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Counsel for Defendants
Zicam, LLC and Matrix Initiatives, Inc.

**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.

**JOINT STIPULATION TO FILE
SECOND AMENDED CLASS ACTION
COMPLAINT AND ORDER**

1 WHEREAS, Plaintiff Yesenia Melgar (“Plaintiff”) filed this action against Defendants
2 Zicam LLC and Matrixx Initiatives, Inc. (“Defendants”);

3 WHEREAS, on February 15 and 16, 2018, the parties attended a two-day mediation with
4 renowned mediator Kenneth Feinberg in New York where the parties executed a Class Action
5 Settlement Term Sheet;

6 WHEREAS, on May 2, 2018, the parties reached agreement on a formal Stipulation of
7 Settlement;

8 WHEREAS, Plaintiff filed a motion for preliminary approval of the settlement on May 3,
9 2018.

10 WHEREAS, the proposed settlement class includes purchasers of Defendants’ Soft Chews
11 and Medicated Fruit Drops in addition to purchasers of the products identified in the First
12 Amended Complaint (ECF No. 10), paragraph 1;

13 WHEREAS, Defendants’ Soft Chews and Medicated Fruit Drops contain the same or
14 similar active ingredients as the products identified in the First Amended Complaint (ECF No. 10),
15 paragraph 1, and contain representations regarding cold relief;

16 WHEREAS, the Court’s May 29, 2014, Scheduling Order (ECF No. 15) provides that no
17 amendments to the pleadings are permitted without leave of court, good cause having been shown;

18 WHEREAS, Article 5.1 of the Stipulation of Settlement requires the filing of a Second
19 Amended Complaint to include purchasers of Defendants’ Soft Chews and Medicated Fruit Drops
20 in the Settlement Class;

21 WHEREAS, Plaintiff’s proposed Second Amended Complaint is attached hereto as Exhibit
22 A.

23 NOW THEREFORE, IT IS HEREBY STIPULATED by and between the parties through
24 their respective attorneys of record that, subject to Court approval, Plaintiff may file a Second
25 Amended Complaint.

26 IT IS HEREBY FURTHER STIPULATED that Defendants’ deadline to respond to the
27 Second Amended Complaint shall be stayed. In the event that the parties’ settlement is ultimately
28 rejected, either by this Court or on appeal, Defendants shall file their response to the Second

1 Amended Complaint within thirty (30) days of such order.

2 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

3
4 Dated: May 9, 2018

BURSOR & FISHER, P.A.

5
6 By: /s/ Scott A. Bursor
Scott A. Bursor

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13 Dated: May 9, 2018

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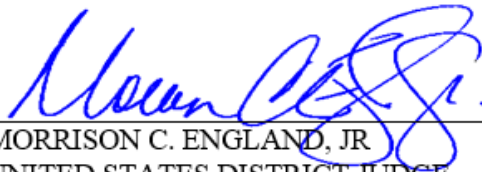
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ORDER

Pursuant to the Parties' stipulation, and good cause appearing, the Court hereby grants Plaintiff leave to file a Second Amended Class Action Complaint. Plaintiff shall file her Second Amended Complaint within seven (7) days of the date this Order is electronically filed. Defendants' deadline to respond to the Second Amended Complaint shall be stayed. In the event that the parties' settlement is ultimately rejected, either by this Court or on appeal, Defendants shall file their response to the Second Amended Complaint within thirty (30) days of such order.

IT IS SO ORDERED.

Dated: May 15, 2018


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE