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*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 AND ORDER**

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. The  
4 documents that incorporate confidential information are:

- 5
- 6 • Certain confidential portions of Plaintiff’s Trial Brief at i:5-18; 1:14-24; 2:1-14; 2:18-20;  
7 3:2-14; 3:17-20; 3:24-28; 4:1-2; 4:5-6; 4:21-5:17; 6:15-24; 6:26-13:17; 13:24-20:28; 21:3-  
8 4; and 21:17-27.
  - 9 • Certain confidential portions of Plaintiff’s Motions *in Limine* at 1:16-19; 1:22; 2:1-2; 2:23-  
10 24; 3:27-4:3; 6:15-19; 6:22-7:13; 7:17-19; 7:25-26; 7:28-8:5; 10:14-24; 11:2; 11:10; 13:14;  
11 13:16; and 16:7-8.
  - 12 • Exhibits A and B to the Declaration of Scott Bursor in Support of Plaintiff’s Motions *in*  
13 *Limine* and Trial Brief.

14 The above documents contain information designated by Defendant as “Confidential”  
15 pursuant to the parties’ 6/5/17 Stipulated Protective Order (Dkt. No. 17). The confidential  
16 information was designated as confidential pursuant to Section 1(c) of the Confidentiality  
17 Agreement because it is “confidential research, development, or commercial information, within  
18 the meaning of Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure” and/or proprietary  
19 information that is not generally available to or accessible by the general public. *See* Dkt. No. 17,  
20 at 2. For this reason, Plaintiff requests that the above-listed documents and portions thereof be  
21 filed under seal. Defendants Matrixx Initiatives, Inc. and Zicam LLC shall have access to the  
22 confidential documents.

23 Good cause exists to file the confidential information discussed above under seal because  
24 these documents contain Defendants’ trade secrets, including Defendants’ product formulation and  
25 product testing. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)  
26 (“compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing  
27 court records exist when such court files might...release trade secrets”) (internal quotations  
28 omitted); *Clark v. Bunker*, 453 F.2d 1006, 1009 (9th Cir. 1972) (adopting definition of “trade

1 secrets" set forth in the Restatement of Torts Restatement of Torts, § 757, noting that [a] trade  
2 secret may consist of any formula, pattern, device or compilation of information which is used in  
3 one's business, and which gives him an opportunity to obtain an advantage over competitors who  
4 do not know or use it.) (internal quotations omitted).

5  
6 Plaintiff has submitted this Notice of Request, Request to Seal Documents and [Proposed]  
7 Order, and the documents themselves via electronic mail to the Court. The email has been set to  
8 Judge England's proposed orders email box, with the email subject line including the case number  
9 and the statement: "Request to Seal Documents." Further, this Notice of Request, Request to Seal  
10 Documents and [Proposed] Order have been served on all parties via electronic mail.

11  
12 Dated: December 18, 2017

Respectfully submitted,

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

14 By: /s/ Scott A. Bursor  
15 Scott A. Bursor

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26 *Class Counsel*


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:

- Certain confidential portions of Plaintiff's Trial Brief at i:5-18; 1:14-24; 2:1-14; 2:18-20; 3:2-14; 3:17-20; 3:24-28; 4:1-2; 4:5-6; 4:21-5:17; 6:15-24; 6:26-13:17; 13:24-20:28; 21:3-4; and 21:17-27.
- Certain confidential portions of Plaintiff's Motions *in Limine* at 1:16-19; 1:22; 2:1-2; 2:23-24; 3:27-4:3; 6:15-19; 6:22-7:13; 7:17-19; 7:25-26; 7:28-8:5; 10:14-24; 11:2; 11:10; 13:14; 13:16; and 16:7-8.
- Exhibits A and B to the Declaration of Scott Bursor in Support of Plaintiff's Motions *in Limine* and Trial Brief.

IT IS SO ORDERED.

Dated: January 3, 2018

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE