

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BURSOR & FISHER, P.A.**  
L. Timothy Fisher (State Bar No. 191626)  
Annick M. Persinger (State Bar No. 272996)  
Julia A. Luster (State Bar No. 295031)  
1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
E-Mail: ltfisher@bursor.com  
          apersinger@bursor.com  
          jluster@bursor.com

*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, Jr.

**PLAINTIFF’S NOTICE OF REQUEST  
AND REQUEST TO SEAL  
DOCUMENTS RELATED TO  
PLAINTIFF’S REBUTTAL EXPERT  
DISCLOSURES 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 in  
4 conjunction with Plaintiff’s Rebuttal Expert Disclosures. The documents that incorporate  
5 confidential information are:

- 6                   • The Rebuttal Declaration of Dr. Edzard Ernst at 7:9-19; 7:27-9:2; 9:10-12; 10:2-3; 10:6-10;  
7                   10:24-11:9; 11:15-17:20; 18:1-3; 18:10-12; 18:16-22; 18:27-28; 22:4-12; and  
8                   • The Rebuttal Declaration of Elizabeth Howlett, Ph.D. at 7:26-8:6; 8:9-13; 8:22-9:10; 9:17-  
9                   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.

10                   The above documents contain information designated by Defendant as “Confidential”  
11 pursuant to the parties’ Agreement for the Discovery of Confidential Information (“Confidentiality  
12 Agreement”). The Confidentiality Agreement is attached hereto as **Exhibit A**. The information is  
13 “Confidential Discovery Material” pursuant to Section 1(c) of the Confidentiality Agreement  
14 because it is “confidential research, development, or commercial information, within the meaning  
15 of Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure” and/or proprietary information that is  
16 not generally available to or accessible by the general public. *See Confidentiality Agreement, Exh.*  
17 *A at 2.* For this reason, Plaintiffs request that the above-listed documents and portions thereof be  
18 filed under seal. Defendants Matrixx Initiatives, Inc. and Zicam LLC shall have access to the  
19 confidential documents.

20                   Plaintiff has submitted this Notice of Request, Request to Seal Documents related to  
21 Plaintiff’s Rebuttal Expert Disclosures, the [Proposed] Order, and the documents themselves via  
22 electronic mail to the Court. The email has been set to Judge England’s proposed orders email  
23 box, with the email subject line including the case number and the statement: “Request to Seal  
24 Documents.” Further, this Notice of Request, Request to Seal Documents related to Plaintiff’s  
25 Rebuttal Expert Disclosures, and [Proposed] Order have been served on all parties via electronic  
26 mail.

1 Dated: July 8, 2015

Respectfully submitted,

2  
3 **BURSOR & FISHER, P.A.**

4 By: /s/ L. Timothy Fisher

L. Timothy Fisher

5 L. Timothy Fisher (State Bar No. 191626)  
6 Annick M. Persinger (State Bar No. 272996)  
7 Julia A. Luster (State Bar No. 295031)  
1990 North California Boulevard, Suite 940  
Walnut Creek, CA 94596  
8 Telephone: (925) 300-4455  
9 Facsimile: (925) 407-2700  
E-Mail: ltfisher@bursor.com  
10 apersinger@bursor.com  
jluster@bursor.com

11 *Interim Class Counsel*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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:

- The Rebuttal Declaration of Dr. Edzard Ernst at 7:9-19; 7:27-9:2; 9:10-12; 10:2-3; 10:6-10; 10:24-11:9; 11:15-17:20; 18:1-3; 18:10-12; 18:16-22; 18:27-28; 22:4-12; and
- The Rebuttal Declaration of Elizabeth Howlett, Ph.D. 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: July 17, 2015

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