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Plaintiff, self-represented

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK JOSEPH NEJMEH, Plaintiff, v. **THERIVA BIOLOGICS, INC.,** Defendant.	**Case No. 3:26-cv-00705-ART-CSD** **PLAINTIFF'S MOTION FOR LEAVE TO CONDUCT LIMITED EXPEDITED NONPARTY DISCOVERY AND TO PRESERVE STOCKTWITS EVIDENCE**

Motion and Memorandum of Points and Authorities

Plaintiff Mark Joseph Nejmeh respectfully moves under Federal Rules of Civil Procedure 26(d)(1), 30(a)(2)(A)(iii), 30(b)(6), and 45 for leave to conduct narrow, expedited discovery from nonparty Stocktwits, Inc. concerning the TOVX public stream, moderation and automated-account records, float data, institutional data licensing, potential employee trading conflicts, and the "Official" account designation during May 6–9, 2025 and October 14–31, 2025, and concerning the moderation of TOVX posts linking to the court record in this action since it was filed on September 16, 2026.

This motion does not ask the Court to find that Stocktwits, Howard Lindzon, any employee, any platform user, any institutional data customer, or Theriva engaged in manipulation, coordinated trading, or other wrongdoing. It asks for records needed to determine what occurred. It does not add Stocktwits as a defendant or plead a new claim. Any later claim would require a separate legally sufficient pleading, jurisdiction, standing, injury, and evidence.

Plaintiff requests a Rule 45 document subpoena first, followed by one Rule 30(b)(6) deposition after production. Plaintiff reserves a later, narrower request to depose Stocktwits co-founder and chief executive officer Howard Lindzon individually only if the production shows that he has unique, nonduplicative personal knowledge. The attached schedules are designed to obtain platform evidence rather than conclusions.

RELIEF REQUESTED

1. Authorize Plaintiff, before the Rule 26(f) conference if one has not occurred, to request that the Clerk issue a signed but otherwise blank Rule 45 subpoena and to serve on Stocktwits, Inc. a subpoena substantially in the form of Attachment A, together with a preservation notice.

2. Permit the subpoena to require electronic production within thirty days, subject to Rule 45(d)'s protections, reasonable narrowing by agreement, and an appropriate confidentiality or protective mechanism for personal trading, customer, and account-security information.

3. After substantial document production, authorize one Rule 30(b)(6) deposition on the topics in Attachment B, limited to seven hours, on at least twenty-one days' notice, at a Rule 45-compliant place or remotely by agreement. This corporate testimony is the proper first mechanism for placing Stocktwits' knowledge under oath; any trial subpoena can be addressed later under the trial schedule and Rules 43 and 45.

4. Require Plaintiff to give Defendant advance notice and a copy before serving the nonparty subpoena as Rule 45(a)(4) requires; require the parties and Stocktwits to confer in good faith before any motion to compel; and preserve all objections, privileges, and Rule 45 protections.

5. Provide that documents concerning personal TOVX positions or trades, customer identities, nonpublic access logs, and account identifiers shall not be filed publicly and may be produced subject to a protective order, redaction, attorneys'-eyes-only treatment if counsel later appears, or in-camera review as the Court directs.

6. State that the order makes no merits finding and does not limit Plaintiff's ability to call Gary Pitoniak, Paul Bernhardt, Plaintiff, Theriva personnel, A.G.P./Alliance Global Partners personnel, LifeSci Advisors personnel, Broadridge or other transfer-agent personnel, NYSE American or market-data custodians, or other witnesses identified through discovery.

FACTUAL BASIS

7. TOVX traded on NYSE American during the relevant period. The May 6–9, 2025 window surrounds Theriva's public announcement of VIRAGE Phase 2b results and the next-day public offering. Public reporting described Stocktwits sentiment as extremely bullish and message volume as high while market participants discussed buyout expectations and the offering. The October 14–31, 2025 window covers a later period of extraordinary reported trading volume, including Plaintiff's market-data record reflecting approximately 549,590,800 shares on October 24, subject to authentication from the relevant market-data custodians.

8. Plaintiff observed Stocktwits participants promote TOVX as a 'low float' security. Plaintiff contends that Theriva's outstanding, issuable, warrant, and financing-related share structure made that description materially incomplete or misleading. Plaintiff further contends that public third-party float figures, including Yahoo Finance figures repeated or relied upon by participants, were not corrected by Theriva or Stocktwits. Plaintiff does not presently know what float figure Stocktwits displayed, its source, whether Stocktwits received a correction request, or whether any employee knew a displayed or repeated figure was inaccurate. Those are subjects of the proposed discovery.

9. Plaintiff also observed what he understood as repetitive, coordinated, or possibly automated promotional activity and instances in which critical TOVX material became unavailable, delayed, or less visible while promotional material remained visible. Stocktwits' current Community Guidelines state that bots and automated tools are permitted when they add value but not when used to spam streams, dominate feeds, or promote content at scale. Its current Terms prohibit deceptive or manipulative content and artificial amplification, suppression, coordination, or manipulation of engagement, sentiment, visibility, or market perception. Those 2026 policies do not establish which policies applied in 2025 or prove a violation; they demonstrate that Stocktwits maintains moderation and automated-account functions directly relevant to the requested records.

10. Stocktwits displays an "Official" designation beside certain account names. A review of Stocktwits' public data on September 26, 2026 found that the accounts carrying that designation among recent posts on the twenty-five small-capitalization stocks with the largest one-month volume increase were stock-alert or promotional services, including an account describing itself as "The Most Accurate Stock Alerts," and that none of the posting accounts reviewed carried any indication of verified real-world identity. A platform designation can lend apparent authority to a promotional account. Whether accounts bearing that designation posted about TOVX during the Event Windows, the criteria for granting it, and whether any such account was compensated or had a commercial relationship with Stocktwits are not publicly disclosed and are subjects of the proposed discovery.

11. On September 26, 2026, a public post in the TOVX stream reported that the user had tried four times to post a link to this lawsuit and that the site would not post it. The public record does not show whether that result reflected a policy on links to court records, an automated filter, a moderation decision, or a technical error. Because the availability of the court record in this action to TOVX investors bears on the issues in this case and the relevant records may change through ordinary operations, Plaintiff requests narrow records of how Stocktwits handled TOVX posts linking to the court record in this action from September 16, 2026 forward.

12. Stocktwits describes itself as a leading social platform for investors and traders with more than ten million users and markets real-time sentiment, trending insights, AI-powered insights, and lists driven by community activity. The reach and market-facing use of those indicators make the underlying TOVX post, ranking, moderation, and methodology records relevant to reliance, market context, causation, and damages issues in this action.

13. Stocktwits' current Privacy Policy states that it uses public content and public-facing data to create analytics, datasets, benchmarks, and similar products and licenses them to third parties, including financial institutions and investment firms, for investment research and analysis. Its Terms likewise describe licenses of products derived from public user content to financial institutions and investment firms. These statements verify the existence of a category of institutional data activity. They do not establish that any hedge fund or other institution received TOVX data, traded TOVX, coordinated with Stocktwits, or acted unlawfully. The requested TOVX-specific customer and access records would answer those questions.

14. Stocktwits' current policies state that public content and account activity may remain in backups, archives, logs, legal records, or aggregated datasets, and that it retains information for business, dispute, legal, security, backup, and audit purposes. At the same time, visible posts, moderation status, ranking, account access, and data-delivery logs can change through deletion, suspension, retention cycles, or system updates. Prompt preservation and collection therefore are warranted.

THE PROPOSED DISCOVERY IS NARROW AND TESTABLE

15. The document requests use two short event windows and the single ticker TOVX, plus one additional period, beginning with the filing of this action on September 16, 2026, limited to TOVX posts linking to the court record in this action. They seek public-post content and metadata, moderation and visibility actions, automated-account and account-linkage indicators, message-volume and sentiment metrics, float-data sourcing and corrections, TOVX-specific institutional data access, paid promotion or issuer-relations activity, the criteria for and commercial status of "Official" accounts that posted about TOVX, employee access logs, conflicts controls, and documents sufficient to show TOVX positions or trades by Lindzon and relevant personnel. Network and device identifiers may first be hashed or tokenized so coordinated clusters can be tested without public disclosure;

exact IP addresses should be produced only for identified responsive accounts and only under a protective order, in-camera review, or other court-directed safeguard.

16. The trading request is not a demand for every investment or lifetime gain of every employee. It is limited to TOVX common stock, options, warrants, short positions, swaps, and other TOVX-linked instruments during the event windows, in accounts beneficially owned or controlled by Lindzon or personnel who accessed, moderated, commercialized, sold, or analyzed TOVX content or data. Brokerage account numbers, unrelated holdings, tax information, and home addresses may be redacted. Broader cross-issuer trading would be requested only on a later showing that TOVX records identify overlapping accounts, promoters, data customers, or a recurring course of conduct.

17. The request for institutional records is similarly limited. Plaintiff seeks documents sufficient to identify institutional customers that received, queried, or were furnished TOVX-related Stocktwits data during the two windows, the data fields and delivery timing, and TOVX-specific communications. It does not demand each customer's entire contract, trading book, or unrelated strategy.

18. The proposed production excludes private direct-message content unless a later court order authorizes a specific request consistent with applicable communications-privacy law. Public posts, platform business records, moderation records, data-delivery logs, and corporate communications provide the appropriate first step.

LEGAL STANDARD AND GOOD CAUSE

19. Rule 26(d)(1) ordinarily bars discovery before the Rule 26(f) conference but expressly permits it by court order. Courts apply a flexible good-cause standard that balances the need for expedited discovery against prejudice to the responding party. Semitool, Inc. v. Tokyo Electron America, Inc., 208 F.R.D. 273, 275–76 (N.D. Cal. 2002). Rule 26(b)(1) further requires relevance and proportionality.

20. Rule 45 authorizes subpoenas for documents and testimony from a nonparty, requires prior notice to the other parties for a document subpoena, and directs the serving party to take reasonable steps to avoid undue burden. Fed. R. Civ. P. 45(a)(3), (a)(4), (c), and (d). A Rule 30(b)(6) notice must describe corporate topics with reasonable particularity, and the named organization must designate knowledgeable witnesses. Leave is required for a deposition taken before the time specified in Rule 26(d). Fed. R. Civ. P. 30(a)(2)(A)(iii), (b)(6).

21. Good cause exists because the evidence is uniquely controlled by Stocktwits; the requests are tied to TOVX and defined periods; visible content and system records may be altered or lost through ordinary operations; and the requested sequence—documents before corporate testimony—reduces burden and prevents uninformed individual depositions. The discovery can confirm Plaintiff's concerns, disprove them, or materially narrow them.

22. The privacy and burden concerns are manageable. Public-post content and market metrics are less sensitive. Customer identity, access logs, and employee trading materials can be produced as documents sufficient to show the relevant facts, with redactions and confidentiality protections. Any subpoena must comply with Rule 45(c)'s place-of-compliance limits, and Stocktwits may seek protection in the compliance court under Rule 45(d).

LOCAL-RULE DISCLOSURE

23. No Rule 45 subpoena has yet been issued or served, so there is no nonparty refusal or ripe motion to compel to resolve. Plaintiff therefore cannot truthfully certify that he conferred with Stocktwits over an objection that does not yet exist. Plaintiff will serve Defendant with advance notice and a copy, contact Stocktwits' legal representative after authorization, and confer in good faith before presenting any compliance dispute. This motion seeks leave under Rule 26(d)(1), not an order compelling an unanswered request.

RESERVATION OF OTHER WITNESSES AND CLAIMS

24. Stocktwits' corporate witness is one evidence custodian, not Plaintiff's sole witness and not a substitute for witnesses with first-hand knowledge of Theriva's disclosures, financing, capitalization, transfers, and trading environment. This motion does not amend, narrow, or waive any properly supported witness or claim.

25. The present record does not establish a separate claim against Stocktwits or Lindzon. If discovery supplies admissible evidence of an actionable duty, false statement or omission, causation, legally cognizable injury, and a proper jurisdictional basis, Plaintiff may evaluate separate proceedings subject to the Federal Rules and any applicable contractual or arbitration provisions. The Court need not decide that hypothetical question now.

CONCLUSION

Plaintiff respectfully requests the limited relief stated above and in the proposed order. The requested discovery is intended to preserve and test evidence, not to convert Plaintiff's concerns into findings before the evidence is obtained.

Dated: September 26, 2026

Respectfully submitted: ____

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

DECLARATION OF MARK JOSEPH NEJMEH

I, Mark Joseph Nejmeh, declare under penalty of perjury under 28 U.S.C. § 1746 as follows:

1. I am the Plaintiff in this action. I have personal knowledge of the facts stated in this declaration except where I identify a matter as my understanding, inference, or a record requiring authentication.

2. I used Stocktwits in connection with my TOVX research and reviewed TOVX public-stream posts, sentiment indicators, message-volume information, and public discussions during relevant periods.

3. During the May 2025 and October 2025 periods, I observed participants repeatedly describe TOVX as a low-float stock. Based on the Theriva financing, warrant, outstanding-share, and potentially issuable-share records that I assembled, I believed that description was materially incomplete or inaccurate.

4. I observed public third-party float figures, including Yahoo Finance figures relied upon or repeated in the discussion, that I believed did not reflect Theriva's full capitalization and financing structure. I did not see Theriva or Stocktwits correct those figures or the low-float narrative. I do not presently know whether Stocktwits received notice, what data source it used, or whether it had a correction procedure.

5. I observed repetitive and highly promotional TOVX activity that appeared to me potentially automated or coordinated. I do not possess Stocktwits' device, IP, account-linkage, posting-tool, moderation, or audit records and therefore cannot determine from public pages alone whether the accounts were bots, coordinated persons, or independent users.

6. I observed instances in which material critical of TOVX's financing or share structure became unavailable, delayed, or less visible as I expected, while promotional material remained visible. I understood this as possible suppression or selective moderation, but I do not have Stocktwits' internal records and cannot state the cause as a proven fact.

7. On September 26, 2026, I reviewed a public post in the TOVX stream in which a user stated that repeated attempts to post a link to this lawsuit had failed. I do not know the reason. I seek the records described in Request No. 20 so that it can be established from the platform's own records.

8. My Stocktwits account was suspended or banned after I criticized anonymous promotion in low-float securities. I seek my account, moderation, appeal, and enforcement records so the timing and reason can be established from the platform's own records.

9. I understand from Stocktwits' published current policies that it creates and licenses analytics or datasets derived from public content to financial institutions and investment firms. I do not presently know which institutions received or queried TOVX data or whether any recipient traded TOVX.

10. I seek TOVX-related trading and conflict records for Howard Lindzon and relevant Stocktwits personnel because those records would disclose whether any person with access to TOVX moderation, data, or institutional-delivery information held or traded the security during the event windows. I am not asserting that any such person traded or acted improperly without those records.

11. Public pages do not provide the complete historical posts, deletion and visibility history, moderation reasons, account-linkage information, institutional delivery logs, data-source corrections, or employee access logs needed to test these issues.

12. Other witnesses and custodians exist, including Gary Pitoniak, Paul Bernhardt, Theriva personnel, financing and investor-relations personnel, transfer-agent or Broadridge personnel, NYSE American or market-data custodians, and additional persons identified through discovery. This request is not my final witness list.

13. I request the records so that the evidence can confirm, disprove, or narrow my concerns. I do not ask the Court to treat my observations as a finding of manipulation, coordination, or wrongdoing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 26, 2026, at ________________________________.

Signature: ____

Mark Joseph Nejmeh

PUBLIC AUTHORITIES AND POLICY SOURCES

Federal Rules of Civil Procedure (current rules page): https://www.uscourts.gov/forms-rules/current-rules-practice-procedure/federal-rules-civil-procedure

Stocktwits Privacy Policy (effective July 2026): https://stocktwits.com/about/legal/privacy

Stocktwits Terms (revised July 10, 2026): https://stocktwits.com/about/legal/terms/

Stocktwits Community Guidelines: https://stocktwits.com/about/rules/

Stocktwits About page: https://stocktwits.com/about

Stocktwits public API (symbol stream and user search), reviewed September 26, 2026: https://api.stocktwits.com/api/2/streams/symbol/TOVX.json

The 2026 Stocktwits policies are cited only to show current data practices, retention statements, moderation functions, and the type of records likely to exist. The subpoena separately requests the versions in effect during the 2025 event windows.

CERTIFICATE OF SERVICE

I certify that on ____________________, I served a true and correct copy of Plaintiff's Motion for Leave to Conduct Limited Expedited Nonparty Discovery and to Preserve Stocktwits Evidence, including attachments and proposed order on counsel for Defendant Theriva Biologics, Inc. by the Court's CM/ECF system if available to me, or otherwise by the method stated below:

Method of service: ____

Name and address served: ____

____

Dated: ____________________

Signature: ____

Mark Joseph Nejmeh, Plaintiff, self-represented

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

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK JOSEPH NEJMEH, Plaintiff, v. **THERIVA BIOLOGICS, INC.,** Defendant.	**Case No. 3:26-cv-00705-ART-CSD** **ATTACHMENTS TO PROPOSED RULE 45 SUBPOENA TO STOCKTWITS, INC.**

Attachment A — Definitions, Instructions, and Document Requests

These schedules are proposed attachments to an official subpoena form issued under Federal Rule of Civil Procedure 45. They are not self-executing and must not be served unless the Court grants leave and the Clerk issues the subpoena.

DEFINITIONS

1. ‘Stocktwits’ means Stocktwits, Inc. and its officers, employees, contractors, agents, systems, databases, APIs, subsidiaries, and persons acting on its behalf who possess responsive information.

2. ‘TOVX’ means Theriva Biologics, Inc. common stock, the cashtag $TOVX, any predecessor ticker used in a responsive record, and any TOVX-linked option, warrant, short position, swap, future, or other derivative.

3. ‘Event Windows’ means May 6 through May 9, 2025 and October 14 through October 31, 2025, inclusive, using Eastern Time. Policies, data-source descriptions, retention schedules, and custodian records outside those dates are included only when reasonably necessary to interpret event-window records.

4. ‘Public Post’ means a public-facing post, comment, reply, repost, like, sentiment tag, cashtag association, follow, watchlist event, or related public interaction concerning TOVX. This definition excludes private direct-message content.

5. ‘Relevant Personnel’ means Howard Lindzon and any Stocktwits officer, employee, contractor, moderator, salesperson, analyst, engineer, data scientist, product employee, or administrator who, during an Event Window, accessed, moderated, escalated, ranked, commercialized, sold, delivered, or analyzed TOVX content or TOVX-derived data, or made a decision concerning TOVX data, float information, account enforcement, or promotion.

6. ‘Documents sufficient to show’ permits production of the least burdensome record or extract that reliably identifies the requested fact and does not require unrelated records.

7. ‘Institutional Customer’ means a financial institution, investment firm, broker, dealer, hedge fund, asset manager, proprietary trading firm, research provider, data vendor, or other organization that received or queried Stocktwits data for professional investment, trading, research, benchmarking, or analytical use.

8. ‘Designated Account’ means any Stocktwits account that, at any time during an Event Window, displayed an “Official” designation or any other badge, label, or identity designation assigned by Stocktwits rather than chosen by the user, and that made a Public Post concerning TOVX during an Event Window.

9. ‘Case-Link Period’ means September 16, 2026 (the date this action was filed) through the date of production.

10. ‘Case-Link Post’ means any Public Post, or attempted Public Post, associated with TOVX during the Case-Link Period that contained or attempted to contain a hyperlink to, or the case number of, *Nejmeh v. Theriva Biologics, Inc.*, No. 3:26-cv-00705 (D. Nev.), including links to the Court’s docket, PACER, CourtListener, or nejmehvstheriva.com.

INSTRUCTIONS

1. Produce records electronically in reasonably usable native or export format. Preserve original timestamps, time zone, post or record identifiers, account identifiers, field names, parent-child relationships, moderation status, and available metadata. A CSV or database export may be used for structured data.

2. Redact brokerage account numbers, taxpayer or government identifiers, home addresses, security credentials, unrelated holdings, and unrelated personal information. Identify the category of each redaction. Do not redact transaction date, time, side, quantity, price, instrument, beneficial ownership or control, or whether preclearance was requested, when those fields are responsive.

3. If a record no longer exists, identify the record type, last known custodian and system, applicable retention period, approximate deletion date, and whether backups, archives, logs, derived datasets, or legal holds contain the information.

4. For withheld privileged material, provide a privilege log sufficient to assess the claim. Customer confidentiality alone is not a privilege; confidential material may be designated for appropriate protection.

5. The requests seek current and historical records that already exist. They do not require creation of a new expert opinion, reconstruction of unavailable data, or disclosure of unrelated source code.

DOCUMENT REQUESTS

REQUEST NO. 1 — Preservation and custodians. Documents sufficient to identify the custodians, systems, databases, archives, logging tools, moderation tools, data warehouses, vendors, and retention rules likely to contain responsive TOVX records, and the steps taken after receipt of this subpoena or preservation notice to preserve them.

REQUEST NO. 2 — Complete public TOVX stream. All Public Posts concerning TOVX in the Event Windows, including post text or media reference, post ID, parent or thread ID, public handle, timestamp and time zone, sentiment tag, cashtag, likes, replies, reposts, impressions or reach if maintained, URL, and current and historical moderation or visibility status.

REQUEST NO. 3 — Visibility and moderation history. Audit, queue, ticket, flag, review, escalation, deletion, restoration, restriction, de-ranking, labeling, trend-selection, search-suppression, recommendation, and enforcement records concerning the TOVX Public Posts or TOVX stream in the Event Windows, including the rule or reason applied and whether the action was human, automated, vendor-driven, or user-initiated.

REQUEST NO. 4 — Automated, linked, and coordinated accounts. Records sufficient to identify TOVX-posting accounts flagged, scored, investigated, labeled, restricted, or allowed as automated, bot-like, spam, coordinated, duplicate, multi-account, ban-evading, managed, promotional, or inauthentic during the Event Windows; the indicators or rules applied; and the resulting action. Produce consistently hashed or tokenized IP-address, device, cookie, session, posting-tool, and other network or account-linkage identifiers sufficient to determine whether multiple responsive accounts shared infrastructure or control. Preserve exact identifiers. Exact IP addresses or device identifiers are requested only for responsive accounts revealed by the linkage analysis and only under a protective order, in-camera review, or further court direction consistent with applicable law.

REQUEST NO. 5 — Policies in effect. The versions in effect during the Event Windows of Terms, Community Guidelines, moderation manuals, automated-account policies, spam and coordinated-behavior rules, low-float or market-manipulation escalation rules, issuer and advertiser policies, appeals procedures, employee trading or conflicts policies, the criteria for granting, reviewing, or removing the "Official" designation or other Stocktwits-assigned badges, and, for the Case-Link Period, any policy, filter, blocklist, or rule governing links to court records, legal filings, or particular domains.

REQUEST NO. 6 — Plaintiff's account. Account, posting, visibility, moderation, flag, suspension, termination, appeal, support, and internal-review records concerning Mark Joseph Nejmeh's Stocktwits account or accounts, identified through confidential account information supplied with the subpoena, including the stated reasons, decisionmakers, timestamps, and rules applied. Private message content is excluded unless it consists of communications between Plaintiff and Stocktwits support or moderation personnel.

REQUEST NO. 7 — TOVX sentiment and message metrics. The Event-Window values and underlying counts for TOVX message volume, sentiment, trending status, watchers, engagement, participation ratio, reach, Social Relative Strength or similar metric; the field definitions and methodology; and records of manual overrides, exclusions, corrections, or backfills.

REQUEST NO. 8 — Float and share-count data. Every TOVX public-float, shares-outstanding, market-capitalization, or similar capitalization value displayed, ingested, calculated, furnished, or used by Stocktwits during the Event Windows; its source or vendor; as-of date; update timestamps; calculation method if any; correction, dispute, warning, or quality-control record; and any record linking to, importing, comparing, or discussing Yahoo Finance TOVX data.

REQUEST NO. 9 — Low-float claims. Internal reports, moderation records, user flags, fact-checks, support tickets, escalations, and communications concerning statements that TOVX was a 'low float,' had a small float, or was susceptible to a float squeeze during the Event Windows, including any decision to leave visible, label, remove, restrict, or correct such statements.

REQUEST NO. 10 — Issuer, adviser, promoter, and paid activity. Documents sufficient to identify any advertising, sponsored content, issuer-service, investor-relations, promotional, content, data, or other paid relationship concerning Theriva or TOVX, and TOVX-specific communications with Theriva, A.G.P./Alliance Global Partners, LifeSci Advisors, known promoters, or persons acting for them during or reasonably surrounding the Event Windows.

REQUEST NO. 11 — Institutional TOVX data recipients. Documents sufficient to identify each Institutional Customer that received, downloaded, queried, subscribed to, or was furnished TOVX-related Stocktwits public-content data, sentiment, message-volume, account-level public identifiers, benchmarks, or analytics in the Event Windows; the data fields furnished; delivery method; request and delivery timestamps; latency; and whether the delivery was real-time, delayed, historical, or custom.

REQUEST NO. 12 — Institutional communications. TOVX-specific communications between Stocktwits and an Institutional Customer in the Event Windows concerning TOVX attention, sentiment, message volume, trend status, public float, user behavior, coordinated activity, promotional activity, risk, or trading interest. Unrelated customer communications and the customer's complete trading strategy are excluded.

REQUEST NO. 13 — Relevant Personnel access logs. Audit or access records sufficient to show which Relevant Personnel viewed, queried, exported, edited, moderated, ranked, delivered, or otherwise accessed nonpublic TOVX content, metrics, moderation information, float data, customer requests, or derived analytics during the Event Windows, with timestamps and action type.

REQUEST NO. 14 — TOVX positions and trades. Documents sufficient to show every position in or transaction involving TOVX by Howard Lindzon or Relevant Personnel during the Event Windows, including purchases, sales, short sales, options, warrants, swaps, futures, or other TOVX-linked instruments in an account beneficially owned or controlled by that person. Produce only the person's name or coded identity, relationship to responsive TOVX functions, instrument, long or short status, transaction date and time, side, quantity, price, and opening and closing position. Unrelated holdings and full account statements are excluded unless no narrower record exists.

REQUEST NO. 15 — Trading conflicts and preclearance. TOVX-specific personal-trading disclosures, conflict questionnaires, certifications, restricted-list entries, watch-list entries, preclearance requests, approvals or denials, recusals, investigations, exception or violation records, and communications concerning trading by Lindzon or Relevant Personnel in the Event Windows.

REQUEST NO. 16 — Cross-issuer linkage preservation. Without producing unrelated trading at this stage, preserve records sufficient to identify whether an account, promoter, Institutional Customer, Relevant Personnel member, automated-account cluster, data query, or moderation pattern identified in response to Requests 4, 10–15, and 19 also appears in another low-float promotional event. No cross-issuer production is required absent agreement or further court order.

REQUEST NO. 17 — Complaints and regulatory contacts. TOVX-specific complaints, preservation requests, subpoenas, civil investigative demands, regulatory inquiries, law-enforcement requests, or communications received from users, issuers, exchanges, FINRA, the SEC, or another governmental body during or after the Event Windows, subject to any lawful nondisclosure restriction.

REQUEST NO. 18 — Retention and completeness. Documents sufficient to explain retention periods and the completeness of each production category, including whether deleted posts, suspended accounts, moderation histories, access logs, institutional delivery logs, and derived datasets remain in backups, archives, logs, legal records, or acquired systems.

REQUEST NO. 19 — Designated Accounts. For each Designated Account: documents sufficient to show the designation displayed and the dates it was displayed; the criteria applied and the person or process that granted it; whether the account holder is an individual, a stock-alert, signal, newsletter, or promotional service, or another business; any payment, subscription, revenue-sharing, partner, affiliate, advertising, or other commercial relationship between Stocktwits and the account holder; any disclosure of compensation the account made or was required to make under Stocktwits' policies; and any review, complaint, or enforcement action concerning the account's TOVX Public Posts. Public handles may be produced; nonpublic personal information is subject to the protections stated in the Instructions.

REQUEST NO. 20 — Case-Link Posts. For the Case-Link Period: documents sufficient to show each Case-Link Post that was blocked, rejected, held, removed, hidden, de-ranked, labeled, or restricted, and each that was published; the date and time; the rule, filter, blocklist, domain policy, or reason applied; whether the action was automated, human, vendor-driven, or user-initiated; any error message returned to the user; and any internal communication, ticket, or escalation concerning links to the court record in this action or to nejmehvstheriva.com. Private direct-message content is excluded.

Attachment B — Proposed Rule 30(b)(6) Topics

After substantial document production, Stocktwits shall designate one or more persons prepared to testify about information known or reasonably available to the organization on these reasonably particular topics. The parties shall confer to narrow, sequence, or clarify topics before the deposition.

TOPIC NO. 1 — Collection and completeness. The custodians, systems, searches, exports, retention rules, preservation steps, and limitations used to collect the TOVX production, including deleted or archived records.

TOPIC NO. 2 — TOVX public stream. The structure and fields of the TOVX Public Post record, timestamps, thread relationships, account identifiers, sentiment tags, engagement fields, and historical visibility status.

TOPIC NO. 3 — Moderation and visibility. The 2025 policies and actual processes for flagging, reviewing, restricting, de-ranking, deleting, restoring, labeling, searching, recommending, and escalating TOVX posts and accounts, including Plaintiff's account.

TOPIC NO. 4 — Bots and coordinated behavior. The 2025 rules, detection systems, indicators, personnel, vendors, appeals, and enforcement concerning bots, automated posting, duplicate or linked accounts, shared IP or device infrastructure, coordinated amplification, spam, ban evasion, promotion at scale, and manipulation of sentiment or visibility in the TOVX stream, including how hashed or tokenized linkage fields map accounts without publicly exposing exact IP addresses.

TOPIC NO. 5 — Sentiment, message volume, and trending. How TOVX sentiment, message volume, trending, watcher, engagement, participation, Social Relative Strength, reach, or similar metrics were calculated, filtered, corrected, and distributed in the Event Windows, including the treatment of deleted, restricted, automated, or suspected coordinated activity.

TOPIC NO. 6 — Float and capitalization. The source, vendor, timing, calculation, quality control, display, correction process, and internal handling of TOVX float, shares outstanding, market capitalization, and related data, including any Yahoo Finance comparison or user report and any low-float claim escalated for review.

TOPIC NO. 7 — Paid and issuer-related activity. Any TOVX advertising, sponsored content, issuer, investor-relations, promotional, content, or data relationship, and TOVX-specific communications with Theriva, A.G.P./Alliance Global Partners, LifeSci Advisors, or persons acting for them.

TOPIC NO. 8 — Institutional data licensing. The TOVX data products, fields, timing, delivery methods, customers, queries, and communications responsive to Requests 11 and 12, including how public identifiers and sentiment or behavior data were packaged or furnished.

TOPIC NO. 9 — Employee access and conflicts. Which Relevant Personnel could access nonpublic TOVX moderation, float, sentiment, customer-query, or institutional-delivery information; the audit controls governing that access; and the personal-trading, restricted-list, preclearance, recusal, and conflict procedures applicable in the Event Windows.

TOPIC NO. 10 — Authentication. The business-record creation, maintenance, timekeeping, identifiers, audit history, and custodial foundation necessary to authenticate the produced TOVX records without requiring unnecessary individual custodians.

TOPIC NO. 11 — Designated Accounts. The meaning of the “Official” designation and other Stocktwits-assigned badges during the Event Windows; how they were granted, reviewed, and removed; whether identity, compensation, or commercial relationships were verified or disclosed; and the Designated Accounts and commercial relationships responsive to Request 19.

TOPIC NO. 12 — Links to the court record. The policies, filters, blocklists, domain rules, and moderation processes applied to Case-Link Posts during the Case-Link Period, and the handling of the Case-Link Posts responsive to Request 20.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK JOSEPH NEJMEH, Plaintiff, v. **THERIVA BIOLOGICS, INC.,** Defendant.	**Case No. 3:26-cv-00705-ART-CSD** **[PROPOSED] ORDER ON PLAINTIFF'S MOTION FOR LEAVE TO CONDUCT LIMITED EXPEDITED NONPARTY DISCOVERY**

Proposed Order

The Court has considered Plaintiff's motion for leave to conduct limited expedited nonparty discovery from Stocktwits, Inc. Good cause appearing, and without making any finding on the merits of Plaintiff's allegations or concerns, IT IS ORDERED:

1. The motion is GRANTED IN PART as stated in this Order.

2. Under Rule 26(d)(1), Plaintiff may request that the Clerk issue a signed but otherwise blank subpoena and may serve a Rule 45 subpoena for electronically stored information on Stocktwits, Inc. substantially in the form of Attachment A to the motion.

3. Before service, Plaintiff shall serve Defendant with a notice and copy as required by Rule 45(a)(4). The subpoena shall permit at least thirty days for production unless Stocktwits agrees otherwise.

4. The authorized document discovery is limited to the TOVX security and the periods May 6–9, 2025 and October 14–31, 2025, except that policies, data-source descriptions, retention schedules, and custodian-identification records may be requested for a reasonable surrounding period necessary to understand the event-window records, and except that Request 20 may cover TOVX posts linking to the court record in this action from September 16, 2026 through the date of production.

5. The subpoena may seek public-post content and metadata; moderation, visibility, ranking, deletion, account-enforcement, automated-account and account-linkage records; TOVX message-volume and sentiment data; TOVX float and share-count data sources, update history, correction notices, and internal handling; paid or sponsored TOVX activity; TOVX-specific institutional data delivery and customer identification; employee access logs; conflict and personal-trading policies; the criteria for and commercial status of Stocktwits-designated accounts that posted about TOVX; the handling of TOVX posts linking to the court record in this action; and documents sufficient to show TOVX positions or trades by Howard Lindzon and relevant personnel who accessed, moderated, commercialized, sold, or analyzed TOVX content or data.

6. The subpoena shall not require production of private direct-message content absent a further court order. It shall not require production of unrelated securities holdings, full brokerage statements where a transaction extract or confirmation is sufficient, tax returns, home addresses, complete customer trading books, or unrelated business strategy. Stocktwits may initially hash or tokenize network and device identifiers in a consistent manner that preserves account linkage. Exact IP addresses or device identifiers shall be produced only for responsive TOVX accounts identified through the linkage analysis and only under a protective order, in-camera review, or further court direction consistent with applicable law.

7. Brokerage account numbers, taxpayer or government identifiers, home addresses, unrelated holdings, security credentials, and unrelated personal information may be redacted. Personal trading records, nonpublic customer identities, and nonpublic access logs shall not be filed publicly. Before producing those materials to Plaintiff, the parties and Stocktwits shall confer on an appropriate protective mechanism. If no agreement is reached, the material may be lodged for in-camera review or presented with a properly supported motion to seal under the governing rules.

8. Stocktwits may serve objections under Rule 45. Plaintiff and Stocktwits shall confer in good faith concerning burden, proportionality, search terms, custodians, format, confidentiality, and phased production before any motion to compel. Nothing in this Order alters the issuing or compliance court's authority under Rule 45(d) and (f).

9. Service of the subpoena and preservation notice shall provide notice that TOVX-related public-post, account, moderation, ranking, bot-detection, float-data, institutional-delivery, employee-access, conflict, trading, account-designation, and case-link records within the authorized scope should be preserved pending production and resolution of any timely objection. This paragraph does not expand the scope of production or decide any later spoliation issue.

10. After substantial document production, Plaintiff may notice one Rule 30(b)(6) deposition of Stocktwits on the topics in Attachment B. The deposition is limited to seven hours, must provide at least twenty-one days' notice, and must occur at a place permitted by Rule 45(c) or remotely by agreement. Plaintiff shall confer with Stocktwits to narrow or clarify topics before service.

11. This Order does not authorize an individual deposition of Howard Lindzon. Plaintiff may seek that relief later only upon a particularized showing that Lindzon has unique, nonduplicative personal knowledge not reasonably available from documents or a Rule 30(b)(6) witness.

12. This Order does not find that Stocktwits, Lindzon, an employee, a user, a data customer, Theriva, or any other person manipulated TOVX, coordinated trading, supplied false float information knowingly, selectively suppressed content, permitted unlawful bots, or engaged in wrongdoing. The discovery may confirm, disprove, or narrow Plaintiff's concerns.

13. Nothing in this Order limits a properly supported witness list or the testimony of Gary Pitoniak, Paul Bernhardt, Plaintiff, Theriva personnel, A.G.P./Alliance Global Partners personnel, LifeSci Advisors personnel, Broadridge or other transfer-agent personnel, NYSE American or market-data custodians, or other witnesses identified through discovery.

14. The motion is otherwise DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: ______________________________

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UNITED STATES MAGISTRATE JUDGE