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 15 YESENIA MELGAR

16 UNITED STATES DISTRICT COURT
 17 EASTERN DISTRICT OF CALIFORNIA

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

20 Plaintiffs,

21 v.

22 ZICAM LLC and MATRIX
 23 INITIATIVES, INC.,

24 Defendants.

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

**JOINT STIPULATION REGARDING
 CLASS ACTION NOTICE PLAN AND
 ORDER**

Hon. Morrison C. England, Jr.

1 Plaintiff Yesenia Melgar, on behalf of herself and the certified class (“Plaintiff”), and
2 Defendants Zicam LLC and Matrixx Initiatives, Inc. (collectively “Defendants”), by and through
3 their respective attorneys, hereby submit an agreed plan to notify class members of the pendency of
4 this action. The procedures described below include individual notice, publication notice, and the
5 establishment of a class action website.

6 **A. Direct Notice**

7 Plaintiff shall cause a notice of the pendency of this class action to be sent directly via
8 electronic mail (“e-mail”) or U.S. mail to all persons reasonably believed to be part of the class
9 and for whom Defendants already have contact information in their possession; *i.e.*, persons who
10 have voluntarily provided e-mail addresses to Defendants (either via call center and/or subscriber
11 lists) and who are believed to reside in one of the ten jurisdictions at issue. Defendants have
12 identified approximately 3,330 individuals to date who will be covered by this method of notice.

13 A copy of the Notice is attached as **Exhibit A**. Plaintiff shall use best efforts to
14 commence with dissemination of the Notice via electronic communication within twenty-one (21)
15 days after approval of this Agreed Plan by the Court. Class members will have six weeks from
16 the date the e-mail notice is sent to request exclusion from the class.

17 **B. Publication Notice**

18 Plaintiff will supplement the direct notice by providing a published summary notice of the
19 pendency of this class action in newspapers of general circulation throughout the ten jurisdictions
20 at issue. Based on a review of print circulation figures, the Parties have preliminarily identified
21 newspapers that are reasonably calculated to apprise interested persons of the pendency of the
22 action and afford them an opportunity to opt-out. The following newspapers have wide
23 circulation in the most populated counties in each state:

24 California: Los Angeles Times; San Francisco Chronicle.

25 Delaware: Wilmington News Journal.

26 D.C.: The Washington Post.

27 Kansas: The Wichita Eagle.

28 Missouri: St. Louis Post-Dispatch; The Kansas City Star.

1 New Jersey: Newark Star-Ledger.

2 Ohio: The Plain Dealer.

3 Utah: The Salt Lake Tribune.

4 Virginia: The Virginian-Pilot.

5 West Virginia: The Charleston Gazette-Mail.

6 A copy of the Summary Notice is attached as **Exhibit B**. Plaintiff shall use best efforts to
7 distribute the Summary Notice within thirty (30) days after approval of this Agreed Plan by the
8 Court. Class members will have six weeks from the last date of publication to request exclusion
9 from the class.

10 **C. Class Action Website**

11 Plaintiff will also set up a class action website so that members who receive a summary
12 notice can be directed to the website to read more information. This class action website will
13 include the information circulated via direct notice.

14 A copy of the Notice is attached as **Exhibit A**. Plaintiff shall use best efforts to set up this
15 class website with the posted Notice within fourteen (14) days after approval of this Agreed Plan
16 by the Court.

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1 The Parties respectfully submit that this proposal for dissemination of notice is the best
2 notice practicable under the circumstances and that it meets the requirements of due process and the
3 Federal Rules of Civil Procedure.

4 Respectfully submitted,

5 Dated: February 10, 2017

DRINKER BIDDLE & REATH LLP

7 By: /s/ Alan J. Lazarus
8 Alan J. Lazarus
9 William A. Hanssen
Ashley K. Corkery

10 Attorneys for Defendants
11 ZICAM LLC and MATRIX INITIATIVES, INC.

12 BURSOR & FISHER, P.A.

14 By: /s/ Scott A. Bursor
15 Scott A. Bursor
16 L. Timothy Fisher

17 Attorneys for Plaintiffs
18 YESENIA MELGAR, and all Others Similarly
Situating

19 **ORDER**

20 IT IS SO ORDERED.

21 Dated: February 16, 2017

22 
23 MORRISON C. ENGLAND, JR.
24 UNITED STATES DISTRICT JUDGE