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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Medicis Pharmaceutical Corporation,)

No. CV 10-1780-PHX-JAT

10 Plaintiff,)

ORDER

11 vs.)

12)

13 Acella Pharmaceuticals Incorporated,)

14 Defendant.)

15 _____)

16 Defendant Acella Pharmaceuticals, LLC has filed a Motion for Leave to File Its
17 Unredacted Motion for Summary Judgment and Memorandum of Law and Accompanying
18 Statement of Material Facts Under Seal (Doc. 233). In support of its Motion to Seal, Acella
19 asserts that counsel for both parties have designated certain Exhibits to Acella’s Motion for
20 Summary Judgment, and facts found in those Exhibits, as “Confidential” and “Attorneys’
21 Eyes Only” pursuant to their Protective Order. The parties’ designation of certain items as
22 confidential pursuant to a protective order does not justify sealing a dispositive motion.

23 The Court starts with a strong presumption in favor of public access to court records.
24 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). A party that
25 wants to seal any part of a dispositive motion must overcome this strong presumption with
26 compelling reasons for sealing. *Kamakana v. City and County of Honolulu*, 447 F.3d 1172,
27 1179 (9th Cir. 2006). To seal any part of non-dispositive motion, a party still must
28 demonstrate good cause. *Id.* at 1180.

1 Acella offers no reason for sealing other than the parties' designation of certain items
2 as confidential. Acella has not met its burden of overcoming the strong presumption of open
3 access to court documents with compelling reasons. The Court therefore will deny the
4 Motion to Seal.

5 Pursuant to Local Rule of Civil Procedure 5.6(e), the Court will strike the Sealed
6 Lodged Proposed Unredacted Statement of Material Facts (Doc. 235) and the Sealed Lodged
7 Proposed Unredacted Motion for Summary Judgment (Doc. 234). Within five days of the
8 date of this Order, either Acella shall resubmit the stricken documents for filing into the
9 public record or the parties may file a Stipulation containing compelling reasons for sealing.
10 If the parties choose to file a Stipulation, the Court encourages them to seek to seal as little
11 as possible.

12 Acella also filed a Motion for Leave to File Excess Pages for Motion for Summary
13 Judgment and Memorandum of Law (230). Acella seeks an extra two pages for its
14 Memorandum. Finding good cause, the Court will grant the Motion.

15 Accordingly,

16 **IT IS ORDERED DENYING** Acella's Motion to Seal Defendant's Motion for
17 Summary Judgment and Memorandum of Law and Accompanying Statement of Material
18 Facts (Doc. 233). The Clerk shall strike the Proposed documents at Docket entries 234 and
19 235. Within five days of the date of this Order, either Acella shall resubmit the stricken
20 documents for filing into the public record or the parties may file a Stipulation containing
21 compelling reasons for sealing the Memorandum in Support of Motion for Summary
22 Judgment and accompanying Statement of Material Facts and/or for sealing only certain
23 Exhibits to the Statements of Material Facts.

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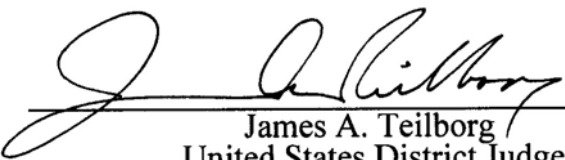
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IT IS FURTHER ORDERED GRANTING Acella's Motion for Leave to File Excess Pages (Doc. 230). The Clerk shall file into the record the Proposed Motion for Summary Judgment and Memorandum of Law (Redacted) currently lodged at docket entry 231.

DATED this 3rd day of August, 2011.



James A. Teilborg
United States District Judge