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*Interim Class Counsel*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

YESENIA MELGAR, on Behalf of Herself and  
all Others Similarly Situated,

Plaintiff,

v.

ZICAM LLC and MATRIXX INITIATIVES,  
INC.

Defendants.

Case No. 2:14-cv-00160-MCE-AC

Hon. Morrison C. England, Jr.

**PLAINTIFF’S NOTICE OF REQUEST  
AND REQUEST TO SEAL  
DOCUMENTS IN SUPPORT OF  
PLAINTIFF YESENIA MELGAR’S  
OPPOSITION TO DEFENDANTS  
MATRIXX INITIATIVES INC.’S AND  
ZICAM LLC’S MOTION FOR  
SUMMARY JUDGMENT OR IN THE  
ALTERNATIVE SUMMARY  
ADJUDICATION**

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** Plaintiff Yesenia Melgar (“Plaintiff”) files this request  
3 pursuant to Local Rule 141 for leave to file certain confidential documents under seal in  
4 conjunction with Plaintiff Yesenia Melgar’s Opposition to Defendants Matrixx Initiatives, Inc.’s  
5 and Zicam LLC’s Motion for Summary Judgment, or in the Alternative, Summary Adjudication.

6 The documents that incorporate confidential information are:

- 7 • Certain confidential portions of Plaintiff Yesenia Melgar’s Opposition to Defendants  
8 Matrixx Initiatives, Inc.’s and Zicam LLC’s Motion for Summary Judgment, or in the  
9 Alternative, Summary Adjudication at i:6-10; 1:5-7; 1:22-26; 2: 1-19; 2:22-3:26; 4:1-9;  
10 4:12-14; 4:16-6:2; 6:8-14; 6:16-7:13; 7:16-8:13; 8:15-10:13; 10:24-25; 11:4-6; 11:8-9;  
11 11:17; 11:23-25; 12:1-3; 12:6-8; 12:21-22; 14:14-15; 15:9-10; 16:20; 17:19-25; 18:3-5;  
12 20:1-4; 20:7-8; and 20:27;
  - 13 • Certain confidential portions of the Declaration of Annick M. Persinger in Support of  
14 Plaintiff’s Opposition to Defendants Matrixx Initiatives, Inc.’s and Zicam LLC’s Motion  
15 for Summary Judgment, or in the Alternative, Summary Adjudication (“Persinger  
16 Declaration”) at 1:13-15; 1:18; 1:20-21; 1:23; 1:25-2:2; 2:4; 2:6; 2:8; 2:10-12; 2:15-16;  
17 2:21; 2:23; 2:26-3:2; 3:4; 4:2; 4:5-7; 4:10; 4:12-14; 4:17-22; and 6:20-21;
  - 18 • Exhibits 8, 9, 10, 11, 12, 16, 17, 20, 21, 22, 23, 26, 31, 46, 50, 52, 65, 78, 81, 82, 93, 94,  
19 103, 104, 105, 107, 108, 109, 110, 204, 205, 206, 207, 208, 211, 212, 213, 214, 215, and  
20 216 to the Persinger Declaration;
  - 21 • Certain confidential portions of the Potts Deposition, Ex. 201 to the Persinger Declaration;
  - 22 • Certain confidential portions of the Clarot Deposition, Ex. 202 to the Persinger Declaration;
  - 23 • Certain confidential portions of the Bausell Deposition, Ex. 203 to the Persinger  
24 Declaration;
  - 25 • Certain confidential portions of Plaintiff’s Response to Defendants’ Separate Statement at  
26 pages 2-27; and
  - 27 • Plaintiff’s Statement of Disputed Facts Precluding Summary Judgment.
- 28

1           The above documents contain information designated by Defendant as “Confidential”  
2 pursuant to the parties’ Agreement for the Discovery of Confidential Information (“Confidentiality  
3 Agreement”). The Confidentiality Agreement is attached hereto as **Exhibit A**. The information is  
4 “Confidential Discovery Material” pursuant to Section 1(c) of the Confidentiality Agreement  
5 because it is “confidential research, development, or commercial information, within the meaning  
6 of Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure” and/or proprietary information that is  
7 not generally available to or accessible by the general public. *See* Confidentiality Agreement, Ex.  
8 A at 2. For this reason, Plaintiffs request that the above-listed documents and portions thereof be  
9 filed under seal. Defendants Matrixx Initiatives, Inc. and Zicam LLC shall have access to the  
10 confidential documents.

11           Plaintiff has submitted this Notice of Request, Request to Seal Documents in Support of  
12 Plaintiff Yesenia Melgar’s Opposition to Defendants Matrixx Initiatives, Inc.’s and Zicam LLC’s  
13 Motion for Summary Judgment, or in the Alternative, Summary Adjudication, the [Proposed]  
14 Order, and the documents themselves via electronic mail to the Court. The email has been sent to  
15 Judge England’s proposed orders email box, with the email subject line including the case number  
16 and the statement: “Request to Seal Documents.” Further, this Notice of Request, Request to Seal  
17 Documents in Support of Plaintiff Yesenia Melgar’s Opposition to Defendants Matrixx Initiatives,  
18 Inc.’s and Zicam LLC’s Motion for Summary Judgment, or in the Alternative, Summary  
19 Adjudication, and the [Proposed] Order have been served on all parties via electronic mail.

20 Dated: October 1, 2015

Respectfully submitted,

**BURSOR & FISHER, P.A.**

By: /s/ Annick M. Persinger  
Annick M. Persinger

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*Interim Class Counsel*

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**ORDER**

Having considered Plaintiff’s Request to Seal Documents and the documents labeled “Confidential” pursuant to the parties’ Agreement for the Discovery of Confidential Information, the Court GRANTS Plaintiff’s Request to Seal Documents and finds and orders as follows:

The Court finds that the following documents at issue should be filed under seal:

- Certain confidential portions of Plaintiff Yesenia Melgar’s Opposition to Defendants Matrixx Initiatives, Inc.’s and Zicam LLC’s Motion for Summary Judgment, or in the Alternative, Summary Adjudication at i:6-10; 1:5-7; 1:22-26; 2: 1-19; 2:22-3:26; 4:1-9; 4:12-14; 4:16-6:2; 6:8-14; 6:16-7:13; 7:16-8:13; 8:15-10:13; 10:24-25; 11:4-6; 11:8-9; 11:17; 11:23-25; 12:1-3; 12:6-8; 12:21-22; 14:14-15; 15:9-10; 16:20; 17:19-25; 18:3-5; 20:1-4; 20:7-8; 20:27;
- Certain confidential portions of the Declaration of Annick M. Persinger in Support of Plaintiff’s Opposition to Defendants Matrixx Initiatives, Inc.’s and Zicam LLC’s Motion for Summary Judgment, or in the Alternative, Summary Adjudication (“Persinger Declaration”) at 1:13-15; 1:18; 1:20-21; 1:23; 1:25-2:2; 2:4; 2:6; 2:8; 2:10-12; 2:15-16; 2:21; 2:23; 2:26-3:2; 3:4; 4:2; 4:5-7; 4:10; 4:12-14; 4:17-22; 6:20-21;
- Exhibits 8, 9, 10, 11, 12, 16, 17, 20, 21, 22, 23, 26, 31, 46, 50, 52, 65, 78, 81, 82, 93, 94, 103, 104, 105, 107, 108, 109, 110, 204, 205, 206, 207, 208, 211, 212, 213, 214, 215, and 216 to the Persinger Declaration;
- Certain confidential portions of the Potts Deposition, Ex. 201 to the Persinger Declaration;
- Certain confidential portions of the Clarot Deposition, Ex. 202 to the Persinger Declaration;
- Certain confidential portions of the Bausell Deposition, Ex. 203 to the Persinger Declaration;


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- 1
- Certain confidential portions of Plaintiff's Response to Defendants' Separate Statement at
- 2
- pages 2-27; and
- 3
- Plaintiff's Statement of Disputed Facts Precluding Summary Judgment.
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IT IS SO ORDERED.

5 Dated: October 9, 2015

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8 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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