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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Medicis Pharmaceutical Corporation,

No. CV 10-1780-PHX-JAT

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Plaintiff,

ORDER

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vs.

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Acella Pharmaceuticals Incorporated,

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Defendant.

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Acella filed a Motion for Leave to File Excess Pages in Support of its Reply in Support of Motion for Summary Judgment (Doc. 263) on September 26, 2011. Acella requests an additional four pages for its Reply. Because of the length of Medicis’s Response and the complexity of the issues involved, the Court finds good cause for the additional pages. The Court therefore will grant the Motion.

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Acella has also filed a Motion for Leave to File Under Seal (Doc. 265). Acella seeks to seal Exhibit C to its Reply in Support of Motion for Summary Judgment. Exhibit C contains excerpts from deposition testimony that Medicis has designated as Confidential pursuant to the parties’ Protective Order.

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The Court starts with a strong presumption in favor of public access to court records. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). A party that wants to seal any part of a dispositive motion must overcome this strong presumption with compelling reasons for sealing. *Kamakana v. City and County of Honolulu*, 447 F.3d 1172,

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1 1179 (9th Cir. 2006). To seal any part of non-dispositive motion, a party still must
2 demonstrate good cause. *Id.* at 1180.

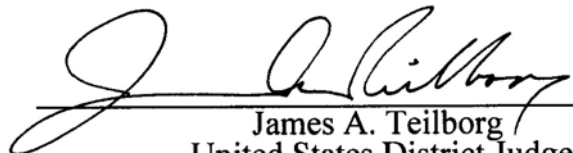
3 The deposition testimony at issue deals with Medicis's process for handling consumer
4 complaints. Acella asserts that the testimony should be sealed because the testimony
5 represents a source of business information that might harm a litigant's competitive standing.
6 The Court respectfully disagrees. The Court finds that Acella has demonstrated neither
7 compelling reasons, nor good cause for sealing Exhibit C to the Reply. The Court therefore
8 denies the Motion for Leave to File Under Seal (Doc. 265).

9 Accordingly,

10 **IT IS ORDERED** GRANTING Acella's Motion for Leave to File Excess Pages in
11 Support of its Reply in Support of Motion for Summary Judgment (Doc. 263). The Clerk
12 shall file the Reply currently lodged at Docket 264, except that the Clerk will not file Exhibit
13 C to the Proposed Reply because of the Court's denial of the Motion to Seal.

14 **IT IS FURTHER ORDERED** DENYING Acella's Motion for Leave to File Under
15 Seal (Doc. 265). Pursuant to Local Rule of Civil Procedure 5.6(e), the Court will strike the
16 the Sealed Lodged Proposed Exhibit at Docket 266. Acella shall have five (5) days from the
17 date of this Order to resubmit Exhibit C to the Reply for filing in the public record.

18 DATED this 27th day of September, 2011.

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22 James A. Teilborg
23 United States District Judge
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