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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

**PLAINTIFFS' NOTICE OF REQUEST
AND REQUEST TO SEAL
DOCUMENTS IN SUPPORT OF CLASS
CERTIFICATION AND ORDER**

Date: June 25, 2015
Time: 2:00 p.m.
Courtroom: 7

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’s Motion for Class Certification, which will be heard on June 25, 2015.

5 The documents that incorporate confidential information are:

- 6
- 7 • Plaintiff’s Motion for Class Certification at 2:8-9; 2:14; 2:17-19; 2:27-28; 3:7; 3:12-14; 3:
8 25-26; 4:3-5; 4:12; 4:16-17; 5:9-10; 5:12-28; 6:1; 6:3-10; 6:16-7:13; 7:22-23; 7:25; 8:3; 8:6;
9 9:10; 11:18; and 16:22;
 - 10 • Portions of Paragraphs 17,18, 22, 23, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 39, 40, 45, 47,
11 and 52 of the Declaration of Annick M. Persinger in Support of Plaintiff’s Motion for Class
12 Certification;
 - 13 • Exhibits F, G, P, Q, U, V, X, Z, AA, BB, CC, DD, EE, FF, GG, HH, II, JJ, LL, MM, NN,
14 OO, RR, and VV to the Declaration of Annick M. Persinger in Support of Plaintiff’s
15 Motion for Class Certification;
 - 16 • Deposition of Aleyamma Mathew, Exhibit H, at 81:1-82:25.
 - 17 • Deposition of Lori Norian, Exhibit O, at 26:1-11; 36:11-19; 41:4-42:13; 44:1-13; 44:16-25;
18 46:9-25; 47:20-25; 51:1-19; 51:21-22; 55:1-23; 56:3-7; 56:20-57:10; 69:14-71:1; and 71:6-
19 25.
 - 20 • Deposition of Tim Clarot, Exhibit T, at 71:1-73:25; 82:1-5; 82:7-83:8; 83:24-25; 88:1-
21 90:25; 117:1-118:25; 120:1-121:8; 124:1-25; 152:1-25; 157:1-165:9; 166:4-169:2; 169:9-
22 25; 173:1-174:16; and 174:20-25.
 - 23 • Deposition of Marylou Arnett, Exhibit W, at 45:11-46:25; 63:7-25; and 94:1-95:25.
 - 24 • The Expert Report of Dr. Noel R. Rose, M.D. at 4:26; 5:3; 10:22-11:26; and 12:1-2;
 - 25 • The Expert Report of Dr. R. Barker Bausell at 2:25; 3:20-4:8; 5:22-6:12; 6:18-26; 7:1-27;
26 8:4-9; 8:12-9:2; 9:4-11:21; 11:24-12:8; 13:4-5; 13:9-10; and
 - 27 • The Declaration of Steven Weisbrot.
- 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, Exh.
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 Class Certification, the [Proposed] Order, and the documents themselves via electronic mail to the
13 Court. The email has been set to Judge England’s proposed orders email box, with the email
14 subject line including the case number and the statement: “Request to Seal Documents.” Further,
15 this Notice of Request, Request to Seal Documents in Support of Class Certification Reply Brief,
16 and [Proposed] Order have been served on all parties via electronic mail.

17 Dated: April 3, 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:

- Plaintiff's Motion for Class Certification at 2:8-9; 2:14; 2:17-19; 2:27-28; 3:7; 3:12-14; 3:25-26; 4:3-5; 4:12; 4:16-17; 5:9-10; 5:12-28; 6:1; 6:3-10; 6:16-7:13; 7:22-23; 7:25; 8:3; 8:6; 9:10; 11:18; and 16:22;
- Portions of Paragraphs 17,18, 22, 23, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 39, 40, 45, 47, and 52 of the Declaration of Annick M. Persinger in Support of Plaintiff's Motion for Class Certification;
- Exhibits F, G, P, Q, U, V, X, Z, AA, BB, CC, DD, EE, FF, GG, HH, II, JJ, LL, MM, NN, OO, RR, and VV to the Declaration of Annick M. Persinger in Support of Plaintiff's Motion for Class Certification;
- Deposition of Aleyamma Mathew, Exhibit H, at 81:1-82:25.
- Deposition of Lori Norian, Exhibit O, at 26:1-11; 36:11-19; 41:4-42:13; 44:1-13; 44:16-25; 46:9-25; 47:20-25; 51:1-19; 51:21-22; 55:1-23; 56:3-7; 56:20-57:10; 69:14-71:1; and 71:6-25.
- Deposition of Tim Clarot, Exhibit T, at 71:1-73:25; 82:1-5; 82:7-83:8; 83:24-25; 88:1-90:25; 117:1-118:25; 120:1-121:8; 124:1-25; 152:1-25; 157:1-165:9; 166:4-169:2; 169:9-25; 173:1-174:16; and 174:20-25.

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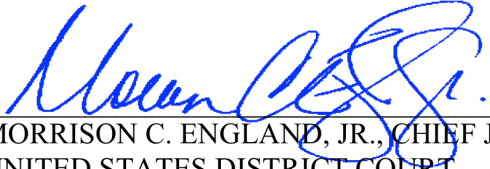
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- Deposition of Marylou Arnett, Exhibit W, at 45:11-46:25; 63:7-25; and 94:1-95:25.
- The Expert Report of Dr. Noel R. Rose, M.D. at 4:26; 5:3; 10:22-11:26; and 12:1-2;
- The Expert Report of Dr. R. Barker Bausell at 2:25; 3:20-4:8; 5:22-6:12; 6:18-26; 7:1-27; 8:4-9; 8:12-9:2; 9:4-11:21; 11:24-12:8; 13:4-5; 13:9-10; and
- The Declaration of Steven Weisbrot.

IT IS SO ORDERED.

Dated: April 13, 2015


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