiff stated in substance, 'Fine. That sounds like it is Hanukkah, but I will be there.' Paul Bernhardt recalls that all three stockholders said they would attend. Gary Pitoniak recalls Plaintiff and Paul expressly agreeing, recalls no objection, and states that he intended to attend but cannot now say whether he verbally affirmed. The witnesses do not claim that a formal motion, second, or share-weighted vote was announced. Their affidavits establish at minimum that the date was announced, Plaintiff and Paul expressly agreed, Gary did not object, and the session ended with the attendees understanding that 22 December was the next date. Exhibits A through C.

43. The discussion addressed the warrant proposal, the lack-of-quorum assertion, and the next meeting date. The company had convened participants and called the meeting to order, but the parties dispute which corporate actions could lawfully occur without a quorum.

44. Theriva's same-day Form 8-K stated that it had determined to call a new special meeting. It did not mention 22 December or the in-room announcement reported by the witnesses.

45. About two hours after the meeting, while Plaintiff Mark Nejmeh was traveling through Virginia, he received a call on his T-Mobile telephone line ending in 3914. Plaintiff recalls that the call originated from a number used by the Theriva or Synthetic Biologics office and that he was connected to attorney Leslie Marlow, acting for Theriva. Ms. Marlow told him in substance, 'You don't really want to have the meeting on December 22.' Exhibit A.

46. Plaintiff refused to agree. He told Ms. Marlow in substance that the warrant proposal had not passed and that the company should not abandon the December 22 continuation and start another process. Ms. Marlow then said in substance, 'Oh, well, we will just start all over again.' Plaintiff objected that the warrants were unfair and told the company to stop playing games. Exhibit A.

47. Plaintiff retained a T-Mobile carrier record or device log corroborating the date, time, connection, and duration of the call. The record does not record the words spoken. Plaintiff will submit a copy with unrelated telephone activity and unnecessary personal information redacted. Exhibit P.

48. Plaintiff's sworn testimony supplies his firsthand account of the substance of the call. The telephone record corroborates the occurrence and timing of the connection but does not itself establish the words spoken.

49. Exchange Act Rule 14a-1(f) defines a proxy to include every proxy, consent, or authorization and states that consent or authorization may take the form of a failure to object or dissent. Rule 14a-1(l) includes within a solicitation a request for a proxy and a communication to a security holder under circumstances reasonably calculated to procure, withhold, or revoke a proxy.

50. Plaintiff alleges that counsel's request sought his proxy, consent, or authorization as a stockholder concerning whether the announced December 22 continuation would proceed. Plaintiff understood that counsel was attempting to obtain and use his assent, or at least his non-objection, to justify cancelling or abandoning that date. He expressly refused. The call is therefore material both as an alleged proxy or consent solicitation and as contemporaneous evidence that Theriva treated Plaintiff's stockholder assent and the December 22 date as consequential after the December 15 session. Plaintiff asks the Court to determine the call's legal effect after expedited discovery.

## RECORDS DEMANDS AND LATER SOLICITATIONS

51. Plaintiff Mark Nejmeh and nonparty shareholder witness Paul Bernhardt demanded the December voting records, including the official tabulation or Broadridge records, and requested minutes or other records of the called session. Exhibits N and O.

52. The shareholders made two principal written demand and notice submissions to Theriva and its counsel, with copies directed to the company's Rockville and Spain offices. The correspondence requested voting, quorum, minutes, warrant, and related records. Copies, certified-mail receipts, and available delivery confirmations are assembled as Exhibit N.

53. On 24 June 2026, Blank Rome partner Andrew T. Hambelton sent Paul Bernhardt a two-page response by email and overnight mail on Theriva's behalf. The letter identifies Paul's

earlier 4 June demand, a 10 June company response, and two substantially identical demands dated 16 June. A public copy, with Paul's street address and personal email redacted and the original preserved, is attached as Exhibit O.

54. The 24 June letter rejected inspection under NRS 78.257 based on Paul's ownership and the reporting-company exception, and rejected the request for minutes, voting records, attorney-client communications, and proxy-solicitation invoices as outside the limited records enumerated in NRS 78.105. Those statutory positions do not decide whether the same records are discoverable after suit or whether the bylaws imposed separate meeting duties.

55. The letter states that Theriva called to order the special-meeting sessions on 15 December 2025, 11 February 2026, 9 April 2026, and 5 June 2026. It also states Theriva's contrary characterization: no session convened because no quorum existed and therefore no meeting minutes exist. The letter corroborates the called-to-order sequence but does not admit a quorum, a valid adjournment, or that a stockholder meeting legally occurred.

56. No requested minutes, voting list, Broadridge report, inspector's tabulation, or current warrant-status record was produced. Paul Bernhardt received the June 24 response. Plaintiff Mark Nejmeh, the approximately four-year holder who received the post-meeting call, received no substantive response to his demand.

57. These communications put Theriva on notice of the dispute and the need to preserve meeting and voting records. Plaintiff does not allege that every requested document was subject to an unconditional pre-suit inspection right under NRS 78.105.

58. After the three United States stockholders attended the 15 December 2025 session in Maryland, Theriva scheduled every later warrant-approval session in person at its research office in Parets del Vallès, Barcelona, Spain: the 11 February, 9 April, and 5 June 2026

special meetings and the 3 August 2026 annual meeting. The filed notices described in-person attendance and did not offer remote stockholder attendance. Repeated international travel was expensive and unreasonable for Plaintiff. Plaintiff alleges on information and belief that choosing the overseas location for every later session was intended, at least in part, to impede the continued in-person attendance and scrutiny of Plaintiff and the other United States retail stockholders. The location notices are public facts; Theriva's intent is disputed and requires discovery. Exhibits G through J.

## SHARE ISSUANCES AND THE JUNE RECORD DATE

59. Theriva reported 9,059,232 common shares outstanding on 30 June 2025 and 10,304,762 on 30 September 2025. Its 10-Q cover pages reported 9,597,952 on 7 August and 33,739,643 on 7 November; the December proxy used the same 33,739,643 count as of the 30 October record date.

60. The increase from 10,304,762 on 30 September to 33,739,643 on the record-date and cover-page disclosures is 23,434,881 shares. The filing discloses components that reconcile exactly: 8,092,280 shares from exercise of the Existing Warrants, plus ATM sales of 5,016,586 shares and 10,326,015 shares, totaling 15,342,601 ATM shares.

61. The 16,184,560 New Warrant Shares were not outstanding common stock and were not entitled to vote while the New Warrants remained unexercisable pending stockholder approval. Issuance of a warrant security is not the same as issuance of its underlying common share.

62. Theriva's outstanding common shares increased from 33,739,643 on the October 2025 record date to 45,892,668 on the June 2026 record date, an increase of 12,153,025 shares.

63. Theriva's quarterly filing reported 10,204,319 ATM shares sold in the first six months of 2026, all during the first quarter, for approximately $2.3 million in net proceeds.

64. The October 2025 inducement agreement permitted ATM sales beginning after a specified post-closing period. The fact of disclosed ATM sales therefore does not itself establish breach or manipulation.

65. Plaintiff alleges on information and belief that the timing and purpose of the issuances warrant discovery because the electorate and quorum base changed before Proposal 5 was approved. On or about October 30, 2025, Plaintiff personally reviewed the Yahoo Finance page for TOVX and specifically recalls that its field labeled 'Shares Outstanding' displayed approximately four million shares, materially below Theriva's later-filed count of approximately 33.7 million shares. Plaintiff understood 'Shares Outstanding' to be a separate field from 'Float.' He did not then know, and does not now allege without records, whether the displayed figure originated with Yahoo, an outside data provider, Theriva, or another source. The discrepancy makes the source, timing, and correction of share-count information relevant to focused discovery, including any Theriva-controlled communications with market-data and investor-relations providers. Plaintiff will amend only if records provide a factual basis to allege an improper purpose.

## MAY-TO-OCTOBER FINANCING SEQUENCE

66. On 7 May 2025, Theriva announced that the VIRAGE Phase 2b trial met its primary efficacy and safety endpoints and hosted a live virtual data event scheduled for 8:00 a.m. Eastern Time.

67. Plaintiff and witnesses who viewed the event report that participating doctors described the results in strongly favorable terms. They further report that shareholders requested to ask

questions, but the moderator allowed only one question, which they understood was from AGP. Plaintiff seeks the event recording, submitted-question log, moderator instructions, and communications needed to determine the speakers, question source, and treatment of unasked questions.

68. Also on 7 May 2025, after its Form S-1 registration statement became effective, Theriva priced what its SEC filings describe as a registered reasonable-best-efforts public offering. The offering closed on 8 May and included 1,990,900 common shares, pre-funded warrants for 4,827,280 shares, and common warrants for 6,818,180 shares. Each common share or pre-funded-warrant unit was sold with one common warrant at a combined price of $1.10 or $1.099, respectively; each common warrant had a $1.10 exercise price. The agreement was with Purchasers identified on signature pages, and AGP acted as placement agent rather than a firm-commitment underwriter.

69. The SEC classification and the NYSE American classification are not identical. For federal Securities Act purposes, this was registered and was not a private placement. Under Section 713 and its Commentary .01, however, registration alone does not make a transaction a public offering exempt from shareholder approval. NYSE American considers the underwriting or best-efforts structure, breadth of marketing, number and identity of purchasers and prior relationships, discount, and issuer control. The Exchange's written determination and offering-distribution record are therefore relevant evidence controlled by Theriva, AGP, the purchasers, or NYSE American.

70. The May 8 Form 8-K reported 4,773,358 common shares outstanding after closing, assuming no exercise of the pre-funded or common warrants. Subtracting the 1,990,900 shares issued at closing yields an inferred pre-offering count of 2,782,458. Twenty percent

was approximately 556,492 shares. The 1,990,900 issued shares alone equaled approximately 71.6% of that base; the 6,818,180 common-share and pre-funded-warrant units equaled approximately 245.0%; and including the paired common warrants produced potential issuance of 13,636,360 shares, approximately 490.1%. Plaintiff offers these calculations only as a numerical Section 713 screen and seeks the capitalization records and NYSE American counting determination in discovery.

71. The reported 6,818,180 primary units explain the recollection of approximately seven million shares. For 6,818,180 potential shares to be less than 20% of the pre-transaction common shares, more than 34,090,900 shares would have needed to be outstanding—not merely authorized or included in the float. Theriva's filed post-closing count does not support such a pre-transaction number.

72. Section 713's 20% test is not a special small-market-cap offering limit. It is an NYSE American shareholder-approval rule and, when its pricing condition is met, applies to listed issuers generally. A separate Securities Act rule—Form S-3 General Instruction I.B.6, often called the baby-shelf rule—limits certain primary offerings by issuers with a public float below $75 million to one-third of public float over twelve months. The May transaction was registered on Form S-1, so the Form S-3 baby-shelf ceiling did not govern that offering.

73. Crossing 20% does not alone prove a Section 713 violation. No approval is required if NYSE American treated the transaction as a public offering for its rule, and a qualifying cash sale at or above the Section 713 Minimum Price may use a separate exception. Plaintiff seeks the exact agreement time, the lower of the immediately preceding official closing price and five-day average, the value assigned to the bundled warrants, and the Exchange's actual

determination. The reported $1.10 price and Plaintiff's recollection of an approximately $1.35 prior close create a concrete inquiry, not a final conclusion.

74. Plaintiff recalls a prior trading price of approximately $1.35, a premarket price as high as approximately $2.86 during the positive-data publicity, and a later decline to approximately $0.50. Plaintiff will seek official closing, premarket, and intraday time-and-sales data for the relevant comparison times, the time at which the offering was priced and announced, and any necessary adjustment for a stock split. He does not rely on recollection alone as final proof of those market facts.

75. On 16 October 2025, holders of warrants covering 8,092,280 shares agreed to exercise them at a reduced price of $0.54. The exercised warrants included 1,345,000 warrants issued in September 2024 and 6,747,280 warrants issued in May 2025. The May-warrant exercise price was thereby reduced from $1.10 to $0.54, a reduction of approximately 50.9%.

76. In consideration for those exercises, Theriva issued the same holders private-placement New Warrants covering 16,184,560 shares at $0.54 per share—200% of the shares underlying the exercised warrants. The New Warrants required stockholder approval before exercise under the terms disclosed by Theriva and NYSE American requirements identified in the proxy.

77. This chronology may support discovery into board process, investor identity, allocation, conflicts, disclosure, financing alternatives, and whether the New Warrants affected a contemplated strategic transaction. The webcast was an investor data event, not a stockholder meeting; restricting audience questions is not by itself a bylaw violation. The sequence does not, without additional facts, make a below-market public offering, a warrant repricing, or an

inducement unlawful. The complaint should not call the May offering a private placement; the October New Warrants were the private placement.

78. Plaintiff does not plead a Rule 10b-5 damages claim based on the May offering or webcast in this complaint. He alleges the sequence as context and as a basis for focused discovery concerning the later warrant solicitation, capitalization, board process, and current warrant status.

79. Plaintiff also seeks the New Warrants' Fundamental Transaction and Black-Scholes-value provisions and any capitalization models supplied to a potential merger counterparty. Those provisions may affect transaction economics, but their existence does not prove that a reverse merger was agreed or that the warrant vote was invalid.

## THE AUGUST 2026 PROXY CONTRADICTION

80. Theriva scheduled its 2026 annual meeting for 3 August 2026 and fixed 23 June 2026 as the record date. The definitive proxy reported 45,892,668 outstanding shares.

81. Proposal 5 again sought approval to issue up to 16,184,560 New Warrant Shares.

82. The proxy told street-name holders that brokers could vote uninstructed shares in their discretion on certain matters, listing Proposals 2, 4, 5, and 7 as routine.

83. Elsewhere the same proxy stated that Proposals 1, 3, and 5 were non-routine and that brokers without customer instructions were not entitled to vote those proposals.

84. In the immediately following sentence, the proxy again listed Proposal 5 among matters on which a broker without instructions could vote in its discretion. The proxy separately stated that broker non-votes would have no effect on Proposal 5.

85. The two instructions cannot both be correct as to Proposal 5. The distinction mattered to beneficial owners deciding whether they needed to provide voting instructions and whether inaction would leave Proposal 5 unvoted.

86. A review of Theriva's EDGAR filings and official company disclosures through 16 September 2026 located no corrective proxy material that clearly resolved the Proposal 5 contradiction before the vote.

87. Theriva reported that Proposal 5 received 3,665,312 votes for, 2,267,592 against, 123,397 abstentions, and 10,823,826 broker non-votes.

88. The reported broker non-votes were not counted as votes entitled to vote on Proposal 5. That reported treatment does not eliminate the risk that contradictory instructions affected whether beneficial owners submitted instructions at all.

## CURRENT THREAT AND REQUESTED STATUS QUO

89. Theriva's Form 10-Q filed on 11 August 2026 reports 45,892,668 shares outstanding as of 7 August 2026, the same count reported for the 23 June record date. It states that the New Warrants covering 16,184,560 shares became exercisable on 3 August 2026 and expire on 3 August 2031. The filing does not disclose an exercise between 3 and 7 August. Theriva's public filings and official disclosures reviewed through 16 September 2026 do not disclose a later exercise, cashless exercise, settlement, amendment, cancellation, transfer, or issuance of underlying shares. That absence does not establish that no activity occurred; the current status remains within Theriva's and its agents' control. Exhibit L.

90. Theriva's quarterly report for the period ended 30 June 2026 states that the company was engaged in ongoing discussions with institutional investors and investment banks about strategic alternatives that may include a business combination, merger, or reverse merger.

91. On 24 July 2026, the board amended option awards for directors and employees to accelerate vesting upon execution of a definitive merger agreement. On 10 August 2026, Theriva entered an amended CEO employment agreement whose change-in-control definition expressly includes a transaction with a non-listed private operating company, including a reverse merger.

92. These disclosures establish an active strategic review and transaction-readiness steps. They do not establish that Theriva signed a merger agreement, identified a counterparty, or selected a reverse merger. Theriva's quarterly report states that the board had not approved a definitive course of action as of the report.

93. Without a temporary order, Theriva may permit exercise and issue or transfer shares before the Court can review the solicitation and tabulation records. Once shares enter the market or third parties acquire interests, effective relief may become more complex.

94. A merger or reverse merger could further change the capitalization and place rights in additional third parties. Plaintiff therefore requests expedited disclosure of current warrant status and any definitive transaction, while recognizing that a strategic review alone does not prove immediate irreparable harm.

95. Plaintiff seeks a narrow order preserving the status quo, expedited discovery, and a prompt hearing. He does not seek in this motion to prevent ordinary-course activity unrelated to the 16,184,560 New Warrants.

## COUNT ONE

96. Plaintiff incorporates paragraphs 1 through 95.

**Section 14(a) and Rule 14a-9**

97. Section 14(a) of the Exchange Act and Rule 14a-9 prohibit solicitation by a proxy statement containing a materially false or misleading statement or omitting a material fact necessary to make the statements not misleading.

98. Rule 14a-1(f) defines a proxy to include every consent or authorization, including consent or authorization expressed through a failure to object or dissent. Rule 14a-1(l) defines solicitation to include a request for a proxy and a communication to a security holder under circumstances reasonably calculated to procure, withhold, or revoke a proxy.

99. Plaintiff alleges that Leslie Marlow's post-meeting telephone request was a solicitation of Plaintiff's proxy, consent, or authorization because she sought his stockholder assent that the announced December 22 continuation should not proceed. Plaintiff refused and did not authorize cancellation, abandonment, or replacement of that date.

100. The call's occurrence, purpose, authorization, recipients, and treatment by Theriva are material to the scope and accuracy of the continuing warrant solicitation and to whether Theriva attempted to obtain stockholder assent outside the announced meeting process. Plaintiff seeks expedited production of the related nonprivileged records and a determination of the call's legal effect; he does not rely on the telephone record alone to prove the words spoken.

101. A reasonable Theriva stockholder would consider it important to know whether a broker could vote Proposal 5 without customer instructions. That information directly affected whether a beneficial owner needed to act to cast or withhold a vote on a potentially dilutive issuance equal to approximately 35% of the June record-date outstanding shares.

102. Theriva's definitive proxy made irreconcilable statements on that subject in the 'Information About Voting' section. On page 3 it listed Proposal 5 as routine and referred to a nonexistent Proposal 7, while on page 5 it classified Proposal 5 as non-routine and, in the next sentence, again included Proposal 5 in a list of routine matters. Exhibit J at 3 and 5.

103. Theriva solicited proxies to obtain the stockholder approval required before it could permit exercise and issuance of the New Warrant Shares. The proxy solicitation was an essential link in the reported approval.

104. Plaintiff received or accessed the proxy materials and voted against Proposal 5. His vote does not cure a materially contradictory instruction distributed to the solicited beneficial-owner electorate. Plaintiff alleges impairment of the integrity of the solicitation and his right to have the proposal decided through materially accurate voting instructions.

105. The reported vote margin and broker non-vote total support materiality and the need for expedited examination of solicitation and tabulation records, although Plaintiff does not assume that all broker non-votes would have been cast against Proposal 5.

106. Plaintiff has suffered impairment of his informed voting rights and faces imminent dilution if the challenged approval permits issuance before judicial review.

107. Plaintiff lacks an adequate remedy at law because a completed issuance and downstream transfers may make reconstruction of the vote and effective equitable relief substantially more difficult.

108. Plaintiff is entitled to declaratory and injunctive relief, subject to proof, including a status-quo order, expedited production, and such corrective solicitation or revote relief as the Court finds necessary.

## COUNT TWO

109. Plaintiff incorporates paragraphs 1 through 95.

### Declaration and enforcement of Nevada corporate rights

110. NRS 78.310 and 78.320 and Theriva's bylaws govern the calling, quorum, voting, and adjournment of stockholder meetings. The bylaws require a one-third quorum and permit the stockholders present, by majority vote, to adjourn when a quorum is absent.

111. An actual controversy exists concerning the represented voting power on 15 December 2025, whether a valid adjournment to 22 December occurred, whether Theriva could disregard that announced date, whether counsel solicited Plaintiff's stockholder consent or authorization to cancel or abandon that date, and what effect, if any, those events have on later stockholder approval.

112. The public record does not disclose the represented-share count or inspector certification for 15 December. Theriva's 34% proxy statement conflicts with the one-third bylaw standard, and the difference is approximately 224,931 shares.

113. Plaintiff's declaration, the two witness declarations, telephone evidence, and the official legal-proxy, voting-list, and tabulation records requested from Theriva will permit the Court to determine whether the December announcement and agreement satisfied Sections 1.04 and 1.05 of the bylaws.

114. Plaintiff acknowledges that later meetings could be independently called under the inducement agreement and Nevada law. Cancellation of 22 December does not automatically extinguish all authority to call another meeting. The validity of the August approval must be determined from the legal relationship among the meeting actions, the new record date, and the 2026 proxy solicitation.

115. Under 28 U.S.C. § 2201 and applicable Nevada law, Plaintiff requests a declaration of the parties' rights under the bylaws and NRS Chapter 78, together with necessary supplemental injunctive relief.

## PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court:

A. Temporarily restrain and preliminarily enjoin Theriva, and persons acting in concert with it who receive actual notice, from permitting exercise of the New Warrants or issuing, delivering, registering, or transferring New Warrant Shares pending expedited review, except as the Court permits;

B. Order preservation of all proxy, meeting, tabulation, legal-proxy, inspector, Broadridge, DTC, transfer-agent, NYSE American, warrant-exercise, and relevant communication records;

C. Order narrowly tailored expedited discovery and a prompt evidentiary hearing;

D. Declare whether the June 2026 proxy solicitation for Proposal 5 violated Section 14(a) and Rule 14a-9;

E. Declare the correct December 2025 quorum standard and determine the represented voting power at the 15 December meeting;

F. Declare whether the meeting was validly adjourned to 22 December and the legal effect of any later cancellation or new record date;

G. Declare whether the post-meeting telephone request constituted a solicitation of Plaintiff's proxy, consent, or authorization and determine its legal effect on the December 22 meeting process and continuing warrant solicitation;

H. If the Court finds the approval invalid, order an accurate corrective solicitation and revote before further issuance;

I. If shares have already issued, grant only such cancellation, rescission, voting, or other equitable relief as is lawful after joinder and protection of affected holders and recipients;

J. Award allowable costs and, only if a statute or other rule authorizes it, reasonable attorneys' fees; and

K. Grant other relief the Court finds just and proper.

## DEMAND FOR JURY TRIAL

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

Date: ____________ Signature: ______________________________

Mark Joseph Nejmeh, Plaintiff, self-represented

## VERIFICATION

I, Mark Joseph Nejmeh, declare under penalty of perjury under the laws of the United States that I have read this Verified Complaint. The facts stated from my personal knowledge are true. As to matters stated on information and belief, I believe them to be true after reasonable inquiry.

Executed on ___________________ at ________________________________.

Signature: ____________________________________________

Mark Joseph Nejmeh

H. If the Court finds the approval invalid, order an accurate corrective solicitation and revote before further issuance;

I. If shares have already issued, grant only such cancellation, rescission, voting, or other equitable relief as is lawful after joinder and protection of affected holders and recipients;

J. Award allowable costs and, only if a statute or other rule authorizes it, reasonable attorneys' fees; and

K. Grant other relief the Court finds just and proper.

## DEMAND FOR JURY TRIAL

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

Date: 9-16-2026 Signature: ____________________

Mark Joseph Nejmeh, Plaintiff, self-represented

# VERIFICATION

I, Mark Joseph Nejmeh, declare under penalty of perjury under the laws of the United States that I have read this Verified Complaint. The facts stated from my personal knowledge are true. As to matters stated on information and belief, I believe them to be true after reasonable inquiry.

Executed on 9-16-2026 at Sonesta Reno hotel. Reno Nevada

Signature: ____________ 9-16-2026

Mark Joseph Nejmeh

State of Nevada
County of Washoe

This instrument was acknowledged before me on September 16, 2026 by Athena Rashell Webb

A-RW
Notary Public

ATHENA RASHELL WEBB
Notary Public
State of Nevada
Appt. No. 26-5949-02
My Appt. Expires July 15, 2030

JS 44 (Rev. 03/24)

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

| I. (a) PLAINTIFFS | DEFENDANTS |
|---|---|
| Mark Joseph Nejmeh | Theriva Biologics, Inc. |
| (b) County of Residence of First Listed Plaintiff: No fixed residence<br>*(EXCEPT IN U.S. PLAINTIFF CASES)* | County of Residence of First Listed Defendant: ________<br>*(IN U.S. PLAINTIFF CASES ONLY)*<br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. |
| (c) Attorneys *(Firm Name, Address, and Telephone Number)*<br>Mark Joseph Nejmeh, Plaintiff, self-represented<br>P.O. Box 589, Clifton, NJ 07012<br>732-995-3914 \| research@warrantwire.com | Attorneys *(If Known)* |

## II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- [ ] 1 U.S. Government Plaintiff
- [X] 3 Federal Question *(U.S. Government Not a Party)*
- [ ] 2 U.S. Government Defendant
- [ ] 4 Diversity *(Indicate Citizenship of Parties in Item III)*

## III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

*(For Diversity Cases Only)*

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | [ ] 1 | [ ] 1 | Incorporated *or* Principal Place of Business In This State | [ ] 4 | [ ] 4 |
| Citizen of Another State | [ ] 2 | [ ] 2 | Incorporated *and* Principal Place of Business In Another State | [ ] 5 | [ ] 5 |
| Citizen or Subject of a Foreign Country | [ ] 3 | [ ] 3 | Foreign Nation | [ ] 6 | [ ] 6 |

## IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

**CONTRACT**
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability
- [ ] 196 Franchise

**REAL PROPERTY**
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

**TORTS**

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury
- [ ] 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- [ ] 365 Personal Injury - Product Liability
- [ ] 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

**CIVIL RIGHTS**
- [ ] 440 Other Civil Rights
- [ ] 441 Voting
- [ ] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 445 Amer. w/Disabilities - Employment
- [ ] 446 Amer. w/Disabilities - Other
- [ ] 448 Education

**PRISONER PETITIONS**

Habeas Corpus:
- [ ] 463 Alien Detainee
- [ ] 510 Motions to Vacate Sentence
- [ ] 530 General
- [ ] 535 Death Penalty

Other:
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition
- [ ] 560 Civil Detainee - Conditions of Confinement

**FORFEITURE/PENALTY**
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 690 Other

**LABOR**
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations
- [ ] 740 Railway Labor Act
- [ ] 751 Family and Medical Leave Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Employee Retirement Income Security Act

**IMMIGRATION**
- [ ] 462 Naturalization Application
- [ ] 465 Other Immigration Actions

**BANKRUPTCY**
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

**INTELLECTUAL PROPERTY RIGHTS**
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 835 Patent - Abbreviated New Drug Application
- [ ] 840 Trademark
- [ ] 880 Defend Trade Secrets Act of 2016

**SOCIAL SECURITY**
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

**FEDERAL TAX SUITS**
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**
- [ ] 375 False Claims Act
- [ ] 376 Qui Tam (31 USC 3729(a))
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 480 Consumer Credit (15 USC 1681 or 1692)
- [ ] 485 Telephone Consumer Protection Act
- [ ] 490 Cable/Sat TV
- [X] 850 Securities/Commodities/ Exchange
- [ ] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 893 Environmental Matters
- [ ] 895 Freedom of Information Act
- [ ] 896 Arbitration
- [ ] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- [ ] 950 Constitutionality of State Statutes

## V. ORIGIN *(Place an "X" in One Box Only)*

- [X] 1 Original Proceeding
- [ ] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation - Transfer
- [ ] 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*: 15 U.S.C. § 78n(a)

Brief description of cause: Materially false or misleading proxy solicitation; declaratory and injunctive relief.

## VII. REQUESTED IN COMPLAINT:

- [ ] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $ Preliminary injunction

CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

## VIII. RELATED CASE(S) IF ANY

*(See instructions)*: JUDGE ________ DOCKET NUMBER ________

DATE 9-16-2026

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # ________ AMOUNT ________ APPLYING IFP ________ JUDGE ________ MAG. JUDGE ________

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,<br><br>Plaintiff,<br><br>v.<br><br>THERIVA BIOLOGICS, INC.,<br>a Nevada corporation,<br><br>Defendant. | **Case No. 3:26-cv-00705**<br><br>**PROPOSED SUPPLEMENTAL MEMORANDUM CONCERNING WARRANT TRANSACTION AND DISCLOSED BACKGROUND**<br><br>Attachment B to motion for leave |

**WITH FINANCIAL SCHEDULES, RESEARCH SUMMARIES, TWELVE DEMONSTRATIVES AND SOURCE EXTRACTS**

Proposed submission under LR 7-2(g).
The Court determines whether and to what extent supplementation is permitted.

Version 11 print edition | Prepared September 19, 2026

# Contents and attachment index

## Nejmeh v. Theriva Biologics, Inc. | Case 3:26-cv-00705

Attachment B | Proposed Supplemental Memorandum Concerning Warrant Transaction and Disclosed Background



Plaintiff signature: PDF page 15. The memorandum retains numbered paragraphs 1-47. The schedules and diagrams are proposed explanatory material submitted with the request for leave.

Source key: S1-S33 = supplied memorandum sources; AS = additional source references; T = Theriva/Synthetic annual reports; H = Heat/NightHawk/Scorpius annual reports. Financial schedules distinguish permanent equity, temporary equity, noncontrolling interests, and source-specific accounting presentations.

Source-derived extracts are labeled as excerpts and include the complete-filing URL. They are not clerk-certified copies. Existing filed exhibits are not represented as refiled by this index.

## I. Scope and connection to the existing action

1. Plaintiff submits this memorandum only with a request for leave under LR 7-2(g). It organizes reported facts for the Court's assessment of relevance to the warrant transaction, corporate review, and requested records identified in complaint paragraphs 75–79 and 89–95. It does not amend the complaint or request additional merits relief.

2. Statements below concerning issuer disclosures describe what the identified sources report. They are not judicial findings. Common directors, advisers, wording, financial losses, or name changes do not by themselves establish intent, coordination, manipulation, or liability. Source identifiers refer to the registers following this memorandum. The explanatory diagrams D1-D12 summarize the identified disclosures and schedules; they are proposed demonstratives rather than independent evidence or judicial findings.

## II. October 2025 warrants and adviser compensation

3. Theriva's October 17, 2025 Form 8-K reports the inducement involving exercise of existing warrants for 8,092,280 shares at $0.54 and issuance of new warrants for 16,184,560 shares. It identifies A.G.P./Alliance Global Partners as exclusive financial adviser and states a contractual cash fee of 7% of gross exercise proceeds, plus specified expenses. Source S1, Item 1.01.

4. Multiplying 8,092,280 by $0.54 gives $4,369,831.20; 7% is $305,888.18. That is arithmetic from the disclosed terms, not proof of the amount actually disbursed. The engagement letter, invoices and payment records would establish the actual compensation.

5. The number of new warrants issued, 16,184,560, is exactly twice the number of shares issued on exercise of the existing warrants, 8,092,280. That ratio is stated by the disclosed terms. It describes the structure of the transaction and does not by itself establish that the structure was improper.

6. The FY2025 annual report separately describes approximately $5.9 million of increased warrant value and a $1.510 million deemed dividend used in determining loss attributable to common stockholders. It explains offsetting equity entries. The deemed dividend is not the adviser's cash fee. Source S2, Note 8 and statement of operations.

7. The proposed relevance is to distinguish transaction consideration, accounting presentation and intermediary compensation when considering the limited records sought concerning the challenged warrants. Neither a fee nor this accounting treatment alone establishes that the warrant approval was invalid.

**III. The two 2023 non-reliance disclosures**

8. Theriva filed an Item 4.02 Form 8-K on March 10, 2023 reporting an Audit Committee determination on March 8. NightHawk filed an Item 4.02 Form 8-K on March 23 reporting a determination on March 17. The filing dates were thirteen days apart; the decision dates were nine days apart. Sources S3–S4.

9. Both concerned the June and September 2022 interim statements and identified BDO USA, LLP. Both discussed acquisition-associated deferred-tax accounting and management-review controls over income taxes. Both directed readers to restated information in the annual report rather than amended quarterly reports. Both stated that the errors did not affect cash, pretax results, or operating expenses. Sources S3–S4.

10. The two filings use the same phrase to describe the control weakness. Theriva states: "The material weakness identified relates to the effectiveness of the Company's management review controls over the computation and disclosure of income taxes." NightHawk states: "The material weakness identified relates to the the ineffective design and implementation of management review controls over the computation and disclosure of income taxes." [The duplication of the word "the" appears in the NightHawk filing as printed.] The phrase "management review

controls over the computation and disclosure of income taxes" is identical in both. Similar or identical wording in two filings does not identify who drafted either one and does not establish coordination between the issuers. Sources S3–S4.

11. The mechanisms were related but distinct. Theriva discussed recognizing a deferred-tax asset at the acquired VCN subsidiary using an existing deferred-tax liability as a source of taxable income. NightHawk discussed release of the acquirer's valuation allowance associated with an Elusys deferred-tax liability. The disclosures explained the accounting; this memorandum does not state that the discrepancies were never explained. Sources S3–S6.

12. Theriva's final interim tax adjustments were $532,000 through June 2022 and $867,000 cumulatively through September; the third-quarter increment was $335,000. Its Note 14 separately presents other adjustments, including a $2.722 million in-process research and development reduction, a $1.033 million goodwill increase, an $845,000 reduction in the current portion of contingent consideration, and a $1.689 million net reduction in total assets, each for June. Offsets produced a $15,000 net equity increase from those other June adjustments. Comparing one gross line with the tax amount does not determine materiality. Source S5, Note 14; Source S30.

13. NightHawk's final Note 17 reports June and September cumulative reductions in net loss of $3.326 million and $3.073 million, respectively. The separate $1.5 million acquisition measurement-period adjustment in Note 3 is not the same item as the restatement correction. A measurement-period adjustment under ASC 805 is a permitted refinement of a provisional purchase-price allocation within the measurement period and is not a correction of an error. Source S6, Notes 3 and 17; Source S32.

**Theriva's pre-existing control disclosure**

14. Theriva's March 10, 2023 Form 8-K reports two material weaknesses, not one. It states that "during the course of the review for the Quarterly Report for the quarter ended March 31, 2022, we identified a material weakness in our controls relating to accounting and disclosure controls for non-routine transactions." It then reports that "in light of the errors described above an additional material weakness in the Company's internal controls over financial reporting existed," relating to "the effectiveness of the Company's management review controls over the computation and disclosure of income taxes." Source S3.

15. The sequence described by that filing is therefore: a control weakness over non-routine transactions identified during the review for the quarter ended March 31, 2022; errors in the accounting for a non-routine transaction, the March 2022 VCN acquisition, recorded in the quarters ended June 30 and September 30, 2022; and detection of those errors when the annual income-tax provision was prepared. This chronology is drawn from the issuer's own disclosure. It does not establish that any person knew of the errors when the interim statements were issued, or that the errors were deliberate. Source S3.

16. NightHawk's March 23, 2023 Form 8-K contains no reference to a previously disclosed or pre-existing material weakness. The two records are parallel in subject matter but are not identical in this respect, and the disclosed pre-existing weakness appears only on the Theriva side. Source S4.

**Controls assessment and audit-firm particulars**

17. Both FY2022 reports assessed year-end disclosure controls and internal control over financial reporting as ineffective, subject to the scope described in each Item 9A. Sources S5–S6, Item 9A.

18. Both FY2022 annual reports identify BDO USA, LLP, PCAOB Firm ID 243. The Theriva audit report was signed from Potomac, Maryland and dated March 30, 2023. The NightHawk audit report was signed from Raleigh, North Carolina and dated March 31, 2023. Sources S19–S22.

19. Both cover pages carry an ICFR auditor attestation flag of false, consistent with non-accelerated filer status. Neither company's internal control over financial reporting was audited by the independent registered public accounting firm. In each case the material weakness was identified and disclosed by management and was not the subject of an auditor attestation. The absence of an ICFR attestation is not the absence of a financial-statement audit and does not establish that the auditor performed no control-related work. Sources S21–S22.

20. The reports identify the same registered firm and the same firm identifier but different office locations, and neither filing identifies engagement personnel. A common firm does not establish common engagement staff. Sources S5–S6, S19–S22.

21. As to going-concern treatment at that date: BDO's consent filed with NightHawk's FY2022 annual report states, "Our report contains an explanatory paragraph regarding the Company's ability to continue as a going concern." BDO's consent filed with Theriva's FY2022 annual report contains no corresponding statement, and Theriva's basis-of-presentation note states that "the Company believes it will be able to fund its operations through the next twelve months from the issuance date of these financial statements." As of two audit reports signed one day apart by the same firm, one issuer's report carried a going-concern explanatory paragraph and the other's did not. This records the two issuers' respective positions at that date and predicts no later outcome for either. Sources S19–S20, S23.

22. Synthetic became Theriva in 2022; Heat became NightHawk in 2022 and later Scorpius in 2024. The March 2023 notices followed the 2022 name changes. The registrants' historical SEC records remain identifiable through their CIK numbers. This chronology does not itself establish

concealment. Sources S2, S5, S6 and S10.

**IV. Rasayana, retained programs and scientific limits**

23. Theriva's FY2025 report describes an exclusive worldwide SYN-020 license to Rasayana, with sublicensing rights, $300,000 upfront, up to $16 million development milestones, up to $22 million sales milestones, royalties and a share of sublicense revenue. Rasayana assumes development cost. Contingent consideration is not cash already received. Source S2, Rasayana License Agreement and subsequent-events disclosures.

24. The narrative states February 17, 2026 for the agreement, while a pipeline footnote states February 7 for the commencement of Rasayana's responsibility. The report describes termination and reversion rights. It does not establish the private licensee's capitalization, actual staffing, or any undisclosed relationship. Its Item 13 does not list the license as a related-party transaction; that omission alone does not prove that related-party disclosure was required. Source S2.

25. SYN-004 is described as a microbiome-protection program addressing specified intravenous antibiotics. SYN-020 is described as an oral intestinal alkaline phosphatase program with Phase 1 studies. VCN-01 was studied with gemcitabine and nab-paclitaxel in metastatic pancreatic cancer. Those are different programs. Source S2, Business.

26. Patent 12,318,434 identifies SYN-020 in a method directed to chemotherapy-associated mucositis; its specification discusses gemcitabine and pancreatic-cancer treatment settings. That provides a potential treatment-support connection for inquiry. It does not establish a tested SYN-020/VCN-01 combination, improved VCN-01 efficacy, or an approved pancreatic-cancer diagnostic. Source S12.

27. Plaintiff identifies valuation, board-review, development-capacity, license-performance and scientific-consultation records as potential subjects if their connection to the pleaded warrant issues is established. Plaintiff requests no injunction against the license or unrelated scientific

programs through this memorandum.

## V. MSD, advisers and disclosed personnel connections

28. The July 28, 2022 purchase agreement names MSD Credit Opportunity Master Fund, L.P. as purchaser in a $3 million preferred-stock investment: $2.2 million Series C and $800,000 Series D. Marcello Liguori signed as Managing Director for the purchaser; Steven Shallcross signed for Synthetic. Company notices copied Leslie Marlow at Blank Rome. Source S7, purchase terms, notices and signature pages.

29. Those documents identify the fund and the signatory; they do not establish that Michael Dell personally selected or managed the investment, that every later portfolio decision was made by Liguori, or that a particular short sale occurred. Plaintiff seeks no finding about personal participation beyond the documented roles.

30. A.G.P./Alliance Global Partners appears in the following ten disclosed transaction or program entries at the two issuers between 2018 and 2025. The October 2025 ATM activity used the May 2024 agreement and is not counted as a separate engagement:

### A.G.P. disclosed transaction and program entries

| Date | Issuer | Transaction | A.G.P. capacity | Source |
|---|---|---|---|---|
| May 2018 | Heat Biologics | Common stock, pre-funded and common warrants | Sole book-running manager | S28 |
| Oct. 2018 | Synthetic Biologics | $20 million mixed securities | Sole book-running manager | S27 |
| Jan. 2020 | Heat Biologics | 20,000,000 shares and 10,000,000 warrants | Sole book-running manager | S9 |
| July 2022 | Synthetic Biologics | MSD $3.0 million placement | Financial adviser to the company | S7; AS21 |

## A.G.P. disclosed transaction and program entries

| Date | Issuer | Transaction | A.G.P. capacity | Source |
|---|---|---|---|---|
| May 2024 | Theriva | At-the-market sales agreement | Sales agent | S2 |
| Dec. 2024 | Theriva | Registered offering | Placement agent | S24 |
| Feb. 2025 | Scorpius | Strategic-alternatives process | Adviser | S10 |
| May 2025 | Theriva | Shares, common and pre-funded warrants | Sole placement agent, 7.0% cash fee | S25 |
| Oct. 2025 | Theriva | Warrant inducement | Exclusive financial adviser, 7.0% of gross exercise proceeds | S1, S26 |
| Oct. 2025 | Theriva | Activity under May 2024 at-the-market agreement | Sales agent | S2 |

The May 2024 at-the-market sales agreement followed termination of the prior agreement with B. Riley Securities, Inc. on May 1, 2024. Source S2.

31. Different engagements carry different capacities, scopes and fees and must be identified separately. The recurrence of one firm across two issuers over seven years establishes firm overlap. It does not establish common personnel, common decision-making, coordinated issuer conduct, or responsibility of the adviser for any issuer decision. Sources S1, S2, S7, S9, S10, S24–S28.

32. The October 2025 warrant inducement identified in complaint paragraphs 75–79 is the most recent of those engagements. Plaintiff offers the preceding engagements only as context for the requested adviser engagement and payment records, and asserts no impropriety as to any earlier transaction.

33. Heat's May 2, 2018 Form S-1/A names Leslie Marlow on the cover and identifies Gracin & Marlow as issuer counsel. The Synthetic/MSD agreement separately identifies her at Blank Rome. Theriva's January 21, 2025 acceleration request to the Commission likewise identifies her. These are documented professional connections. Attorney-client privilege and work-product protection are not displaced by identifying them. Sources S7–S8, S33.

34. Theriva's FY2025 director disclosures identify Jeffrey Wolf and John Monahan; Scorpius's disclosures also identify their roles. Wolf was Heat's founder and chief executive; Monahan was a director, not its operating chief executive. Theriva identifies Wolf as Audit Committee chair and Jeffrey Kraws as board chair. The roles identify possible oversight subjects, not individual responsibility for a disputed event. Sources S2 and S10.

35. Theriva's May 2015 appointment release states that Shallcross previously served as acting CFO of Senseonics. That career link does not establish that he was Senseonics's interim CEO in 2021 or that he participated in a particular later product, financing, or accounting decision. Source S11.

## VI. Historical performance and financial presentation

36. Heat/Scorpius developed clinical programs and later shifted toward contract development and manufacturing. The FY2024 report describes approximately $6 million of CDMO revenue, a $34.3 million net loss, and a $287.2 million accumulated deficit. It also describes the Elusys divestiture to a Wolf-controlled entity, with specified consideration and assumed obligations. These disclosures record both business activity and adverse financial outcomes. Source S10, Business, related-party disclosures and financial statements.

37. The identified completed Heat/Scorpius reverse splits through July 2024 were 1-for-10, 1-for-7 and 1-for-200, a combined 1-for-14,000. The January 2025 announced 1-for-20 split was not effectuated and is excluded. A hypothetical IPO share would represent 1/14,000 of a

post-split share before fractional-share treatment. This is split arithmetic, not aggregate investor loss. Sources S10, S13–S14.

38. Theriva identifies Wolf and Monahan as Avigen co-founders. Avigen's 2006 placement was about $5.37 per share without warrants or other enhancements; its later merger disclosures estimated approximately $1.24 per share, with election and contingent-payment terms. Those different transaction prices do not measure every investor's loss or predict Theriva's future. Sources S2, S15–S16.

39. Theriva reported FY2025 general and administrative expense of $15.447 million versus $7.396 million in 2024. Removing only the reported contingent-consideration remeasurement of $9.031 million and $0.699 million gives $6.416 million and $6.697 million, respectively, a decline of about 4.2%. This arithmetic does not establish cash overhead. Theriva reported a $358.710 million accumulated deficit and $15.383 million stockholders' equity at December 31, 2025. Source S2, statements and contingent-consideration note.

40. Theriva's third-quarter 2025 earnings release separately reports quarterly general and administrative expense of $1.9 million versus $2.3 million. It attributes that quarterly decrease to lower compensation costs, offset by higher contingent-consideration fair value and investor-relations expense. The release identifies the same expense categories discussed above, but its quarterly explanation does not substitute for the full-year figures and reconciliation in paragraph 39. Source S29.

41. The FY2025 contingent-consideration note reports an opening balance of $6,973 thousand, a change in fair value of $9,031 thousand, a reclassification to accrued expenses of $6,000 thousand on achievement of a milestone, and a closing non-current balance of $10,004 thousand. The $6,000 thousand reclassification is a movement between liability captions upon achievement of a milestone. It is an obligation of the company and is not a distribution to common stockholders. Source S2, contingent-consideration note.

42. Long-term annual schedules require consistent treatment of temporary preferred equity, noncontrolling interests, restricted cash, discontinued operations and later comparative reclassifications. Schedules F1-F8 and A1, incorporated here as explanatory summaries, present annual balances, costs, cash flows, reconciliations and share arithmetic with filing-specific sources. They are not an audited damages calculation. In particular, assets less liabilities cannot automatically be labeled common or permanent stockholders' equity. The Court is not asked to infer shareholder trading losses from accumulated deficit or operating cash use. Sources S17–S18 and the T/H annual-report register accompanying those schedules.

## VII. Potential testimony and scope of any records request

43. Plaintiff identifies Steven Shallcross, Jeffrey Wolf, John Monahan, Jeffrey Kraws, the responsible A.G.P. personnel, the named MSD fund and its appropriate records representative, and Marcello Liguori as potential sources of transaction-specific facts if relevance and personal knowledge are established. This memorandum does not issue a subpoena or establish that each person must testify.

44. Plaintiff also identifies Michael Kaleko, Sheila Connelly, Mary Ann Shallcross, and an appropriate Rasayana representative as potential sources concerning actual scientific, employment or licensing work. It attributes no unrecorded statement to them and does not characterize anyone as an intern, nominee, pawn or unfunded insider without supporting evidence.

45. Auditor testimony would concern the actual engagement, financial-reporting and control subjects supported by relevant records. The shared BDO firm name does not identify the same engagement staff. Leslie Marlow's possible testimony is limited to discoverable nonprivileged facts. A person's alumni or athletic history alone does not establish knowledge of the MSD investment; no finding concerning Byron Trott's participation is requested.

46. Potential records include executed transaction agreements, board and committee materials, valuation files, holder and capitalization records, adviser engagement and payment records, and program-level accounting records, only to the extent the Court permits relevant and proportional discovery. Schedules R1-R3 preserve the adviser chronology, potential witnesses and records subjects. A general demand for all former employees, payroll, laboratory receipts or another company's files is not made through this memorandum.

## VIII. Requested use

47. Plaintiff asks the Court to consider the portions permitted by its order when evaluating the already requested warrant-related records and relief. The Court may exclude historical or scientific background found unrelated to the pleaded claims. No inference of guilt, fraud, commingling, intentional shareholder destruction, or an inevitable merger is requested from the fact of a disclosed relationship or comparison alone.

**PLAINTIFF SIGNATURE**

**Proposed Supplemental Memorandum Concerning Warrant Transaction and Disclosed Background**

Nejmeh v. Theriva Biologics, Inc. | Case No. 3:26-cv-00705

Respectfully submitted,

Dated: 9/19/2026

Signature: ______

Mark Joseph Nejmeh
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# F1 | Theriva / Synthetic balance sheets

USD millions. Year-end balances; parentheses indicate negative values. Source column identifies the filed balance sheet. 2015 uses the 2016 comparative.

| Year | Cash | Assets | Liabilities | Temporary equity | Total equity | Source |
|---|---|---|---|---|---|---|
| 2015 | 20.818 | 30.845 | 15.842 | 0.000 | 15.003 | T2016 |
| 2016 | 19.055 | 22.498 | 20.249 | 0.000 | 2.249 | T2016 |
| 2017 | 17.116 | 18.838 | 10.195 | 12.053 | (3.410) | T2017 |
| 2018 | 28.918 | 30.141 | 3.686 | 12.296 | 14.159 | T2018 |
| 2019 | 15.045 | 17.235 | 5.748 | 12.544 | (1.057) | T2019 |
| 2020 | 6.227 | 8.410 | 3.152 | 12.798 | (7.540) | T2020 |
| 2021 | 67.325 | 70.365 | 4.957 | 0.000 | 65.408 | T2021 |
| 2022 | 41.786 | 71.861 | 17.297 | 2.734 | 51.830 | T2022 |
| 2023 | 23.177 | 55.219 | 15.522 | 2.734 | 36.963 | T2023 |
| 2024 | 11.609 | 35.352 | 16.285 | 0.000 | 19.067 | T2024 |
| 2025 | 13.056 | 38.239 | 22.856 | 0.000 | 15.383 | T2025 |

Cash excludes separately reported restricted cash. Temporary equity is shown separately from both liabilities and permanent stockholders' equity. Total equity includes noncontrolling interest where presented. The identity is assets = liabilities + temporary equity + total equity.

The older tables' "assets minus liabilities" column was not consistently permanent stockholders' equity. This schedule replaces that labeling; it does not simply remove the affected years.

# F2 | Theriva / Synthetic operating and financing record

USD millions for each full calendar year. Stock compensation is a component/reconciling item, not an amount to add again to reported expenses.

| Year | R&D | G&A | Stock comp. | Operating cash flow | Financing cash flow | Source |
|---|---|---|---|---|---|---|
| 2015 | 32.906 | 8.074 | 3.198 | (38.890) | 42.684 | T2016 |
| 2016 | 29.109 | 10.143 | 4.009 | (27.901) | 26.707 | T2016 |
| 2017 | 18.784 | 7.467 | 3.409 | (20.204) | 18.477 | T2017 |
| 2018 | 11.844 | 5.727 | 2.074 | (17.279) | 29.088 | T2018 |
| 2019 | 11.083 | 4.580 | 0.340 | (13.873) | 0.000 | T2019 |
| 2020 | 5.131 | 5.029 | 0.350 | (12.168) | 3.359 | T2020 |
| 2021 | 7.800 | 6.474 | 0.416 | (12.890) | 74.002 | T2021 |
| 2022 | 11.723 | 9.858 | 0.475 | (19.082) | (1.930) | T2022 |
| 2023 | 14.311 | 7.120 | 0.552 | (18.996) | 0.625 | T2023 |
| 2024 | 12.031 | 7.396 | 0.671 | (16.937) | 5.496 | T2024 |
| 2025 | 8.604 | 15.447 | 0.654 | (16.669) | 18.193 | T2025 |

2015-2025 operating cash outflow: $214.889M. Net financing cash inflow: $216.701M. Matched 2015-2024 operating outflow: $198.220M. Totals use source amounts before rounding. Net financing includes debt/equity transactions and repayments; it is not gross share-sale proceeds.

2025 G&A reconciliation: $15.447M less $9.031M fair-value change = $6.416M. 2024: $7.396M less $0.699M = $6.697M. The remainder fell $0.281M (about 4.2%); it is not a cash-payroll measure.

# F3 | Heat / NightHawk / Scorpius balance sheets

USD millions. Same SEC registrant, CIK 1476963. Cash is consolidated cash; see F5 for the 2022 discontinued-operations presentation.

| Year | Cash | Assets | Liabilities | Parent equity | Total equity | Source |
|---|---|---|---|---|---|---|
| 2015 | 4.940 | 13.218 | 10.723 | 4.051 | 2.495 | H2016 |
| 2016 | 7.843 | 8.897 | 2.057 | 8.797 | 6.840 | H2016 |
| 2017 | 9.763 | 20.189 | 14.409 | 7.371 | 5.781 | H2017 |
| 2018 | 22.154 | 37.764 | 7.521 | 30.290 | 30.243 | H2018 |
| 2019 | 9.040 | 25.957 | 12.799 | 13.572 | 13.158 | H2019 |
| 2020 | 10.932 | 124.195 | 8.701 | 116.239 | 115.494 | H2020 |
| 2021 | 8.054 | 120.961 | 8.928 | 113.108 | 112.034 | H2021 |
| 2022 | 8.435 | 104.397 | 31.960 | 73.923 | 72.437 | H2022 |
| 2023 | 0.185 | 51.038 | 22.743 | 31.397 | 28.294 | H2023 |
| 2024 | 1.028 | 39.178 | 37.500 | 6.300 | 1.677 | H2024 |

Total equity includes noncontrolling interests. In 2024: parent equity $6.299620M plus noncontrolling interest ($4.622142M) = total $1.677478M. The 2020 comparison uses consolidated equity of $115.493923M.

2020 asset growth accompanied net financing inflows of $119.329057M and approximately $100.8M of short-term investments. This balance-sheet growth is not operating revenue. Source H2020.

# F4 | Heat / NightHawk / Scorpius costs and cash flows

USD millions. Research and G&A/SG&A amounts below cover the group, with specific reclassifications and reconstruction explained in F5.

| Year | Research | G&A / SG&A | Stock comp. | Operating cash flow | Financing cash flow | Source |
|---|---|---|---|---|---|---|
| 2015 | 16.666 | 4.356 | 1.574 | (17.447) | 15.011 | H2016 |
| 2016 | 9.331 | 4.138 | 0.583 | (13.524) | 9.803 | H2016 |
| 2017 | 8.268 | 6.371 | 0.689 | (6.403) | 8.769 | H2017* |
| 2018 | 16.233 | 7.025 | 0.789 | (21.712) | 40.119 | H2018 |
| 2019 | 13.014 | 9.431 | 3.270 | (12.838) | 0.019 | H2019 |
| 2020 | 12.939 | 14.934 | 6.378 | (22.021) | 119.329 | H2020 |
| 2021 | 16.455 | 16.828 | 6.169 | (38.129) | 25.490 | H2021* |
| 2022 | 23.461 | 21.131 | 4.086 | (5.700) | (4.907) | H2022 |
| 2023 | 22.670 | 27.517 | 2.628 | (31.533) | (8.952) | H2023* |
| 2024 | 14.327 | 21.571 | 1.034 | (26.007) | 25.636 | H2024 |

2015-2024 operating outflow: $195.312889M. Net financing inflow: $230.316859M. 2016-2024 operating outflow: $177.865474M. These figures are corporate cash flows, not aggregate stock-market losses.

*2017 operating cash flow: later H2018 comparative. 2021 research: H2022 comparative excluding separately presented IPR&D impairment. 2023 research and SG&A: continuing plus discontinued operations, reconstructed from H2023 (F5).

# F5 | Presentation bridges and cost changes

These bridges explain why different source presentations cannot be mixed without disclosure.

| Subject | Source presentation / calculation |
|---|---|
| Theriva 2020 equity | $8.410M assets - $3.152M liabilities = $5.258M. That comprises $12.798M temporary preferred equity and ($7.540M) permanent consolidated equity. T2020. |
| Theriva 2022-2023 temporary equity | Series C $2.006M + Series D $0.728M = $2.734M outside permanent stockholders' equity. T2022-T2023. |
| Heat 2015 research | FY2016 comparative R&D of $16.666335M incorporates research plus clinical/regulatory categories previously presented separately. H2016. |
| Heat 2017 operating cash flow | FY2017 statement: ($6.303672M). Later FY2018 comparative: ($6.402551M), used here. Difference: $0.098879M. This schedule identifies the actual presentation used without calling the difference missing money. H2017-H2018. |
| NightHawk 2021 R&D | $18.821278M original R&D includes $2.366M IPR&D impairment later shown separately; later comparative R&D $16.455278M is used. H2021-H2022. |
| NightHawk 2022 cash | $3.191714M continuing-operation cash + $5.242840M cash in discontinued operations = $8.434554M consolidated cash. H2023. |
| Scorpius 2023 R&D | $20.119791M continuing + $2.549959M discontinued = $22.669750M group amount. H2023. |
| Scorpius 2023 SG&A | $26.170221M continuing + $1.346565M discontinued = $27.516786M group amount. H2023. |

# F6 | NightHawk 2022 operating cash reconciliation

USD millions. All operating reconciliation rows are shown, in filing order. Source H2022, consolidated statement of cash flows.

| Reported item | 2022 ($M) |
|---|---|
| Net loss | (43.862) |
| Goodwill impairment loss | 0.000 |
| In-process R&D impairment loss | 3.500 |
| Depreciation and amortization | 2.115 |
| Amortization of intangible asset | 1.031 |
| Noncash lease expense | 0.117 |
| Noncash interest expense | 0.000 |
| Stock-based compensation | 4.086 |
| Change in fair value of common stock warrants | (0.011) |
| Change in fair value of contingent consideration | (3.452) |
| Unrealized loss on investments | 1.701 |
| Deferred tax liability | (3.289) |
| Accounts receivable | (0.016) |
| Grant receivable | (0.206) |
| Prepaid expenses and other current assets | 0.059 |
| Income tax refund receivable | 0.444 |
| Contract receivables | 24.526 |
| Inventory | 5.844 |
| Right-of-use assets | (12.158) |
| Other assets | 12.234 |
| Deposits | (0.065) |
| Accounts payable | 3.299 |
| Deferred revenue | 1.583 |
| Accrued expenses and other liabilities | (3.126) |
| Other long-term liabilities | (0.054) |
| Net Cash Used In Operating Activities | (5.700) |

The Elusys acquisition, investment sales, equipment purchases, and contingent payments also appear in investing/financing sections. The operating total is one cash-flow category.

# F7 | Accumulated deficit, equity, and milestone obligations

USD millions. Accumulated deficits shown as negative balances; they are not a schedule of shareholder trading losses.

| Year | Theriva accumulated deficit | Scorpius accumulated deficit |
|---|---|---|
| 2015 | (144.779) | (44.431) |
| 2016 | (172.034) | (57.005) |
| 2017 | (194.170) | (68.846) |
| 2018 | (219.461) | (84.580) |
| 2019 | (235.537) | (104.598) |
| 2020 | (248.094) | (130.647) |
| 2021 | (271.284) | (165.719) |
| 2022 | (290.969) | (209.154) |
| 2023 | (309.318) | (254.371) |
| 2024 | (334.971) | (287.179) |
| 2025 | (358.710) | Not in this annual series |

Grifols / VCN contingent consideration (T2025): beginning $6.973M + fair-value change $9.031M - milestone reclassification $6.000M = ending $10.004M. Separately, the report states $1M paid toward the achieved $6M milestone and $5M deferred. The potential $70.2M maximum is not the carrying value.

# F8 | Outstanding shares and ownership arithmetic

Dated common-share counts; split adjustments and fractional-share treatment matter. These calculations do not measure dollar losses.

| Theriva date | Outstanding shares | Source |
|---|---|---|
| Aug. 26, 2024, post-split | 1,005,249 (approximate) | AS19 |
| Dec. 31, 2024 | 2,782,449 | T2025 balance sheet |
| Dec. 31, 2025 | 35,688,350 | T2025 balance sheet |
| Apr. 23, 2026 | 45,892,668 | AS20 preliminary proxy |

| Calculation | Result |
|---|---|
| Aug. 2024 to Apr. 2026 increase | 44,887,419 shares; 45.6530x starting count; +4,465.30%. |
| Unchanged-share holder: relative ownership | Earlier percentage x 1,005,249 / 45,892,668 = about 2.19% of prior percentage. |
| Dec. 2024 to Dec. 2025 increase | 32,905,901 shares; approximately 12.8262x starting count. |
| Scorpius: Dec. 2023 to Dec. 2024 | 130,979 to 5,083,268 (same retrospective split basis in H2024); +4,952,289 shares; 38.8098x. |
| Static full-warrant exercise scenario | 45,892,668 + 16,184,560 = 62,077,228. Existing shares: about 73.93% of hypothetical total. Not a current-capitalization finding. |

Theriva completed split factor: 35 x 10 x 25 = 8,750. Heat/Scorpius through July 2024: 10 x 7 x 200 = 14,000. January 2025 proposed 1-for-20 was not effectuated. A reverse split alone does not dilute percentage ownership.

# A1 | Theriva June 2022 restatement columns

Selected Note 14 rows, USD thousands. The filing's other-adjustments column is distinct from the income-tax restatement.

| Item | Previously reported | Tax correction | Other adjustments | Restated |
|---|---|---|---|---|
| IPR&D | 20,562 | 0 | (2,722) | 17,840 |
| Goodwill | 5,185 | 0 | 1,033 | 6,218 |
| Total assets | 82,331 | 0 | (1,689) | 80,642 |
| Deferred tax liability, net | 3,505 | (532) | (680) | 2,293 |
| Total liabilities | 20,657 | (532) | (1,704) | 18,421 |
| Total equity | 61,674 | 532 | 15 | 62,221 |

Source T2022, Note 14. Gross IPR&D adjustment / tax adjustment = 2,722 / 532 = 5.12. Other adjustments' total-asset reduction / tax adjustment = 1,689 / 532 = 3.17. Offsets leave a $15K net equity increase in the other-adjustments column. Ratios alone do not resolve materiality.

NightHawk final Note 17 (H2022) reports a $3.326M cumulative net-loss reduction through June and $3.073M through September. The separate $1.5M measurement-period intangible adjustment in Note 3 is not the same correction.

# R1 | A.G.P. engagement chronology

Nine disclosed engagements. Stages and legal capacities remain distinct. No shared banker is inferred merely from the firm name.

This schedule counts nine engagements. The memorandum also identifies October 2025 activity under the May 2024 ATM agreement; that activity is not counted as a tenth agreement.

| Date / issuer | Documented capacity | Source / evidentiary stage |
|---|---|---|
| May 2018 / Heat | Sole bookrunner | AS8 preliminary S-1/A; Euro Pacific identified as co-manager. Not proof of closing. |
| Oct. 2018 / Synthetic | Offering intermediary identified | AS22 free-writing prospectus; final closing must be established separately. |
| Jan. 2020 / Heat | Sole bookrunner | AS9 final prospectus; Arcadia and Maxim co-managers. |
| July 2022 / Synthetic | Financial adviser | AS21; $175,000 cash fee plus up to $40,000 expenses stated. |
| May 2024 / Theriva | ATM sales agent | T2025; May 2 sales agreement. |
| Dec. 2024 / Theriva | Placement agent | AS23 filed form agreement; 7% terms, not independent closing proof. |
| Feb. 2025 / Scorpius | Strategic-alternatives adviser | H2024, subsequent events. |
| May 2025 / Theriva | Sole placement agent | AS24 final prospectus; 7% plus expenses. |
| Oct. 2025 / Theriva | Exclusive financial adviser | AS1, AS26, T2025; 7% plus specified expenses. |

# R2 | Potential witnesses and knowledge

An organized investigation list, not subpoenas, a ruling on relevance, or a representation that each individual has firsthand knowledge.

| Person / entity | Proposed knowledge or records |
|---|---|
| Steven Shallcross | Executive authority; warrants; MSD transaction; capital allocation; VCN/Grifols; license; strategic alternatives. |
| Jeffrey Wolf | Theriva audit oversight; Heat/Scorpius leadership; Pelican/Elusys interests; board and transaction records. |
| John Monahan | Scientific and board roles; audit/compensation oversight; minutes and individual participation. |
| Jeffrey Kraws | Theriva chairmanship; financing and strategic oversight; board materials and votes. |
| Michael Kaleko; Sheila Connelly | Their actual scientific work, studies, IP, spending, program transitions, and any licensing consultation. |
| Mary Ann Shallcross | Disclosed clinical-operations duties and compensation; firsthand program knowledge. Relationship alone supplies no Rasayana connection. |
| Leslie Marlow | Identified issuer-counsel roles and nonprivileged transaction facts, subject to privilege and work product. |
| Marcello Liguori / MSD fund | 2022 purchaser-signature role; authorization, portfolio personnel, conversions, votes, transfers, and records custodian. |
| Rasayana representative | Formation, owners, officers, capitalization, funding, staffing, development plan, payments, sublicenses, and license performance. |
| A.G.P. representatives | Engagement scope, responsible bankers, allocations, instructions, fees, expenses, and payments for identified transactions. |
| BDO engagement / records witness | Actual engagement personnel, financial statements, controls, valuation, restatement entries and audit communications, as discoverable. |
| William Ostrander / Scorpius financial personnel | Actual financial-reporting roles, records, costs, liquidity, related-party and discontinued-operation accounting. |
| Byron Trott (unresolved lead) | Whether he has transaction-specific knowledge. Neither an alumni link nor later firm leadership establishes participation in the 2022 deal. |

# R3 | Records and unanswered questions

| Subject | Records needed / question tested |
|---|---|
| Capitalization and warrants | Dated share ledgers, executed holder agreements, exercise notices, cash receipts, transfer-agent records, and fractional-share treatment. Which issuances changed the denominator? |
| Rasayana capacity and valuation | Formation/officer records, cap table, financing and bank-funding records, actual staffing, lab arrangements, executed license and schedules, valuation, milestones and reversion terms. |
| Scientific asset relationship | SYN-004, SYN-020 and VCN-01 program files; patents; preclinical and clinical data; consultation records; valuation of any complementary uses. |
| Employee and overhead allocation | Dated employee rosters, payroll summaries by function, consulting contracts, program ledgers, laboratory and equipment invoices, allocations, facilities agreements and approval records. |
| MSD investment personnel | Deal memorandum, investment approvals, portfolio assignments, custody, beneficial ownership, conversion/voting instructions, transfers and transaction communications. |
| Audit and accounting corrections | Tax-provision work, acquisition valuation inputs, management-review evidence, corrected entries and engagement records for the relevant periods. |
| Board and adviser roles | Minutes, consents, conflicts/recusals, budgets, engagement letters, allocation records, fee calculations and payments tied to specific transactions. |

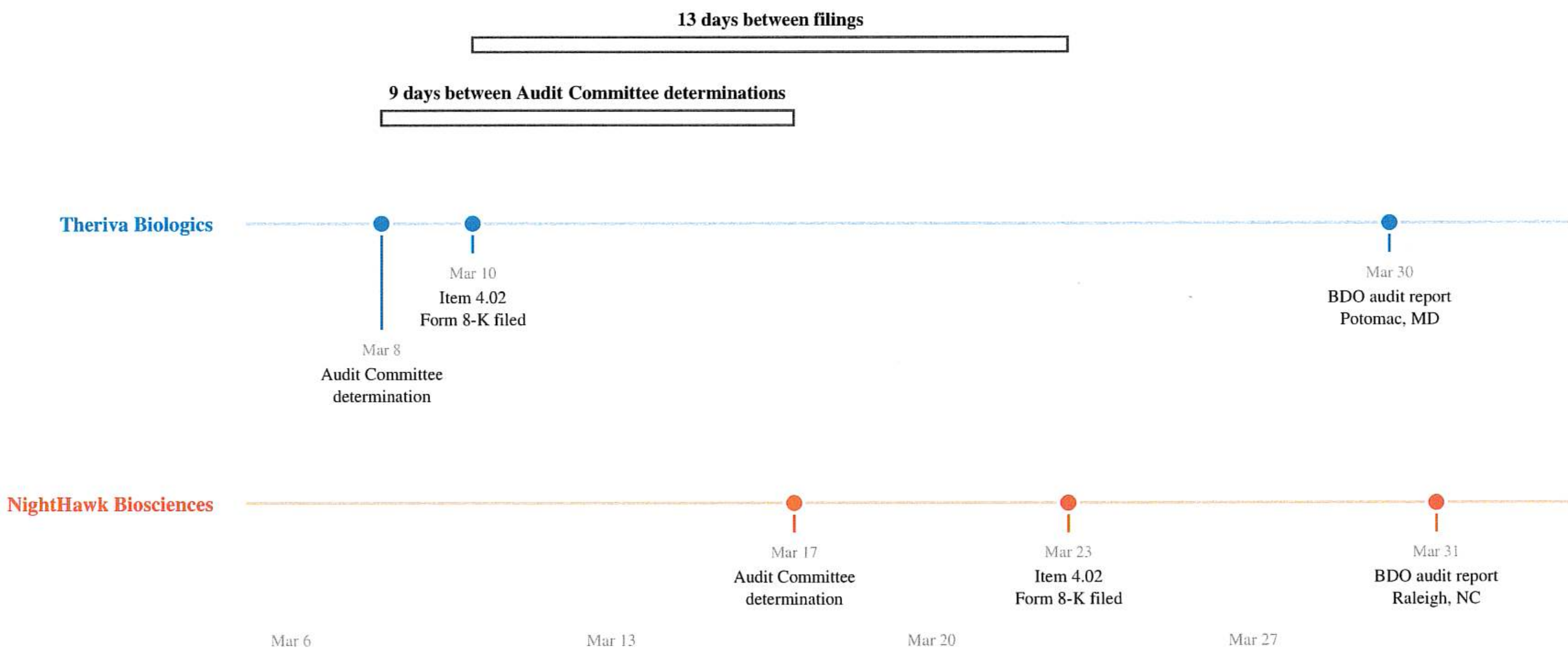
Dates, custodians, relevance and proportionality must be defined before an actual discovery request. Personal payroll identifiers and privileged communications require appropriate handling. No broad production order is created by this schedule.

Source basis: memorandum paragraphs 23-35 and 43-46; S2, S7, S10-S12; AS21 and AS28. Requested testimony remains subject to relevance, personal knowledge, applicable procedure and privilege.

**Attachment B | Demonstrative D1**

# Demonstrative 1 — Two Item 4.02 non-reliance notices, March 2023

Same two interim periods (Q2 and Q3 2022). Same audit firm, BDO USA, LLP, PCAOB Firm ID 243.



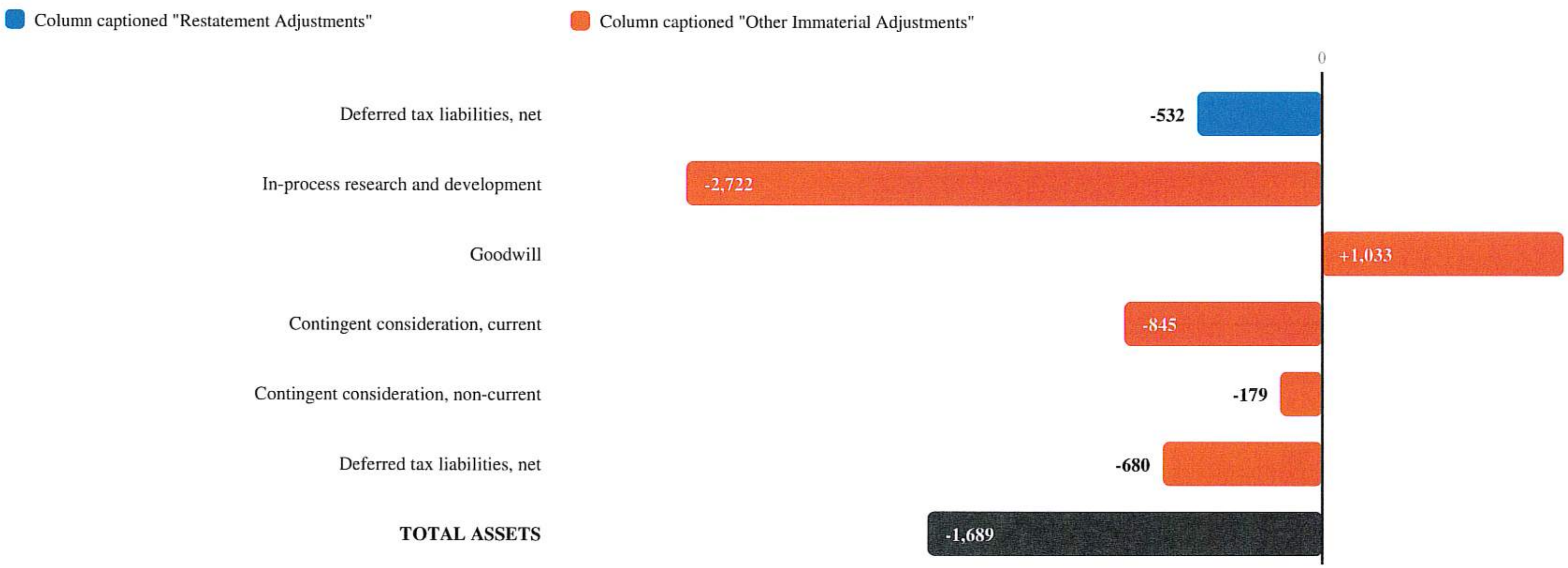

Both filings state the conclusion was reached in consultation with BDO USA, LLP. The two audit reports were signed from different offices, one day apart.

Sources: S3 (Theriva Form 8-K, Mar. 10, 2023) · S4 (NightHawk Form 8-K, Mar. 23, 2023) · S19–S22 (audit reports and cover-page audit tags).
Demonstrative summary of filing dates only. Not evidence of coordination.

**Attachment B | Demonstrative D2**

## Demonstrative 2 — Theriva restated balance sheet at June 30, 2022

The company presented its corrections in two separate columns. Dollars in thousands, as printed in Note 14.




The item that caused the Item 4.02 non-reliance notice was the $532 restatement adjustment. The reduction in in-process research and development in the adjoining column is 5.1 times that amount; the net reduction in total assets is 3.2 times that amount.

Offsets within the second column produced a net increase in stockholders equity of $15. Comparing one gross line with the tax amount does not determine materiality. The classification shown is the company's own.

Source: S5 / S30 — Theriva FY2022 Form 10-K, Note 14, restated consolidated balance sheets. Every column foots as printed.

**Attachment B | Demonstrative D3**

## Demonstrative 3 — Heat / NightHawk / Scorpius completed reverse stock splits

Completed splits through July 2024. Split arithmetic only. This is not a measure of aggregate investor loss.

**1-for-10** completed × **1-for-7** completed × **1-for-200** completed = **1-for-14,000** combined factor

10 × 7 × 200 = 14,000

One share held before the first split would represent 1/14,000 of a post-split share, before fractional-share treatment.

**Excluded: the January 2025 1-for-20 split**

Announced January 16, 2025 and reported the following day as a split that "will not be effectuated." It is therefore not included in the combined factor above.

Sources: S10 (Scorpius FY2024 Form 10-K) · S13 (Heat FY2020 Form 10-K, Item 5, the December 11, 2020 1-for-7) · S14 (Scorpius Form 8-K, Jan. 17, 2025).

This demonstrative supersedes any earlier chart in this matter stating a combined factor of 1-for-2,000 or 1-for-40,000. Those figures were incorrect.

## Demonstrative 4 — A.G.P. / Alliance Global Partners engagements at both issuers, 2018–2025

Ten disclosed entries; October 2025 ATM activity uses the May 2024 agreement. Nine engagements; distinct roles and fees.

Theriva / Synthetic Biologics    Heat / NightHawk / Scorpius

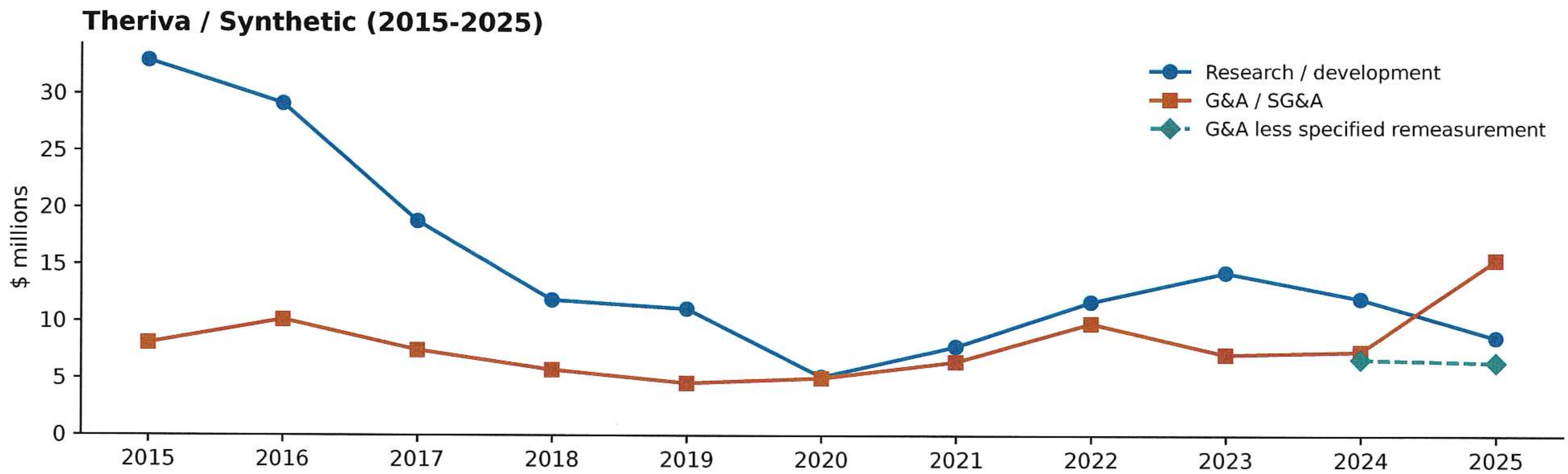
| Date | Issuer | Transaction | A.G.P. capacity | Source |
|---|---|---|---|---|
| **May 2018** | Heat Biologics | Common stock, pre-funded and common warrants | Sole book-running manager | S28 |
| **Oct 2018** | Synthetic Biologics | $20 million mixed securities offering | Sole book-running manager | S27 |
| **Jan 2020** | Heat Biologics | 20,000,000 shares and 10,000,000 warrants | Sole book-running manager | S9 |
| **Jul 2022** | Synthetic Biologics | MSD $3.0 million preferred placement | Financial adviser to the company | S7; AS21 |
| **May 2024** | Theriva Biologics | At-the-market sales agreement | Sales agent | S2 |
| **Dec 2024** | Theriva Biologics | Registered offering | Placement agent | S24 |
| **Feb 2025** | Scorpius Holdings | Strategic-alternatives process | Adviser | S10 |
| **May 2025** | Theriva Biologics | Shares, common and pre-funded warrants | Sole placement agent, 7.0% cash fee | S25 |
| **Oct 2025** | Theriva Biologics | Warrant inducement | Exclusive financial adviser, 7.0% of gross exercise proceeds | S1, S26 |
| **Oct 2025** | Theriva Biologics | Activity under May 2024 ATM agreement | Sales agent | S2 |

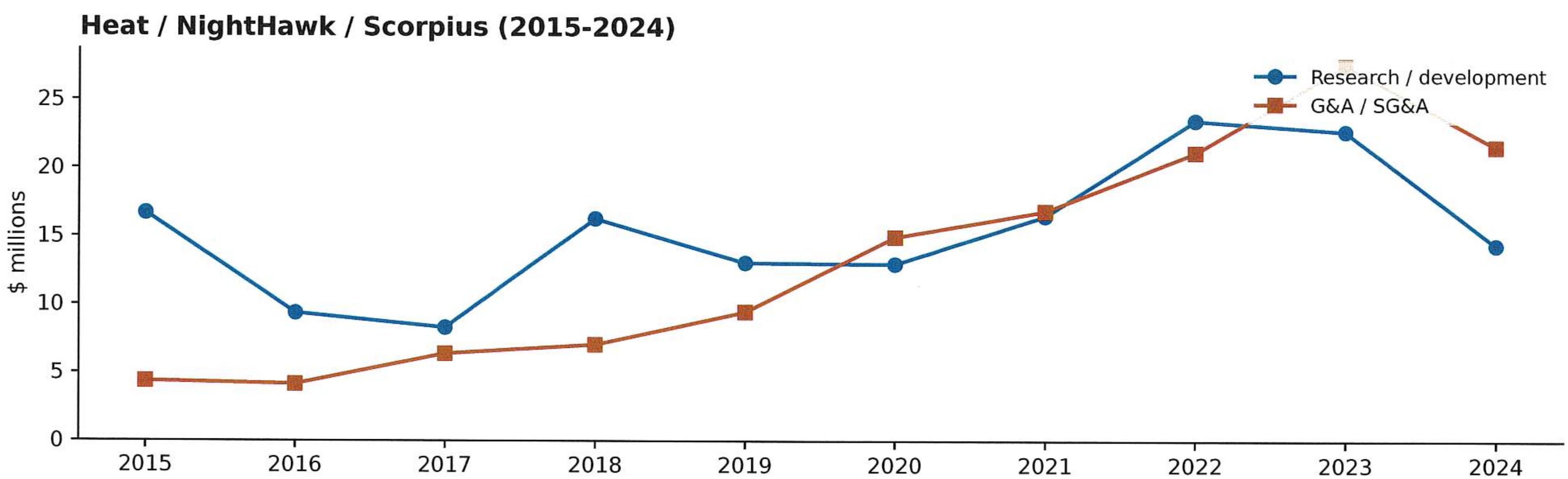
The October 2025 warrant inducement identified in complaint paragraphs 75–79 is the most recent of these engagements. The preceding engagements are offered as context only; no impropriety is asserted as to any of them.

The recurrence of one firm across two issuers over seven years establishes firm overlap. It does not establish common personnel, common decision-making, coordinated issuer conduct, or responsibility of the adviser for any issuer decision.

# D5 | Research and overhead across the reporting years

USD millions. Full annual series; group cost reconstruction and category changes are disclosed in F5.

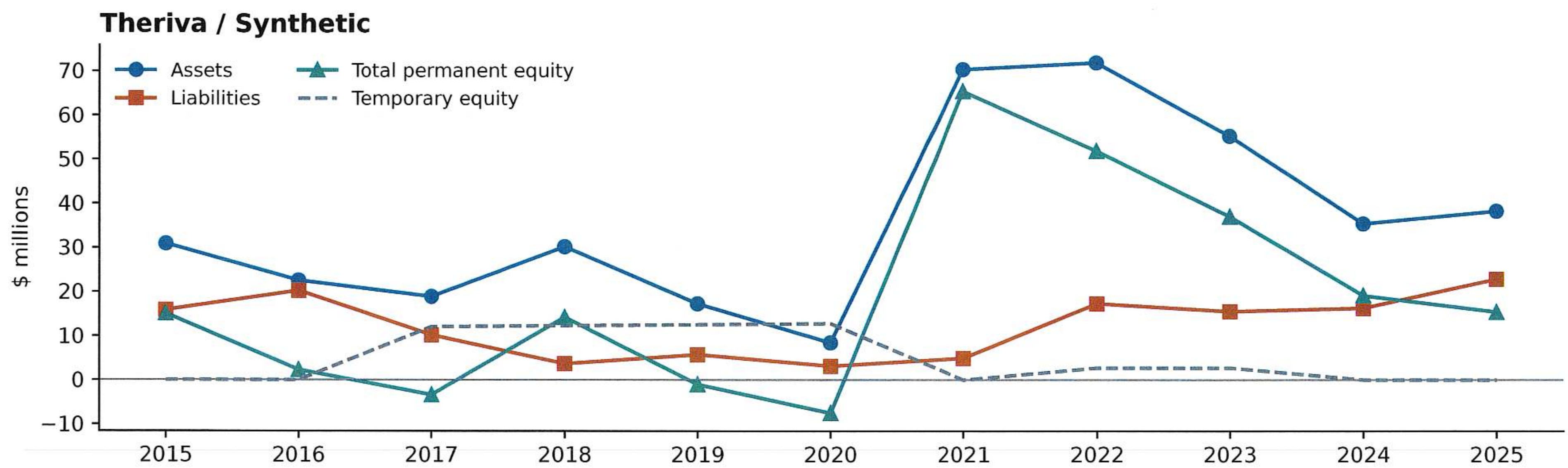


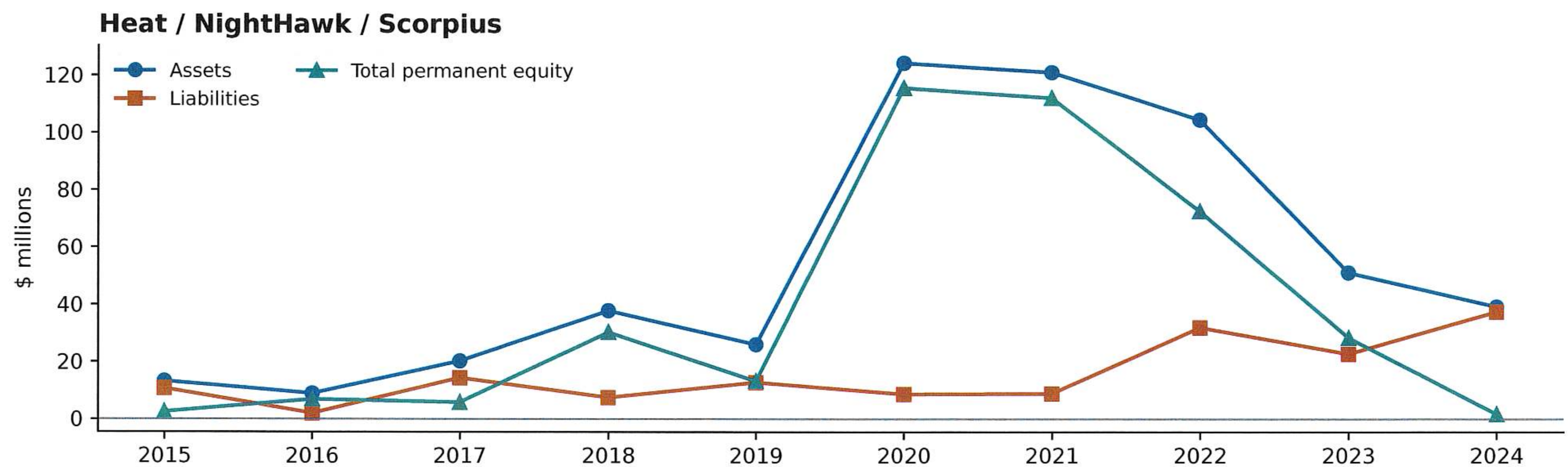




Source: F2/F4/F5 and T/H annual reports. Expenses are not payroll; adjusted G&A is not cash G&A.

# D6 | Balance-sheet changes

USD millions. Consolidated equity includes noncontrolling interests where presented.

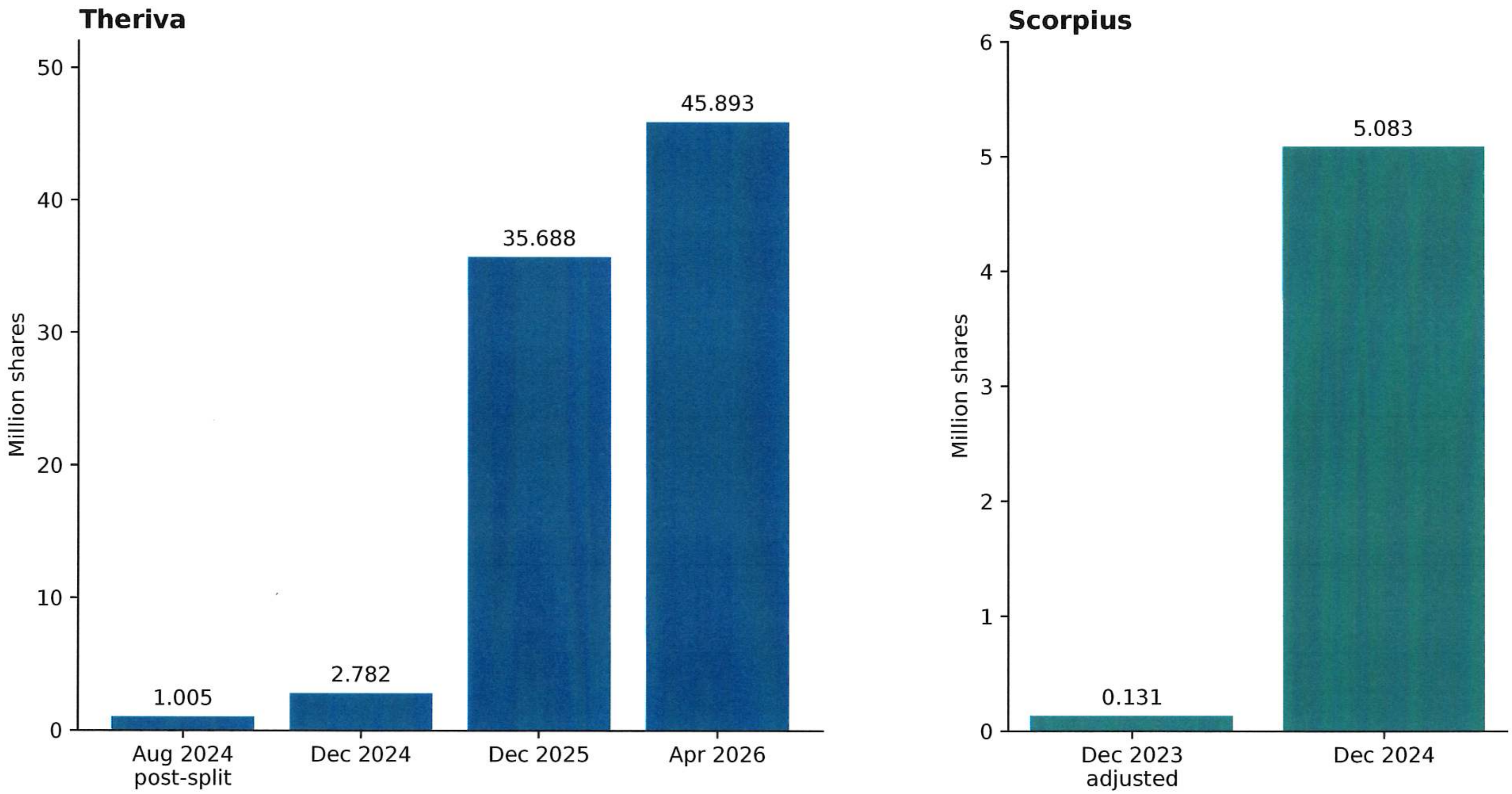



Sources: F1/F3/F5. Assets less liabilities includes temporary equity. These balances are not stock-market value.

# D7 | Outstanding-share growth

Share counts and reverse splits are different measurements. Dollar losses are not calculated here.




Theriva: 45.653x the disclosed post-split count by April 23, 2026 (about twenty months).

Scorpius: 38.810x the December 2023 adjusted count by December 31, 2024.

Completed split factors: Theriva 1-for-8,750; Heat/Scorpius 1-for-14,000 through July 2024.

Sources: F8; AS19/AS20; T2025/H2024. Post-split approximation and fractional-share treatment apply.

# D8 | Biology and the SYN-020 valuation question

Solid arrows identify reported program or patent relationships. Dashed arrow identifies an unanswered scientific/valuation question.

### VCN-01 + chemotherapy

VIRAGE Phase 2b: VCN-01 with gemcitabine and nab-paclitaxel in metastatic pancreatic cancer.

### Reported disease setting

Newly diagnosed metastatic pancreatic ductal adenocarcinoma.

### SYN-020 / Patent 12,318,434

Specified-sequence alkaline phosphatase; claimed chemotherapy-associated mucositis method.

### Patent specification

Names gemcitabine and pancreatic-cancer treatment settings.

### Question preserved for valuation and testimony

Was any complementary supportive-care value evaluated before the Rasayana license? A joint clinical benefit is not established.

### SYN-004 is a separate program

Ribaxamase: protection against antibiotic-associated microbiome injury; partnership/funding contingency disclosed.

Sources: Memo IV; T2025; AS12/AS28. Neither a pancreatic-cancer diagnostic nor a tested SYN-020/VCN-01 combination is established.

# D9 | Shared disclosed professional roles

The diagram identifies roles, not common control, intent, personal trading, or responsibility for every transaction.

### Theriva / Synthetic

Wolf: director since 2006; Audit chair.
Monahan: R&D/adviser; director since 2020.
Kraws: director since 2006; chair since 2012.

### Heat / NightHawk / Scorpius

Wolf: founder and chief executive.
Monahan: director since 2009.
Monahan was not the operating CEO.

### Overlapping directors

Jeffrey Wolf and John Monahan hold disclosed roles at both issuers in the periods described.

### A.G.P. / Alliance Global Partners

Theriva: identified financing/advisory roles.
Heat: 2020 sole bookrunner.
Scorpius: 2025 strategic adviser.
Nine-engagement schedule: R1.

### Leslie Marlow / issuer counsel

Synthetic/MSD: Blank Rome notices (2022).
Heat S-1/A: Gracin & Marlow (2018).
Nonprivileged facts only; no blanket attribution.

Sources: Memo V; R1; T2025/H2024; AS7/AS8/AS9. Common firm names do not establish shared individual engagement staff.

# D10 | MSD transaction and Rasayana license

Separate legal entities and separate transactions. Only the source-identified representative roles are asserted.

### MSD Credit Opportunity Master Fund, L.P.

July 28, 2022: $3.0M preferred purchase.
$2.2M Series C + $0.8M Series D.
Marcello Liguori signed as Managing Director.

### Rasayana Therapeutics

2026: exclusive worldwide SYN-020 license.
$300,000 upfront; milestones up to $38M.
Royalties and sublicense share; reversion terms.

### Theriva / Synthetic

Steven Shallcross signed the MSD agreement.
Leslie Marlow copied for company notices.
Theriva reported the Rasayana license.

### MSD questions retained

Identify actual investment decision-makers, portfolio managers, conversions, votes and transfers. No personal investment decision is attributed to Michael Dell or Byron Trott.

### Rasayana questions retained

Formation, owners, funding, staffing, scientific capacity, development obligations and the February 7 / February 17 date discrepancy.

Sources: Memo IV-V; AS7/AS21; T2025. Milestones are contingent. The license is not described as an outright sale without retained rights.

# D11 | Accounting corrections and name chronology

Comparable disclosure sequences at two continuous SEC registrants; distinct acquisition-tax mechanisms.

## Theriva / CIK 894158

### 2022 acquisition and name

VCN acquired in March; Synthetic renamed Theriva in October.

### March 10, 2023 filing

Item 4.02; decision March 8. June and September 2022 interim statements restated.

### Annual explanation and controls

VCN tax asset / deferred-tax liability mechanism. Ineffective controls disclosed; BDO named.

## Scorpius lineage / CIK 1476963

### 2022 acquisition and name

Elusys acquired in April; Heat renamed NightHawk in May.

### March 23, 2023 filing

Item 4.02; decision March 17. Same June and September 2022 quarters.

### Annual explanation and controls

Elusys-related valuation-allowance release. Ineffective controls disclosed; BDO named.

### 13 days between filings; 9 days between decisions

Sources: AS3/AS4; T2022/H2022/H2024; A1. NightHawk became Scorpius in 2024. Same auditor firm does not prove same staff or coordination.

# D12 | Historical outcomes and retained questions

The financial and business outcomes are reported facts; they do not predict Theriva's next transaction.

### Avigen

Monahan/Wolf co-founder link.
2006 placement: $5.37/share, no warrants or enhancements.
2009 merger estimate: about $1.24/share, cash/notes and contingent rights.
Price comparison: about -76.9%.

### Heat / Scorpius

2013 IPO: $25M gross.
Trials, grant research, acquired ANTHIM and CDMO activity.
2024 deficit: $287.179M.
Two listing suspensions; second not appealed.
Elusys sold to Wolf-controlled entity.

### Theriva

VCN-01 pancreatic-cancer development.
SYN-020 licensed to Rasayana.
2025 deficit: $358.710M.
Grifols milestone payable.
Strategic alternatives disclosed; no inevitable outcome asserted.

### Records needed to test the comparison

Board and audit records; transaction consideration and retained obligations; share ledgers; cash receipts; adviser fees; program budgets; employee and laboratory allocations; scientific valuation and license-performance records.
Operating cash use, accumulated deficit, financing inflow and market losses measure different things. No one total here establishes who received every dollar or whether assets were commingled.

Sources: Memo IV-VI; F1-F8; AS15/AS16/AS27; T2025/H2024. Historical financing and price points are not aggregate shareholder damages.

# Source register | S1-S33

Primary sources cited in the 47-paragraph memorandum and supplied diagrams D1-D4. This register does not represent a new source copy as already filed.

### S1 | Theriva Oct. 17, 2025 Form 8-K, Item 1.01

https://www.sec.gov/Archives/edgar/data/894158/000110465925100468/tm2528131d2_8k.htm

### S2 | Theriva FY2025 Form 10-K, Note 8; Rasayana; Items 10 and 13; financial statements

https://www.sec.gov/Archives/edgar/data/894158/000110465926026767/tmb-20251231x10k.htm

### S3 | Theriva Mar. 10, 2023 Form 8-K, Item 4.02

https://www.sec.gov/Archives/edgar/data/894158/000110465923031255/tm239041d1_8k.htm

### S4 | NightHawk Mar. 23, 2023 Form 8-K, Item 4.02

https://www.sec.gov/Archives/edgar/data/1476963/000155837023004449/nhwk-20230317x8k.htm

### S5 | Theriva FY2022 Form 10-K, Notes 2 and 14; Item 9A

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/tmb-20221231x10k.htm

### S6 | NightHawk FY2022 Form 10-K, Notes 2, 3 and 17; Item 9A

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/nhwk-20221231x10k.htm

### S7 | July 28, 2022 Synthetic / MSD Securities Purchase Agreement; signature and notice provisions

https://www.sec.gov/Archives/edgar/data/894158/000110465922084301/tm2222078d1_ex10-1.htm

### S8 | Heat May 2, 2018 Form S-1/A, cover and Legal Matters

https://www.sec.gov/Archives/edgar/data/1476963/000155335018000461/htbx_s1a.htm

### S9 | Heat January 2020 final prospectus, offering cover

https://www.sec.gov/Archives/edgar/data/1476963/000155335020000068/htbx_424b.htm

### S10 | Scorpius FY2024 Form 10-K, business, directors, financial statements and subsequent events

https://www.sec.gov/Archives/edgar/data/1476963/000155837025005986/scpx-20241231x10k.htm

### S11 | Theriva May 4, 2015 Shallcross appointment release

https://therivabio.com/press_releases/steven-shallcross-named-chief-financial-officer-of-synthetic-biologics/

### S12 | U.S. Patent 12,318,434 B2, specification and claims

https://patents.google.com/patent/US12318434B2/en

## S13 | Heat FY2020 Form 10-K, Item 5 and financial statements

https://www.sec.gov/Archives/edgar/data/1476963/000155837021003460/htbx-20201231x10k.htm

## S14 | Scorpius January 17, 2025 Form 8-K, split not effectuated

https://www.sec.gov/Archives/edgar/data/1476963/000107997325000102/scpx_8k.htm

## S15 | Avigen 2007 Form 10-K, May 2006 financing

https://www.sec.gov/Archives/edgar/data/932903/000120677408000531/avigen_10k.htm

## S16 | Avigen September 2009 Form 10-Q, merger and liquidity

https://www.sec.gov/Archives/edgar/data/932903/000120677409002076/avigen_10q.htm

## S17 | SEC Theriva company-facts dataset; annual tags require filing context

https://data.sec.gov/api/xbrl/companyfacts/CIK0000894158.json

## S18 | SEC Heat / NightHawk / Scorpius company-facts dataset

https://data.sec.gov/api/xbrl/companyfacts/CIK0001476963.json

## S19 | Theriva FY2022 Form 10-K, Exhibit 23.1, consent of BDO USA, LLP

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/tmb-20221231xex23d1.htm

## S20 | NightHawk FY2022 Form 10-K, Exhibit 23.1, consent of BDO USA, LLP, containing the going-concern sentence

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/nhwk-20221231xex23d1.htm

## S21 | Theriva FY2022 Form 10-K, cover-page audit information: auditor name, PCAOB Firm ID 243, location, ICFR attestation flag

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/R1.htm

## S22 | NightHawk FY2022 Form 10-K, cover-page audit information

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/R1.htm

## S23 | Theriva FY2022 Form 10-K, organization and basis of presentation note

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/R7.htm

## S24 | Theriva December 10, 2024 Form S-1, Exhibit 1.4, form of placement agency agreement

https://www.sec.gov/Archives/edgar/data/894158/000110465924127275/tm2430478d1_ex1-4.htm

## S25 | Theriva May 8, 2025 prospectus supplement, sole placement agent and 7.0% cash fee

https://www.sec.gov/Archives/edgar/data/894158/000110465925045934/tm2514445d1_424b5.htm

### S26 | Theriva December 3, 2025 prospectus supplement, resale of October 16, 2025 inducement warrants; exclusive financial adviser and 7.0% of gross proceeds on exercise

https://www.sec.gov/Archives/edgar/data/894158/000110465925118116/tm2532622-1_424b5.htm

### S27 | Synthetic Biologics October 2018 free writing prospectus, sole book-running manager

https://www.sec.gov/Archives/edgar/data/894158/000114420418052018/tv503964_fwp.htm

### S28 | Heat Biologics May 2, 2018 Form S-1/A, sole book-running manager and co-manager

https://www.sec.gov/Archives/edgar/data/1476963/000155335018000461/htbx_s1a.htm

### S29 | Theriva third-quarter 2025 earnings release, general and administrative discussion

https://therivabio.com/press_releases/theriva-biologics-reports-third-quarter-2025-operational-highlights-and-financial-results/

### S30 | Theriva FY2022 Form 10-K, restated consolidated balance sheets, Note 14 detail

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/R68.htm

### S31 | NightHawk FY2022 Form 10-K, restated consolidated balance sheets

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/R77.htm

### S32 | NightHawk FY2022 Form 10-K, Elusys purchase price allocation, including rows captioned "Measurement period adjustments"

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/R47.htm

### S33 | Theriva January 21, 2025 acceleration request to the Commission identifying Leslie Marlow

https://www.sec.gov/Archives/edgar/data/894158/000110465925004901/filename1.htm

# Attachment source register

AS identifiers identify the additional transaction, patent and biographical sources used in the restored schedules and diagrams D5-D12. T/H identify the annual reports underlying the financial rows. AS19 and S19, for example, are different sources.

### AS1 | Theriva Oct. 17, 2025 Form 8-K, Item 1.01

https://www.sec.gov/Archives/edgar/data/894158/000110465925100468/tm2528131d2_8k.htm

### AS2 | Theriva FY2025 Form 10-K, Note 8; Rasayana; Items 10 and 13; financial statements

https://www.sec.gov/Archives/edgar/data/894158/000110465926026767/tmb-20251231x10k.htm

### AS3 | Theriva Mar. 10, 2023 Form 8-K, Item 4.02

https://www.sec.gov/Archives/edgar/data/894158/000110465923031255/tm239041d1_8k.htm

### AS4 | NightHawk Mar. 23, 2023 Form 8-K, Item 4.02

https://www.sec.gov/Archives/edgar/data/1476963/000155837023004449/nhwk-20230317x8k.htm

### AS5 | Theriva FY2022 Form 10-K, Notes 2 and 14; Item 9A

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/tmb-20221231x10k.htm

### AS6 | NightHawk FY2022 Form 10-K, Notes 2, 3 and 17; Item 9A

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/nhwk-20221231x10k.htm

### AS7 | July 28, 2022 Synthetic / MSD Securities Purchase Agreement; signature and notice provisions

https://www.sec.gov/Archives/edgar/data/894158/000110465922084301/tm2222078d1_ex10-1.htm

### AS8 | Heat May 2, 2018 S-1/A, cover and Legal Matters

https://www.sec.gov/Archives/edgar/data/1476963/000155335018000461/htbx_s1a.htm

### AS9 | Heat January 2020 final prospectus, offering cover

https://www.sec.gov/Archives/edgar/data/1476963/000155335020000068/htbx_424b.htm

### AS10 | Scorpius FY2024 Form 10-K, business, directors, financial statements and subsequent events

https://www.sec.gov/Archives/edgar/data/1476963/000155837025005986/scpx-20241231x10k.htm

### AS11 | Theriva May 4, 2015 Shallcross appointment release

https://therivabio.com/press_releases/steven-shallcross-named-chief-financial-officer-of-synthetic-biologics/

### AS12 | U.S. Patent 12,318,434 B2, specification and claims

https://patents.google.com/patent/US12318434B2/en

**AS13 | Heat FY2020 Form 10-K, Item 5 and financial statements**

https://www.sec.gov/Archives/edgar/data/1476963/000155837021003460/htbx-20201231x10k.htm

**AS14 | Scorpius January 17, 2025 Form 8-K, split not effectuated**

https://www.sec.gov/Archives/edgar/data/1476963/000107997325000102/scpx_8k.htm

**AS15 | Avigen 2007 Form 10-K, May 2006 financing**

https://www.sec.gov/Archives/edgar/data/932903/000120677408000531/avigen_10k.htm

**AS16 | Avigen September 2009 Form 10-Q, merger and liquidity**

https://www.sec.gov/Archives/edgar/data/932903/000120677409002076/avigen_10q.htm

**AS19 | Theriva October 24, 2025 prospectus; share count and baby-shelf capacity**

https://www.sec.gov/Archives/edgar/data/894158/000110465925102103/tm2529425d1_424b5.htm

**AS20 | Theriva April 2026 preliminary proxy; April 23 outstanding shares**

https://www.sec.gov/Archives/edgar/data/894158/000110465926045553/tm2612245d1_pre14a.htm

**AS21 | Synthetic July 2022 Form 8-K; MSD and A.G.P. terms**

https://www.sec.gov/Archives/edgar/data/894158/000110465922084301/tm2222078d1_8k.htm

**AS22 | Synthetic October 2018 free-writing prospectus**

https://www.sec.gov/Archives/edgar/data/894158/000114420418052018/tv503964_fwp.htm

**AS23 | Theriva December 2024 form placement-agent agreement**

https://www.sec.gov/Archives/edgar/data/894158/000110465924127275/tm2430478d1_ex1-4.htm

**AS24 | Theriva May 2025 prospectus; A.G.P. role and compensation**

https://www.sec.gov/Archives/edgar/data/894158/000110465925045934/tm2514445d1_424b5.htm

**AS25 | Heat December 2020 certificate of amendment; 1-for-7 split**

https://www.sec.gov/Archives/edgar/data/1476963/000155335020001092/htbx_ex3z1.htm

**AS26 | October 2025 filed form of inducement agreement**

https://www.sec.gov/Archives/edgar/data/894158/000110465925100468/tm2528131d2_ex10-1.htm

**AS27 | Heat July 2013 final IPO prospectus**

https://www.sec.gov/Archives/edgar/data/1476963/000155335013000441/heat_424b4.htm

**AS28 | U.S. Patent 12,274,740; named inventors**

https://patents.google.com/patent/US12274740B2/en

**AS29 | Theriva August 10, 2026 Shallcross employment agreement**

https://www.sec.gov/Archives/edgar/data/894158/000110465926093786/tmb-20260630xex10d1.htm

## AS30 | Theriva June 30, 2026 Form 10-Q; strategic alternatives

https://www.sec.gov/Archives/edgar/data/894158/000110465926093786/tmb-20260630x10q.htm

## T2016 | Theriva/Synthetic FY2016 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000114420417012545/v459847_10k.htm

## T2017 | Theriva/Synthetic FY2017 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000114420418010286/tv485536_10k.htm

## T2018 | Theriva/Synthetic FY2018 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000114420419010592/tv513906_10k.htm

## T2019 | Theriva/Synthetic FY2019 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000110465920023415/tm205312-1_10k.htm

## T2020 | Theriva/Synthetic FY2020 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000110465921032150/tm211106d1_10k.htm

## T2021 | Theriva/Synthetic FY2021 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000141057822000405/syn-20211231x10k.htm

## T2022 | Theriva/Synthetic FY2022 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/tmb-20221231x10k.htm

## T2023 | Theriva/Synthetic FY2023 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000141057824000293/tmb-20231231x10k.htm

## T2024 | Theriva/Synthetic FY2024 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000141057825000285/tmb-20241231x10k.htm

## T2025 | Theriva/Synthetic FY2025 Form 10-K

https://www.sec.gov/Archives/edgar/data/894158/000110465926026767/tmb-20251231x10k.htm

## H2016 | Heat/NightHawk/Scorpius FY2016 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155335017000337/htbx_10k.htm

## H2017 | Heat/NightHawk/Scorpius FY2017 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155335018000174/htbx_10k.htm

## H2018 | Heat/NightHawk/Scorpius FY2018 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155335019000267/htbx_10k.htm

## H2019 | Heat/NightHawk/Scorpius FY2019 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155335020000252/htbx-20191231x10k.htm

## H2020 | Heat/NightHawk/Scorpius FY2020 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155837021003460/htbx-20201231x10k.htm

## H2021 | Heat/NightHawk/Scorpius FY2021 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155837022003452/htbx-20211231x10k.htm

## H2022 | Heat/NightHawk/Scorpius FY2022 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/nhwk-20221231x10k.htm

## H2023 | Heat/NightHawk/Scorpius FY2023 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155837024005902/scpx-20231231x10k.htm

## H2024 | Heat/NightHawk/Scorpius FY2024 Form 10-K

https://www.sec.gov/Archives/edgar/data/1476963/000155837025005986/scpx-20241231x10k.htm

# Source extract | T2016

## Theriva/Synthetic FY2016 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 19,055 | 20,818 |
| Total Assets | 22,498 | 30,845 |
| Total Liabilities | 20,249 | 15,842 |
| Accumulated deficit | (172,034) | (144,779) |
| Total Synthetic Biologics, Inc. and Subsidiaries Equity | 3,845 | 16,051 |
| Non-controlling interest | (1,596) | (1,048) |
| Total Stockholders' Equity | 2,249 | 15,003 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 10,143 | 8,074 |
| Research and development | 29,109 | 32,906 |
| Net Loss | (27,803) | (44,785) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 4,009 | 3,198 |
| Net Cash Used In Operating Activities | (27,901) | (38,890) |
| Net Cash Provided By Financing Activities | 26,707 | 42,684 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000114420417012545/v459847_10k.htm

# Source extract | T2017

## Theriva/Synthetic FY2017 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 17,116 | 19,055 |
| Total Assets | 18,838 | 22,498 |
| Total Liabilities | 10,195 | 20,249 |
| Series A convertible preferred stock | 12,053 | 0 |
| Accumulated deficit | (194,170) | (172,034) |
| Total Synthetic Biologics, Inc. and Subsidiaries (Deficit) Equity | (1,496) | 3,845 |
| Non-controlling interest | (1,914) | (1,596) |
| Total Stockholders' (Deficit) Equity | (3,410) | 2,249 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 7,467 | 10,143 |
| Research and development | 18,784 | 29,109 |
| Net Loss | (15,492) | (27,803) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 3,409 | 4,009 |
| Net Cash Used In Operating Activity | (20,204) | (27,901) |
| Net Cash Provided By Financing Activities | 18,477 | 26,707 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000114420418010286/tv485536_10k.htm

# Source extract | T2018

## Theriva/Synthetic FY2018 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 28,918 | 17,116 |
| Total Assets | 30,141 | 18,838 |
| Total Liabilities | 3,686 | 10,195 |
| Series A convertible preferred stock | 12,296 | 12,053 |
| Accumulated deficit | (219,461) | (194,170) |
| Total Synthetic Biologics, Inc. and Subsidiaries Equity (Deficit) | 17,068 | (1,496) |
| Non-controlling interest | (2,909) | (1,914) |
| Total Stockholders' Equity (Deficit) | 14,159 | (3,410) |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 5,727 | 7,467 |
| Research and development | 11,844 | 18,784 |
| Net Loss | (13,421) | (15,492) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 2,074 | 3,409 |
| Net Cash Used In Operating Activities | (17,279) | (20,204) |
| Net Cash Provided By Financing Activities | 29,088 | 18,477 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000114420419010592/tv513906_10k.htm

# Source extract | T2019

## Theriva/Synthetic FY2019 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 15,045 | 28,918 |
| Total Assets | 17,235 | 30,141 |
| Total Liabilities | 5,748 | 3,686 |
| Series A convertible preferred stock | 12,544 | 12,296 |
| Accumulated deficit | (235,537) | (219,461) |
| Total Synthetic Biologics, Inc. and Subsidiaries Equity | 1,821 | 17,068 |
| Non-controlling interest | (2,878) | (2,909) |
| Total Stockholders' (Deficit) Equity | (1,057) | 14,159 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 4,580 | 5,727 |
| Research and development | 11,083 | 11,844 |
| Net Loss | (15,380) | (13,421) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 340 | 2,074 |
| Net Cash Used In Operating Activities | (13,873) | (17,279) |
| Net Cash Provided By Financing Activities | 0 | 29,088 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465920023415/tm205312-1_10k.htm

# Source extract | T2020

## Theriva/Synthetic FY2020 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 6,227 | 15,045 |
| Total Assets | 8,410 | 17,235 |
| Total Liabilities | 3,152 | 5,748 |
| Series A convertible preferred stock | 12,798 | 12,544 |
| Accumulated deficit | (248,094) | (235,537) |
| Total Synthetic Biologics, Inc. and Subsidiaries (Deficit) Equity | (4,767) | 1,821 |
| Non-controlling interest | (2,773) | (2,878) |
| Total Stockholders' Deficit | (7,540) | (1,057) |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 5,029 | 4,580 |
| Research and development | 5,131 | 11,083 |
| Net Loss | (10,116) | (15,380) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 350 | 340 |
| Net Cash Used In Operating Activities | (12,168) | (13,873) |
| Net Cash Provided By Financing Activities | 3,359 | 0 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465921032150/tm211106d1_10k.htm

# Source extract | T2021

## Theriva/Synthetic FY2021 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 67,325 | 6,227 |
| Total Assets | 70,365 | 8,410 |
| Total Liabilities | 4,957 | 3,152 |
| Accumulated deficit | (271,284) | (248,094) |
| Total Synthetic Biologics, Inc. and Subsidiaries Equity (Deficit) | 65,408 | (4,767) |
| Non-controlling interest | 0 | (2,773) |
| Total Stockholders' Equity (Deficit) | 65,408 | (7,540) |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 6,474 | 5,029 |
| Research and development | 7,800 | 5,131 |
| Net Loss | (14,268) | (10,116) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 416 | 350 |
| Net Cash Used In Operating Activities | (12,890) | (12,168) |
| Net Cash Provided By Financing Activities | 74,002 | 3,359 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000141057822000405/syn-20211231x10k.htm

# Source extract | T2022

## Theriva/Synthetic FY2022 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 41,786 | 67,325 |
| Total Assets | 71,861 | 70,365 |
| Total Liabilities | 17,297 | 4,957 |
| Series C convertible preferred stock | 2,006 | 0 |
| Series D convertible preferred stock | 728 | 0 |
| Accumulated deficit | (290,969) | (271,284) |
| Total Stockholders' Equity | 51,830 | 65,408 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 9,858 | 6,474 |
| Research and development | 11,723 | 7,800 |
| Net Loss | (19,685) | (14,268) |
| Net Loss | (19,685) | (14,268) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 475 | 416 |
| Net Cash Used In Operating Activities | (19,082) | (12,890) |
| Net Cash (used in) Provided By Financing Activities | (1,930) | 74,002 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000141057823000428/tmb-20221231x10k.htm

# Source extract | T2023

## Theriva/Synthetic FY2023 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 23,177 | 41,786 |
| Total Assets | 55,219 | 71,861 |
| Total Liabilities | 15,522 | 17,297 |
| Series C convertible preferred stock | 2,006 | 2,006 |
| Series D convertible preferred stock | 728 | 728 |
| Accumulated deficit | (309,318) | (290,969) |
| Total Stockholders' Equity | 36,963 | 51,830 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 7,120 | 9,858 |
| Research and development | 14,311 | 11,723 |
| Net Loss | (18,349) | (19,685) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 552 | 475 |
| Net Cash Used In Operating Activities | (18,996) | (19,082) |
| Net Cash Provided By (Used In) Financing Activities | 625 | (1,930) |

Source: https://www.sec.gov/Archives/edgar/data/894158/000141057824000293/tmb-20231231x10k.htm

# Source extract | T2024

## Theriva/Synthetic FY2024 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 11,609 | 23,177 |
| Total Assets | 35,352 | 55,219 |
| Total Liabilities | 16,285 | 15,522 |
| Series C convertible preferred stock | 0 | 2,006 |
| Series D convertible preferred stock | 0 | 728 |
| Accumulated deficit | (334,971) | (309,318) |
| Total Stockholders' Equity | 19,067 | 36,963 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 7,396 | 7,120 |
| Research and development | 12,031 | 14,311 |
| In-process research and development impairment | 1,325 | 0 |
| Net Loss | (25,653) | (18,349) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 671 | 552 |
| Net Cash Used In Operating Activities | (16,937) | (18,996) |
| Net Cash Provided By Financing Activities | 5,496 | 625 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000141057825000285/tmb-20241231x10k.htm

# Source extract | T2025

## Theriva/Synthetic FY2025 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD thousands, except shares/per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 13,056 | 11,609 |
| Total Assets | 38,239 | 35,352 |
| Total Liabilities | 22,856 | 16,285 |
| Accumulated deficit | (358,710) | (334,971) |
| Total Stockholders' Equity | 15,383 | 19,067 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| General and administrative | 15,447 | 7,396 |
| Research and development | 8,604 | 12,031 |
| In-process research and development impairment | 0 | 1,325 |
| Net loss | (23,739) | (25,653) |
| Net Loss | (23,739) | (25,653) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 654 | 671 |
| Net Cash Used In Operating Activities | (16,669) | (16,937) |
| Net Cash Provided By Financing Activities | 18,193 | 5,496 |

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465926026767/tmb-20251231x10k.htm

# Source extract | H2016

## Heat/NightHawk/Scorpius FY2016 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 7,842,667 | 4,939,955 |
| Total Assets | 8,896,599 | 13,217,762 |
| Total Liabilities | 2,056,665 | 10,723,032 |
| Accumulated deficit | (57,004,655) | (44,430,703) |
| Total Stockholders' Equity - Heat Biologics, Inc | 8,796,581 | 4,050,530 |
| Non-Controlling Interest | (1,956,647) | (1,555,800) |
| Total Stockholders' Equity | 6,839,934 | 2,494,730 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 9,330,677 | 16,666,335 |
| General and administrative | 4,138,285 | 4,356,381 |
| Net loss | (12,974,799) | (21,121,885) |
| Net loss | (12,974,799) | (21,121,885) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock based compensation | 582,630 | 1,573,602 |
| Net Cash Used in Operating Activities | (13,523,717) | (17,447,415) |
| Net Cash Provided by Financing Activities | 9,802,799 | 15,011,206 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155335017000337/htbx_10k.htm

# Source extract | H2017

## Heat/NightHawk/Scorpius FY2017 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 9,763,067 | 7,842,667 |
| Total Assets | 20,189,476 | 8,896,599 |
| Total Liabilities | 14,408,567 | 2,056,665 |
| Accumulated deficit | (68,846,326) | (57,004,655) |
| Total Stockholders' Equity - Heat Biologics, Inc | 7,370,751 | 8,796,581 |
| Non-Controlling Interest | (1,589,842) | (1,956,647) |
| Total Stockholders' Equity | 5,780,909 | 6,839,934 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 8,267,549 | 9,330,677 |
| General and administrative | 6,370,954 | 4,138,285 |
| Net loss | (12,409,866) | (12,974,799) |
| Net loss | (12,409,866) | (12,974,799) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock based compensation | 689,130 | 582,630 |
| Net Cash Used in Operating Activities | (6,303,672) | (13,523,717) |
| Net Cash Provided by Financing Activities | 8,768,505 | 9,802,799 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155335018000174/htbx_10k.htm

# Source extract | H2018

## Heat/NightHawk/Scorpius FY2018 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 22,154,251 | 9,763,067 |
| Total Assets | 37,763,837 | 20,189,476 |
| Total Liabilities | 7,520,891 | 14,408,567 |
| Accumulated deficit | (84,580,180) | (68,846,326) |
| Total Stockholders' Equity - Heat Biologics, Inc | 30,289,550 | 7,370,751 |
| Non-Controlling Interest | (46,604) | (1,589,842) |
| Total Stockholders' Equity | 30,242,946 | 5,780,909 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 16,233,014 | 8,267,549 |
| General and administrative | 7,025,212 | 6,370,954 |
| Net loss | (16,591,293) | (12,409,866) |
| Net loss | (16,591,293) | (12,409,866) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock based compensation | 788,659 | 689,130 |
| Net Cash Used in Operating Activities | (21,711,691) | (6,402,551) |
| Net Cash Provided by Financing Activities | 40,118,550 | 8,768,505 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155335019000267/htbx_10k.htm

# Source extract | H2019

## Heat/NightHawk/Scorpius FY2019 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 9,039,887 | 22,154,251 |
| Total Assets | 25,956,581 | 37,763,837 |
| Total Liabilities | 12,798,731 | 7,520,891 |
| Accumulated deficit | (104,597,748) | (84,580,180) |
| Total Stockholders' Equity - Heat Biologics, Inc. | 13,571,602 | 30,289,550 |
| Non-Controlling Interest | (413,752) | (46,604) |
| Total Stockholders' Equity | 13,157,850 | 30,242,946 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 13,013,604 | 16,233,014 |
| General and administrative | 9,431,015 | 7,025,212 |
| Net loss | (20,384,716) | (16,591,293) |
| Net loss | (20,384,716) | (16,591,293) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 3,269,948 | 788,659 |
| Net Cash Used in Operating Activities | (12,837,650) | (21,711,691) |
| Net Cash Provided by Financing Activities | 19,052 | 40,118,550 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155335020000252/htbx-20191231x10k.htm

# Source extract | H2020

## Heat/NightHawk/Scorpius FY2020 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 10,931,890 | 9,039,887 |
| Total Assets | 124,194,642 | 25,956,581 |
| Total Liabilities | 8,700,719 | 12,798,731 |
| Accumulated deficit | (130,647,485) | (104,597,748) |
| Total Stockholders' Equity - Heat Biologics, Inc. | 116,239,327 | 13,571,602 |
| Non-Controlling Interest | (745,404) | (413,752) |
| Total Stockholders' Equity | 115,493,923 | 13,157,850 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 12,938,895 | 13,013,604 |
| General and administrative | 14,934,436 | 9,431,015 |
| Net loss | (26,381,389) | (20,384,716) |
| Net loss | (26,381,389) | (20,384,716) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 6,377,857 | 3,269,948 |
| Net Cash Used in Operating Activities | (22,021,359) | (12,837,650) |
| Net Cash Provided by Financing Activities | 119,329,057 | 19,052 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155837021003460/htbx-20201231x10k.htm

# Source extract | H2021

## Heat/NightHawk/Scorpius FY2021 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 8,053,879 | 10,931,890 |
| Total Assets | 120,961,233 | 124,194,642 |
| Total Liabilities | 8,927,662 | 8,700,719 |
| Accumulated deficit | (165,718,953) | (130,647,485) |
| Total Stockholders' Equity - Heat Biologics, Inc. | 113,108,314 | 116,239,327 |
| Non-Controlling Interest | (1,074,743) | (745,404) |
| Total Stockholders' Equity | 112,033,571 | 115,493,923 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 18,821,278 | 12,938,895 |
| General and administrative | 16,828,229 | 14,934,436 |
| Net loss | (35,400,807) | (26,381,389) |
| Net loss | (35,400,807) | (26,381,389) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 6,168,981 | 6,377,857 |
| Net Cash Used in Operating Activities | (38,128,906) | (22,021,359) |
| Net Cash Provided by Financing Activities | 25,490,349 | 119,329,057 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155837022003452/htbx-20211231x10k.htm

# Source extract | H2022

## Heat/NightHawk/Scorpius FY2022 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 8,434,554 | 8,053,879 |
| Total Assets | 104,396,912 | 120,961,233 |
| Total Liabilities | 31,960,244 | 8,927,662 |
| Accumulated deficit | (209,153,659) | (165,718,953) |
| Total Stockholders' Equity - NightHawk Biosciences, Inc. | 73,922,847 | 113,108,314 |
| Non-Controlling Interest | (1,486,179) | (1,074,743) |
| Total Stockholders' Equity | 72,436,668 | 112,033,571 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 23,461,400 | 16,455,278 |
| General and administrative | 21,130,879 | 16,828,229 |
| In-process research and development impairment | 3,500,000 | 2,366,000 |
| Net loss | (43,862,197) | (35,400,807) |
| Net loss | (43,862,197) | (35,400,807) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 4,085,737 | 6,168,981 |
| Net Cash Used In Operating Activities | (5,700,364) | (38,128,906) |
| Net Cash (Used In) Provided by Financing Activities | (4,906,941) | 25,490,349 |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155837023005289/nhwk-20221231x10k.htm

# Source extract | H2023

## Heat/NightHawk/Scorpius FY2023 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 184,925 | 3,191,714 |
| Total Assets | 51,037,627 | 104,396,912 |
| Total Liabilities | 22,743,292 | 31,960,244 |
| Accumulated deficit | (254,370,827) | (209,153,659) |
| Total Stockholders' Equity - Scorpius Holdings, Inc. | 31,396,532 | 73,922,847 |
| Non-Controlling Interest | (3,102,197) | (1,486,179) |
| Total Stockholders' Equity | 28,294,335 | 72,436,668 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 20,119,791 | 20,223,495 |
| Selling, general and administrative | 26,170,221 | 20,130,546 |
| In-process research and development impairment | 0 | 3,500,000 |
| Net loss | (46,833,186) | (43,862,197) |
| Net loss | (46,833,186) | (43,862,197) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 2,628,276 | 4,085,737 |
| Net Cash Used In Operating Activities | (31,532,595) | (5,700,364) |
| Net Cash Used In Financing Activities | (8,952,074) | (4,906,941) |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155837024005902/scpx-20231231x10k.htm

# Source extract | H2024

## Heat/NightHawk/Scorpius FY2024 Form 10-K

Selected filed statement rows. Current and prior-year columns are shown where present; older comparative columns may be omitted. These are text/table extracts for comparison, not a certified copy; the complete filing is linked in the source register. Units: USD, except per-share data.

### Balance sheet

| Filed row label | Current year | Prior year |
|---|---|---|
| Cash and cash equivalents | 1,027,997 | 184,925 |
| Total Assets | 39,177,719 | 51,037,627 |
| Total Liabilities | 37,500,241 | 22,743,292 |
| Accumulated deficit | (287,178,670) | (254,370,827) |
| Total Stockholders' Equity | 6,299,620 | 31,396,532 |
| Non-Controlling Interest | (4,622,142) | (3,102,197) |
| Total Stockholders' Equity | 1,677,478 | 28,294,335 |

### Statement of operations

| Filed row label | Current year | Prior year |
|---|---|---|
| Research and development | 14,326,918 | 20,119,791 |
| Selling, general and administrative | 21,570,874 | 26,170,221 |
| Net loss | (34,327,788) | (46,833,186) |
| Net loss | (34,327,788) | (46,833,186) |

### Statement of cash flows

| Filed row label | Current year | Prior year |
|---|---|---|
| Stock-based compensation | 1,033,718 | 2,628,276 |
| Net Cash Used In Operating Activities | (26,006,641) | (31,532,595) |
| Net Cash Provided by (Used In) Financing Activities | 25,636,356 | (8,952,074) |

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155837025005986/scpx-20241231x10k.htm

# Source extract | AS3 Item 4.02

## Theriva Mar. 10, 2023 Form 8-K, Item 4.02

Verbatim substantive text excerpt; formatting normalized. No representation of authentication or prior filing.

Item 4.02.

Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review.

On March 8, 2023, the Audit Committee (the "Audit Committee") of the Board of Directors of Theriva Biologics, Inc. (the "Company") in consultation with management and BDO USA, LLP ("BDO USA"), the Company's independent registered public accounting firm, met and concluded that the Company's (i) unaudited consolidated interim financial statements as of and for the period ended June 30, 2022 included in the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2022 and the (ii) unaudited consolidated interim financial statements as of and for the period ended September 30, 2022 included in the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2022 (collectively, the "Specified Financial Statements"), should no longer be relied upon due to errors in such financial statements, and therefore a restatement of these Specified Financial Statements is required.

The Company has not filed, and does not intend to file, an amendment to the Company's previously filed Quarterly Reports on Form 10-Q for the quarters ended June 30, 2022 and September 30, 2022 but intends to restate the Specified Financial Statements, which restated financial statements will be included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

These errors have no effect on the Company's cash position, pre-tax income or the Company's operating expenses and will result in a decrease in the net loss and loss per share for those periods.

During the preparation of its annual tax provision for the year ended December 31, 2022, the Company determined that a deferred tax asset related to net operating loss generated during the second and third quarters of 2022 at the Company's subsidiary, VCN Biosciences S.L., should have been established.

Further, because an existing deferred tax liability associated with an indefinite-lived intangible asset is considered a source of income for the future realization of the net operating loss deferred tax asset, the deferred tax asset was determined to be more likely than not recoverable.

Since the deferred tax asset was determined to be more likely than not recoverable, it would have resulted in an income tax benefit during the interim periods thereby reducing the Company's consolidated net loss and loss per share for the three- and six-months period ended June 30, 2022 and the three- and nine-month periods ended September 30, 2022.

The impact of this restatement on the Company's second quarter 2022 unaudited condensed consolidated financial statements will be a $532,000 decrease in deferred tax liabilities and a $532,000 decrease in accumulated deficit as of June 30, 2022, and a $532,000 increase in income tax benefit, a

$532,000 decrease in net loss, and a $0.03 decrease in net loss per share for the three months ended June 30, 2022, and a $532,000 increase in income tax benefit, a $532,000 decrease in net loss and a $0.03 decrease in net loss per share for the six months ended June 30, 2022.

The impact of this restatement on the Company's third quarter 2022 unaudited condensed consolidated financial statements will be a $867,000 decrease in deferred tax liabilities and a $867,000 decrease in accumulated deficit as of September 30, 2022, and a $335,000 increase in income tax benefit, a $335,000 decrease in net loss and a $0.02 decrease in net loss per share for the three months ended September 30, 2022, and a $867,000 increase in income tax benefit, a $867,000 decrease in net loss and a $0.06 decrease in net loss per share for the nine months ended September 30, 2022.

Management has concluded that in light of the errors described above an additional material weakness in the Company's internal controls over financial reporting existed.

The material weakness identified relates to the effectiveness of the Company's management review controls over the computation and disclosure of income taxes .

Management has determined that, as a result of the errors described above, management's assessment of the effectiveness of the Company's disclosure controls and procedures as of June 30, 2022 and September 30, 2022 need to be modified to include a material weakness in its controls over financial reporting related to the accounting for deferred tax assets in addition to the previously disclosed weakness.

The Company's remediation plan will be described in its Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465923031255/tm239041d1_8k.htm

# Source extract | AS4 Item 4.02

## NightHawk Mar. 23, 2023 Form 8-K, Item 4.02

Verbatim substantive text excerpt; formatting normalized. No representation of authentication or prior filing.

Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review.On March 17, 2023, the Audit Committee (the "Audit Committee") of the Board of Directors of NightHawk Biosciences, Inc. (the "Company") concluded, after discussion with the Company's management and BDO USA, LLP ("BDO"), the Company's independent registered public accounting firm, that the Company's (i) unaudited consolidated interim financial statements as of and for the periods ended June 30, 2022 included in the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2022 and the (ii) unaudited consolidated interim financial statements as of and for the periods ended September 30, 2022 included in the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2022 (collectively, the "Specified Financial Statements"), should no longer be relied upon due to errors in such financial statements, and therefore a restatement of these specified financial statements is required.

The Company has not filed, and does not intend to file, an amendment to the Company's previously filed Quarterly Reports on Form 10-Q for the quarters ended June 30, 2022 and September 30, 2022, but intends to restate the Specified Financial Statements, which restated financial statements will be included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

These errors resulted in net loss being overstated but have no effect on the Company's cash position, pre-tax loss or the Company's operating expenses and will result in a decrease in the net loss and loss per share for those periods.

During the preparation and review of its annual tax provision for the year ended December 31, 2022, it was determined that the Company made certain errors in the manner in which it recognized a deferred tax asset valuation allowance related to the acquisition of Elusys Therapeutics, Inc. ("Elusys") in April 2022.

Under ASC 740 "Income Taxes", the release of an acquirer's valuation allowance on the acquirer's (i.e., the Company's) deferred tax assets in the amount of the acquired Elusys deferred tax liability ("DTL") should be recorded as an income tax benefit, and be reported as a component of net loss.

The DTL was on the balance sheet at June 30, 2022, however the reduction in the valuation allowance was not reflected and should have been recorded as an income tax benefit on the income statement in the same period.

This error resulted in net loss being overstated by an estimated $3.3 million for the three and six months ended June 30, 2022 and an estimated $2.9 million to $3.3 million for the nine months ended September 30, 2022.

The estimated impact of this restatement on the Company's second quarter 2022 unaudited condensed consolidated financial statements will be a $3.3 million decrease in deferred tax liabilities and accumulated deficit as of June 30, 2022, and a $3.3 million increase in income tax benefit, a $3.3 million decrease in net loss, and a $0.13 decrease in net loss per share for the three months ended June 30, 2022, and a $3.3 million increase in income tax benefit, a $3.3 million decrease in net loss and a $0.13 decrease in net loss per share for the six months ended June 30, 2022.The estimated impact of this restatement on the Company's third quarter 2022 unaudited condensed consolidated financial statements will approximate a $2.9 milion to $3.3 million decrease in deferred tax liabilities, and accumulated deficit as of September 30, 2022, an approximate $2.9 million to $3.3 million increase in income tax benefit, an approximate $2.9 million to $3.3 million decrease in net loss, and an approximate $0.12 to $0.13 decrease in net loss per share for the nine months ended September 30, 2022.

Management has concluded that in light of the errors described above, a material weakness in the Company's internal controls over financial reporting existed and management's assessment of the effectiveness of the Company's disclosure controls and procedures as of June 30, 2022 and September 30, 2022 set forth in its Quarterly Reports on Form 10-Q for the quarters ended June 30, 2022 and September 30, 2022, respectively, need to be modified to include a material weakness in its internal controls over financial reporting.

The material weakness identified relates to the the ineffective design and implementation of management review controls over the computation and disclosure of income taxes.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of a company's annual or interim financial statements will not be prevented or detected on a timely basis.

The existence of one or more material weaknesses precludes a conclusion by management that the Company's disclosure controls and procedures and internal control over financial reporting are effective.

As a result of the material weakness, the Company believes that its internal control over financial reporting was not effective and its disclosure controls and procedures were not effective as of June 30, 2022 and September 30, 2022.The Company's remediation plan will be described in its Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

Source: https://www.sec.gov/Archives/edgar/data/1476963/000155837023004449/nhwk-20230317x8k.htm

# Source extract | April 2026 share-count paragraph

## Theriva April 2026 preliminary proxy; April 23 outstanding shares

Verbatim substantive text excerpt; formatting normalized. No representation of authentication or prior filing.

As of the Record Date, there were 45,892,668 shares of the Company's common stock, par value $0.001 per share (the "Common Stock"), outstanding.

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465926045553/tm2612245d1_pre14a.htm

# Source extract | July 2026 option amendments

## Theriva June 30, 2026 Form 10-Q; strategic alternatives

Verbatim substantive text excerpt; formatting normalized. No representation of authentication or prior filing.

On July 24, 2026, the Board of Directors approved, upon recommendation of the Compensation Committee, amendments to all option agreements for the Company's directors and U.S. employees, as well as the option agreements for all unvested options issued to the Company's Spanish employees, to provide for accelerated vesting of options upon the execution of a definitive agreement for a merger.27 Table of Contents

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465926093786/tmb-20260630x10q.htm

# Source extract | Employment agreement change-in-control definition

## Theriva August 10, 2026 Shallcross employment agreement

Verbatim substantive text excerpt; formatting normalized. No representation of authentication or prior filing.

(c) For purposes of this Agreement, "Change in Control" means:(i) any person or entity becoming the beneficial owner, directly or indirectly, of securities of the Company representing fifty percent (50%) of the total voting power of all its then outstanding voting securities;(ii) a merger or consolidation of the Company in which its voting securities immediately prior to the merger or consolidation do not represent, or are not converted into securities that represent, a majority of the voting power of all voting securities of the surviving entity immediately after the merger or consolidation;(iii) a sale of substantially all of the assets of the Company or a liquidation or dissolution of the Company; or(iv)the Company's execution of a definitive agreement, merger agreement or other agreement providing for a transaction in which a non-listed private operating company combines with or is acquired by the Company or any subsidiary of the Company in any structural form, including forward merger, sign and close reverse merger, reverse merger, share exchange, asset acquisition, or recapitalization and such transaction is intended to ultimately results in a change of the majority of Company's board of directors or the holders of a majority of the voting power prior to such transaction not holding a majority of the voting power after the consummation of all transactions contemplated by the transaction documents, including the conversion of securities issued as merger conversion.

This subparagraph captures all reverse merger structures, including those designed to avoid Nasdaq's reverse merger seasoning rule under Nasdaq Rule 5110(c).

Source: https://www.sec.gov/Archives/edgar/data/894158/000110465926093786/tmb-20260630xex10d1.htm

**EXHIBIT 1**
**VERIFIED COMPLAINT PAGE 1**

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,<br><br>Plaintiff,<br><br>v.<br><br>THERIVA BIOLOGICS, INC., a Nevada corporation,<br><br>Defendant. | **Case No. ____________________**<br><br>**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**<br>**Section 14(a) and Rule 14a-9**<br>**Nevada corporate law and bylaws**<br>**Expedited relief requested**<br>**Jury trial demanded** |

Plaintiff Mark Joseph Nejmeh alleges the following based on personal knowledge as to his own conduct, on the cited public filings, and on information and belief after reasonable inquiry as to other matters.

## NATURE OF THE ACTION

1. This action concerns the validity of stockholder approval for the potential issuance of up to 16,184,560 shares of Theriva Biologics, Inc. common stock upon exercise of warrants issued in October 2025.

2. Plaintiff does not ask the Court to infer wrongdoing merely from warrant financing or stock issuance. He challenges specific proxy disclosures and seeks the records needed to test Theriva's quorum, adjournment, and tabulation representations.

3. Theriva's 29 June 2026 proxy told beneficial owners in one place that Proposal 5 was routine and their brokers could vote without instructions. The same proxy elsewhere

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,<br><br>Plaintiff,<br><br>v.<br><br>THERIVA BIOLOGICS, INC., a Nevada corporation,<br><br>Defendant. | **Case No. 3:26-cv-00705-ART-CSD**<br><br>**PLAINTIFF'S NOTICE AND RENEWED DEMAND FOR JURY TRIAL UNDER FEDERAL RULE OF CIVIL PROCEDURE 38** |

1. Plaintiff Mark Joseph Nejmeh, self-represented, timely demanded a jury trial in the verified complaint filed on September 16, 2026. The complaint's first page states "Jury trial demanded," and page 24 contains a separate section titled "Demand for Jury Trial" stating: "Plaintiff demands a trial by jury on all issues so triable."

2. Plaintiff also submitted a Civil Cover Sheet at case opening that marked "Yes" under "Jury Demand."

3. To eliminate any possible administrative uncertainty, Plaintiff renews and restates his demand for a trial by jury under Federal Rule of Civil Procedure 38 and the Seventh Amendment on every issue so triable.

4. This filing does not amend the complaint, add a claim, or expand the relief requested. It preserves a jury trial only as to issues for which a right to jury trial exists.

Plaintiff respectfully requests that the docket reflect that Plaintiff has demanded a jury trial.

Dated: September 17, 2026

____________________________

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

## OPTIONAL NOTARIAL ACKNOWLEDGMENT

State of New Jersey
County of Ocean

This record was acknowledged before me on September 19, 2026, by Mark Joseph Nejmeh.

______________________________
Signature of Notarial Officer

Name and title: Robert E. Canfield III Notary Public
Commission expires: 6/4/27
Notary stamp or seal:

Robert E. Canfield III
Notary Public, State of New Jersey
ID#- 50061832
My Commission Expires 4- June 2027

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,<br><br>Plaintiff,<br><br>v.<br><br>THERIVA BIOLOGICS, INC., a Nevada corporation,<br><br>Defendant. | **Case No. 3:26-cv-00705-ART-CSD**<br><br>**PLAINTIFF'S NOTICE OF ADMINISTRATIVE CASE CLASSIFICATION DISCREPANCY AND REQUEST FOR CORRECTION** |

1. Plaintiff respectfully gives notice of a discrepancy between the Civil Cover Sheet submitted at case opening and publicly displayed administrative case information.

2. The verified complaint's first page states "Jury trial demanded," and page 24 contains a separate section titled "Demand for Jury Trial" stating: "Plaintiff demands a trial by jury on all issues so triable." Copies of those pages are attached as Exhibits 1 and 2.

3. The Civil Cover Sheet submitted on September 16, 2026 identifies the basis of jurisdiction as federal question; selects Nature of Suit Code 850, Securities/Commodities/Exchange; cites 15 U.S.C. § 78n(a); describes a materially false or misleading proxy solicitation and requests declaratory and injunctive relief; and marks "Yes" for jury demand. A copy is attached as Exhibit 3.

4. The verified complaint asserts a claim under Section 14(a) of the Securities Exchange Act of 1934 and SEC Rule 14a-9, together with related Nevada-law claims. It does not plead a claim under 42 U.S.C. § 1983 or a civil-rights cause of action.

5. To the extent the Court's administrative metadata differs from the filed Civil Cover Sheet and complaint, Plaintiff respectfully requests correction to reflect Nature of Suit Code 850,

Securities/Commodities/Exchange; cause of action under 15 U.S.C. § 78n(a); and Plaintiff's jury demand.

6. This notice requests only an administrative correction. It does not amend the complaint, introduce a new theory, or alter the emergency request to preserve the status quo concerning the challenged warrants and underlying shares.

Dated: September 19, 2026

______________________________


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


**OPTIONAL NOTARIAL ACKNOWLEDGMENT**

State of New Jersey
County of Ocean

This record was acknowledged before me on September 19, 2026, by Mark Joseph Nejmeh.

______________________________
Signature of Notarial Officer

Name and title: Robert E. Canfield III Notary Public
Commission expires: 6/4/27
Notary stamp or seal:

Robert E. Canfield III
Notary Public, State of New Jersey
ID#- 50061832
My Commission Expires 4- June 2027