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*Counsel for Defendants*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

YESENIA MELGAR, on Behalf of Herself  
and all Others Similarly Situated,

Plaintiff,

v.

ZICAM LLC and MATRIX  
INITIATIVES, INC.

Defendants.

Case No. 2:14-cv-00160-MCE-AC

**STIPULATION AND ORDER SETTING  
BRIEFING SCHEDULE AND  
EXTENDING THE DEADLINE TO FILE  
DISPOSITIVE MOTIONS**

WHEREAS, on August 6, 2015, Defendants' filed a Motion for Summary Judgment (Dkt. No. 69), a Motion to Exclude Certain Opinion Testimony of Designated Expert Noel R. Rose M.D., Ph.D. (Dkt No. 70), and a Motion to Exclude Certain Opinion Testimony of Designated Expert R. Barker Bausell Ph.D. (Dkt No. 71);

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STIPULATION AND ORDER SETTING BRIEFING SCHEDULE AND  
EXTENDING DEADLINE TO FILE DISPOSITIVE MOTIONS  
CASE NO. 2:14-CV-00160-MCE-AC

1 WHEREAS, pursuant to this Court's May 29, 2014 Pre-Trial Scheduling Order, the last day  
2 for Plaintiff to file her opposition to Defendants' Motion for Summary Judgment is August 27, 2015,  
3 and the last day for Defendants to file their reply in support of their Motion for Summary Judgment  
4 is September 10, 2015;

5 WHEREAS, Defendants' Motion for Summary Judgment is currently noticed for October 1,  
6 2015, which is the deadline to hear dispositive motions set by this Court's May 29, 2014 Scheduling  
7 Order;

8 WHEREAS, pursuant to Local Rule 230, the last day for Plaintiff to file her oppositions to  
9 Defendants' Motions to Exclude Certain Testimony of Dr. Rose and Dr. Bausell is September 3,  
10 2015, the last day for Defendants to file their replies in support of their Motions to Exclude Certain  
11 Testimony is September 10, 2015, and the hearings are noticed for September 17, 2015;

12 WHEREAS, Defendants also filed a Motion to Strike Plaintiff's Supplemental Designation  
13 of Experts (Dkt. No. 61), and this Court referred that Motion to Magistrate Judge Allison Claire  
14 (Dkt. No. 59);

15 WHEREAS, the deadline for Plaintiff to respond to Defendants' Motion to Strike  
16 Plaintiff's Supplemental Designation of Experts is August 12, 2015, the deadline for Defendants'  
17 to file a reply in support of their Motion to Strike Plaintiff's Supplemental Designation of Experts  
18 is August 19, 2015, and the hearing is noticed for August 26, 2015;

19 WHEREAS, on August 5, 2015, Defendants filed a Motion for Leave to Respond to  
20 Plaintiff's Reply in Support of Motion for Class Certification (Dkt. No. 66), and Plaintiff filed her  
21 opposition on August 6, 2015 (Dkt. 67);

22 WHEREAS, Defendants' reply in support of their Motion for Leave to Respond to  
23 Plaintiff's Reply is due on August 27, 2015, and the hearing is noticed before this Court on  
24 September 3, 2015;

25 WHEREAS, counsel for both parties will be in trial during the current briefing schedule  
26 for Defendants' Motion for Summary Judgment, set by this Court's May 29, 2014 Pre-Trial  
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1 Scheduling Order (Dkt. No. 15), and Defendants' Motions to Exclude Certain Testimony of Dr.  
2 Rose and Dr. Bausell, set by Local Rule 230;

3 WHEREAS, counsel for Plaintiff also has pre-paid vacations scheduled for the month of  
4 August;

5 WHEREAS, the Parties have conferred and agreed to set a briefing schedule for Defendants'  
6 Motion for Summary Judgment (Dkt. No. 69), Defendants' Motion to Exclude Certain Opinion  
7 Testimony of Designated Expert Noel R. Rose M.D., Ph.D. (Dkt No. 70), and Defendants' Motion to  
8 Exclude Certain Opinion Testimony of Designated Expert R. Barker Bausell Ph.D. (Dkt No. 71);

9 WHEREAS, the Parties agree that the briefing schedules set for Defendants' Motion to Strike  
10 Plaintiff's Supplemental Designation of Experts (Dkt. No. 61), and Defendants' Motion for Leave to  
11 Respond to Plaintiff's Reply in Support of Class Certification (Dkt. No. 66) shall remain unchanged;

12 WHEREAS, the parties have not requested any extensions of time prior to this stipulation;

13 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties through  
14 their respective attorneys of record that:

- 15 1. The last day to hear dispositive motions shall be extended to November 12, 2015, or in  
16 the alternative, December 3, 2015 if that date is more convenient for the Court;
- 17 2. Plaintiffs will file their oppositions to Defendants' Motion for Summary Judgment,  
18 Defendants' Motion to Exclude Certain Opinion Testimony of Designated Expert Noel R.  
19 Rose M.D., Ph.D., and Defendants' Motion to Exclude Certain Opinion Testimony of  
20 Designated Expert R. Barker Bausell Ph.D. on or before October 1, 2015;
- 21 3. Defendants will file their Replies in Support of Defendants' Motion for Summary  
22 Judgment, Defendants' Motion to Exclude Certain Opinion Testimony of Designated  
23 Expert Noel R. Rose M.D., Ph.D., and Defendants' Motion to Exclude Certain Opinion  
24 Testimony of Designated Expert R. Barker Bausell Ph.D. on or before November 5,  
25 2015;
- 26 4. The hearing on the Defendants' Motion for Summary Judgment, Defendants' Motion to  
27 Exclude Certain Opinion Testimony of Designated Expert Noel R. Rose M.D., Ph.D., and

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Defendants' Motion to Exclude Certain Opinion Testimony of Designated Expert R. Barker Bausell Ph.D. shall be on November 12, 2015 at 2:00 p.m., or in the alternative, December 3, 2015 if that date is more convenient for the Court or on such other date that is convenient for the Court.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: August 10, 2015

Respectfully submitted,

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

By: /s/ L. Timothy Fisher  
L. Timothy Fisher

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*Counsel for Plaintiff*

Dated: August 10, 2015

**DRINKER BIDDLE & REATH LLP**

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*Counsel for Defendants*


1 **ORDER**

2 Pursuant to the Parties' stipulation, the Court hereby orders:

- 3 1. The last day to hear dispositive motions shall be extended to November 12, 2015;
- 4 2. Plaintiffs will file their oppositions to Defendants' Motion for Summary Judgment,  
5 Defendants' Motion to Exclude Certain Opinion Testimony of Designated Expert Noel R.  
6 Rose M.D., Ph.D., and Defendants' Motion to Exclude Certain Opinion Testimony of  
7 Designated Expert R. Barker Bausell Ph.D. on or before October 1, 2015;
- 8 3. Defendants will file their Replies in Support of Defendants' Motion for Summary  
9 Judgment, Defendants' Motion to Exclude Certain Opinion Testimony of Designated  
10 Expert Noel R. Rose M.D., Ph.D., and Defendants' Motion to Exclude Certain Opinion  
11 Testimony of Designated Expert R. Barker Bausell Ph.D. on or before November 5,  
12 2015;
- 13 4. The hearing on the Defendants' Motion for Summary Judgment, Defendants' Motion to  
14 Exclude Certain Opinion Testimony of Designated Expert Noel R. Rose M.D., Ph.D., and  
15 Defendants' Motion to Exclude Certain Opinion Testimony of Designated Expert R.  
16 Barker Bausell Ph.D. shall be on November 12, 2015, at 2:00 p.m.

17 **IT IS SO ORDERED.**

18 Dated: August 12, 2015

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