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7	Interim Class Counsel		
8		NCTRICT COURT	
9	UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA		
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12	YESENIA MELGAR, on Behalf of Herself and	Case No. 2:14-cv-00160-MCE-AC	
13	all Others Similarly Situated,	Hon. Morrison C. England, Jr.	
14	Plaintiff,	PLAINTIFF'S NOTICE OF REQUEST AND REQUEST TO SEAL	
15	V.	DOCUMENTS IN SUPPORT OF CLASS CERTIFICATION AND ORDER	
16	ZICAM LLC and MATRIXX INITIATIVES,		
17	INC. Defendants.		
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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiff Yesenia Melgar ("Plaintiff") files this request pursuant to Local Rule 141 for leave to file certain confidential documents under seal in conjunction with Plaintiff's Reply in Support of Motion for Class Certification. The documents that incorporate confidential information are:

- Plaintiff's Reply in Support of Motion for Class Certification at 2:11-12; 3:7; 3:9-18; 3:20-22; 4:4; 4:12-16; and 4:21-24;
- Portions of Paragraphs 6, 7, 8, 9, 10, and 11 of the Declaration of L. Timothy Fisher in Support of Plaintiff's Reply in Support of Motion for Class Certification;
- The 4/17/2015 Deposition of R. Barker Bausell, Exhibit 2, at 614:1-615:25; 617:16-20.
- The 5/12/2015 Deposition of Noel Rose, M.D., Ph.D., Exhibit 3, at 621:12-14; 622:1-3; 622:10-25; 623:18-25;
- 4/1/2015 Deposition of Susan Potts, Exhibit 4, at 628:1-634:19; 635:2-653:21; 654:1-664:9;
- Exhibits 5, 6, 7, 8, 9, and 10 to the L. Timothy Fisher in Support of Plaintiff's Reply in Support of Motion for Class Certification; and
- The Rebuttal Declaration of Elizabeth Howlett, Ph.D. in Support of Plaintiff's Motion for Class Certification at 7:26-8:6; 8:9-13; 8:22-9:10; 9:17-18; 10:4-6; 10:27-11:1; 11:7; 11:11; 11:20; 11:23-26; 12:18-19; 12:24; and 12:25-27.

The above documents contain information designated by Defendant as "Confidential" pursuant to the parties' Agreement for the Discovery of Confidential Information ("Confidentiality Agreement"). The Confidentiality Agreement is attached hereto as **Exhibit A**. The information is "Confidential Discovery Material" pursuant to Section 1(c) of the Confidentiality Agreement because it is "confidential research, development, or commercial information, within the meaning of Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure" and/or proprietary information that is not generally available to or accessible by the general public. *See* Confidentiality Agreement, Exh. A at 2. For this reason, Plaintiffs request that the above-listed documents and portions thereof be

filed under seal. Defendants Matrixx Initiatives, Inc. and Zicam LLC shall have access to the confidential documents.

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

Dated: June 10, 2015

Respectfully submitted,

BURSOR & FISHER, P.A.

By: <u>/s/ Annick M. Persinger</u>
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 (ECF No. 40) and finds and orders that the following documents at issue shall be filed under seal:

- Plaintiff's Reply in Support of Motion for Class Certification at 2:11-12; 3:7; 3:9-18; 3:20-22; 4:4; 4:12-16; and 4:21-24;
- Portions of Paragraphs 6, 7, 8, 9, 10, and 11 of the Declaration of L. Timothy Fisher in Support of Plaintiff's Reply in Support of Motion for Class Certification;
- The 4/17/2015 Deposition of R. Barker Bausell, Exhibit 2, at 614:1-615:25; 617:16-20.
- The 5/12/2015 Deposition of Noel Rose, M.D., Ph.D., Exhibit 3, at 621:12-14; 622:1-3; 622:10-25; 623:18-25;
- 4/1/2015 Deposition of Susan Potts, Exhibit 4, at 628:1-634:19; 635:2-653:21; 654:1-664:9;
- Exhibits 5, 6, 7, 8, 9, and 10 to the L. Timothy Fisher in Support of Plaintiff's Reply in Support of Motion for Class Certification; and
- The Rebuttal Declaration of Elizabeth Howlett, Ph.D. in Support of Plaintiff's Motion for Class Certification at 7:26-8:6; 8:9-13; 8:22-9:10; 9:17-18; 10:4-6; 10:27-11:1; 11:7; 11:11; 11:20; 11:23-26; 12:18-19; 12:24; and 12:25-27. IT IS SO ORDERED.

Dated: June 18, 2015

MORRISON C. ENGLAND, JR., CHIEF JUDGE

UNITED STATES DISTRICT COURT