

1 ROBERT S. SHWARTS (STATE BAR NO.
196803)
2 rshwartz@orrick.com
MICHAEL D. WEIL (STATE BAR NO. 209056)
3 mweil@orrick.com
CATHERINE Y. LUI (STATE BAR NO. 239648)
4 clui@orrick.com
JOHANNA L. JACOB (STATE BAR NO.
5 286796)
jjacob@orrick.com
6 AOIFE M. DUFFY (STATE BAR NO. 313515)
aoife.duffy@orrick.com
7 ORRICK, HERRINGTON & SUTCLIFFE LLP
The Orrick Building
8 405 Howard Street
San Francisco, CA 94105-2669
9 Telephone: +1 415 773 5700
Facsimile: +1 415 773 5759

10 Attorneys for Plaintiff AllCells, LLC.

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**
15

16 ALLCELLS, LLC, a California limited
17 liability company,

18 Plaintiff,

19 v.

20 JACK ZHAI, an individual, JAMES LEE,
21 an individual, and CEPHEUS
BIOSCIENCES, INC., a Delaware
22 Corporation,

23 Defendants.

Case No. 3:16-cv-07323-EMC

**JOINT STIPULATION &
[PROPOSED] ORDER
PERMITTING MUTUAL
EXPEDITED DISCOVERY AND
SETTING PRELIMINARY
INJUNCTION SCHEDULE**

1 Plaintiff AllCells, LLC (“Plaintiff”) and Defendants Jack Zhai, James Lee, and
2 Cepheus Biosciences, Inc. (collectively, “Defendants”), through their undersigned
3 attorneys, hereby stipulate and agree to mutual expedited discovery and schedule:

4 WHEREAS, Plaintiff filed its Motion for Preliminary Injunction (D.I. 11), Motion
5 for Expedited Discovery (D.I. 12), and Motion for Shortened Time (D.I. 13) on December
6 28, 2016.

7
8 WHEREAS, Plaintiff filed its Renewed Motion for Shortened Time (D.I. 27) and
9 Supplemental Brief in support of its Motion for Expedited Discovery (D.I. 28) on January
10 11, 2017.

11 WHEREAS, the Court, in its January 13, 2017 Order, set a briefing schedule on
12 Plaintiff’s Motion for Expedited Discovery and ordered the parties to continue to meet and
13 confer on mutual expedited discovery (D.I. 31).

14
15 WHEREAS, pursuant to the Court’s instructions, the parties conferred and have
16 reached agreement as to the scope of mutual expedited discovery and a proposed briefing
17 and hearing schedule on Plaintiffs’ Motion for Preliminary Injunction (D.I. 11);

18 NOW, THEREFORE, IT IS HEREBY STIPULATED, this honorable Court
19 consenting that:

- 20
21 1) The parties’ agreement to mutual expedited discovery and a proposed
22 schedule for the briefing and hearing of Plaintiff’s Motion for Preliminary
23 Injunction (D.I. 11), resolves the need for this Court to rule on Plaintiff’s
24 motion for expedited discovery (D.I. 12). This agreement also obviates
25 any motion by Defendants for expedited discovery of Plaintiff.
26
27
28

- 1 2) The parties will engage in the expedited discovery, attached to D.I. 28 as
2 Exhibit I and this stipulation as Exhibit A.¹
- 3 3) The parties agree to the following schedule for expedited discovery and the
4 briefing and hearing on Plaintiff's Motion for Preliminary Injunction (D.I.
5 11).

Event	Deadline
Written Discovery Responses	January 30, 2017
Document Production	On or before February 9, 2017 at 5 PM Pacific
Deposition of Jack Zhai and James Lee	Week of February 21, 2017
Deposition of Dr. Jie "Jay" Tong and Wayne Vaz	Week of February 27, 2017
Plaintiff's Amended Motion For Preliminary Injunction	March 2, 2017
Opposition to Plaintiff's Motion	March 9, 2017
Reply	March 16, 2017
Hearing on Plaintiff's Motion	March 23, 2017

- 23 4) Depositions taken during expedited discovery will not prevent an
24 additional deposition of any of the witnesses during regular fact discovery.
25

26

27 ¹ The parties agree that Plaintiff's responses to Defendants' documents requests are
28 limited to documents generated on or before July 1, 2016 as well as those date limitations
already identified in the document requests.

EXHIBIT A

1 LTL ATTORNEYS LLP
 2 Enoch H. Liang (SBN 212324)
 Enoch.Liang@ltmlaw.com
 3 Kevin M. Bringuel (SBN 196279)
 Kevin.Bringuel@ltmlaw.com
 4 Eugene L. Hahm (SBN 167596)
 Eugene.Hahm@ltmlaw.com
 5 Jennifer S. Jung (SBN 302491)
 Jenny.Jung@ltmlaw.com
 6 601 Gateway Boulevard, Suite 1010
 7 South San Francisco, CA 94080
 8 Tel.: 650-422-2130 / Fax: (650) 241-2412

9 Attorneys for Defendants
 10 Jack Zhai, James Lee and Cepheus Biosciences, Inc.

11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**

13 ALLCELLS, LLC, a California Limited
 14 Liability Company

15 Plaintiff,

16 v.

17 JACK ZHAI, an individual, JAMES LEE, an
 18 individual, and CEPHEUS BIOSCIENCES,
 INC., a Delaware Company

19 Defendants.

Case No.: 3:16-cv-7323

**DEFENDANTS JACK ZHAI’S, JAMES
 LEE’S AND CEPHEUS BIOSCIENCES,
 INC.’S SPECIAL INTERROGATORIES,
 SET ONE**

20
 21 **PROPOUNDING PARTY:** DEFENDANTS, JACK ZHAI, JAMES LEE AND CEPHEUS
 BIOSCIENCES, INC.

22 **RESPONDING PARTY:** ALLCELLS, LLC

23 **SET NO.:** ONE

INSTRUCTIONS

1
2
3 1. To “IDENTIFY” as to a PERSON means to state the PERSON’s name, the
4 address of last known residence, last known telephone number, title, employer, and/or address of
5 employer.

6 2. To “IDENTIFY” as to a product or device means to state the manufacturer, model
7 number, reseller, price, date purchased, and whether you still own the device.

8 3. To “IDENTIFY” as to an event, discussion, inquiry or request means to state the
9 date that any of the foregoing occurred, the individuals involved, the location where the event,
10 discussion, inquiry or request occurred, and the outcome thereof.

11 4. To “IDENTIFY” as to a document means:

12 a. to refer to the document’s identification or exhibit number if the document has been
13 previously produced or used in discovery or to attach a true copy of the document to the
14 interrogatory answers and to state the document’s title and date, or if unknown the
15 approximate date of creation;

16 b. provide the identity of each person who signed or participated in the preparation of
17 the document;

18 c. provide the identity of each person who is an addressee, including those to whom
19 copies were to be sent, or who received a copy of the document;

20 d. provide a summary of the subject matter of the document;

21 e. provide the present location of the document and the identity of the custodian of the
22 original and each copy thereof; and

23 f. if the document no longer exists, give the date on which it was destroyed, the
24 identity of the person who destroyed it, and the person under whose authority it was
25 destroyed.

26 5. In answering the following interrogatories, you are required to provide all
27 information that is available to you or within your control, including information in the
28 possession of your attorneys, investigators, employees, agents, representatives, and guardians or

1 any other person acting on your behalf, and not merely information from your own personal
2 knowledge.

3 6. If you cannot answer an interrogatory in full, answer to the extent you are able to
4 do so, state the reason for your inability to answer further, and state the knowledge or
5 information available to you concerning the unanswered portion.

6 7. If you object to the interrogatory, you must state the grounds for any objection(s).
7 If you object to only part of the interrogatory, you must state the objection and the grounds for
8 any objection(s) and respond to the remainder of the interrogatory.

9 8. If you deem any information, document, or communication requested by any of
10 the following interrogatories to be protected from disclosure by the attorney-client privilege,
11 work-product doctrine, or any other privilege, doctrine, or immunity, please identify or describe:
12 (a) the information, document, or communication alleged to be so protected by author, subject
13 matter, date, number of pages, attachments, and appendices; (b) the names and job titles of all
14 recipients of the information, document, or communication, including blind copy recipients and
15 any individual to whom the information, document, or communication was distributed, shown, or
16 explained; (c) the information, document, or communication's current custodian; (d) all bases,
17 factual and legal, upon which such protection rests; and (e) identify all persons who have, or
18 have had, access to said matter. If you contend that only a portion of the information sought by
19 an interrogatory is privileged, please provide the information that you do not contend is
20 privileged.

21 9. Each answer should be preceded by a reiteration of the full interrogatory to which
22 it responds.

23 10. As used herein, the masculine includes the feminine and neuter; the singular
24 includes the plural; "each" includes and encompasses "every," and vice-versa;" "any" includes
25 and encompasses "all," and vice-versa; the terms "and" and "or" have both conjunctive and
26 disjunctive meanings so as to be inclusive of any documents; and the present tense shall also
27 include the past tense.

28 11. These interrogatories are ongoing and continuing and you are under a duty to

1 supplement your responses to these interrogatories in accordance with Federal Rule of Civil
2 Procedure 26(e).

3
4 **DEFINITIONS**

5 1. “ALLCELLS,” “YOU” and “YOUR” shall mean Plaintiff AllCells, LLC,
6 including without limitation agents, representatives, employees, consultants, attorneys, and
7 others acting on behalf of ALLCELLS.

8 2. “ZHAI” shall mean Defendant JACK ZHAI.

9 3. “LEE” shall mean Defendant JAMES LEE.

10 4. “CEPHEUS” shall mean Defendant CEPHEUS BIOSCIENCES, INC.

11 5. “PERSON(S)” means any natural person, legal entity, public or private entity,
12 firm, association, organization, partnership, business, trust, corporation, limited liability
13 company, or joint venture, or others acting on behalf of said PERSON.

14 6. “DOCUMENT” and “THINGS” shall have the broadest meaning ascribed to it by
15 Federal Rule of Civil Procedure 34 and Federal Rule of Evidence 1001, whether in a fixed media
16 e.g., paper, or electronic or otherwise.

17 7. “RELATE” or “REFER” or any variants thereof, when used in connection with
18 any document, shall be understood to apply if the document directly or indirectly evidences,
19 mentions, discusses, constitutes, concerns, supports, contradicts, refers to, or in any other way
20 deals with the subject matter described in the request in which the term appears.

21 8. “COMMUNICATION” means any contact, oral or documentary, formal or
22 informal, at any place or under any circumstances whatsoever whereby information of any nature
23 is transmitted or transferred, including, without limitation, a single person seeing or hearing any
24 information by any means.

25 9. “PRELIMINARY INJUNCTION MOTION” means the document filed as Docket
26 No. 11 in Case No.: 3:16-cv-7323, filed on December 28, 2016.

LTL ATTORNEYS LLP
Enoch H. Liang (SBN 212324)
Enoch.Liang@ltlattorneys.com
Kevin M. Bringuel (SBN 196279)
Kevin.Bringuel@ltlattorneys.com
Eugene L. Hahm (SBN 167596)
Eugene.Hahm@ltlattorneys.com
Jennifer S. Jung (SBN 302491)
Jenny.Jung@ltlattorneys.com
601 Gateway Boulevard, Suite 1010
South San Francisco, CA 94080
Tel.: 650-422-2130 / Fax: (650) 241-2412

Attorneys for Defendants
Jack Zhai, James Lee and Cepheus Biosciences, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ALLCELLS, LLC, a California Limited
Liability Company
Plaintiff,

v.

JACK ZHAI, an individual, JAMES LEE, an
individual, and CEPHEUS BIOSCIENCES,
INC., a Delaware Company
Defendants.

Case No.: 3:16-cv-7323

**DEFENDANTS JACK ZHAI, JAMES LEE
AND CEPHEUS BIOSCIENCES, INC.,
REQUEST FOR PRODUCTION OF
DOCUMENTS, SET ONE**

PROPOUNDING PARTY: DEFEDANTS, JACK ZHAI, JAMES LEE AND CEPHEUS
BIOSCIENCES, INC.

RESPONDING PARTY: ALLCELLS, LLC

SET NO.: ONE

INSTRUCTIONS

1
2
3 1. Pursuant to applicable Federal Rules, you are required to obtain and furnish all
4 information available to you or in your control or available or in the control of any of your
5 representatives, employees, agents, brokers, servants, or attorneys.

6 2. Each request should be responded to separately. However, a document which is a
7 response to more than one request may, if marked or indexed, be produced to in a later response
8 by its mark or index identifier.

9 3. If any document or request for information or definition or instruction is objected
10 to in whole or in part, specify all grounds on which objection rests. Respond to all portions of
11 each such request to which no objection is asserted. In addition, state whether any responsive
12 information has been omitted from any response or whether and in what way the search for
13 responsive information has been delimited or circumscribed on the basis of any such objection.

14 4. The documents produced in response to this request shall include all attachments
15 and enclosures.

16 5. References to the singular include the plural.

17 6. The use of any tense of any verb includes all other tenses of the verb.

18 7. If you believe that any of the following requests calls for an assertion of a claim
19 of privilege, answer so much of the request as is not objected to, state that part of each request to
20 which you raise objection and set forth the basis for your claim of privilege with respect to such
21 information you refuse to give.

22 8. For all documents for which a claim of privilege is raised as grounds for non-
23 production, a privilege log must be provided listing:

24 a. The place, date and manner of preparing the document;

25 b. The name and title of the sender;

26 c. The identity of each person participating in the preparation of the
27 document;

28 d. The identity and title of the person supplying the attorney with the

1 information requested above;

2 e. The identity of each person to whom the contents of the document have
3 summarization, the dates of said communication, and the employer and title of the
4 person at the time of communication;

5 f. Type of document;

6 g. Subject matter (without revealing the relevant information for which
7 privilege or statutory authority is claimed); and

8 h. Factual and legal basis for claim, privilege.

9 9. If, for reasons other than a claim of privilege, you refuse to answer any request,
10 please state the grounds upon which the refusal is based with sufficient specificity to permit
11 determination of the propriety of such refusal.

12 10. Each request calls for the production of the original document. Each request also
13 includes a request for production of all preliminary drafts of documents that differ in any respect
14 from the original or final draft or from each other (e.g., by reason of handwritten notes or
15 comments added to one copy of a document).

16 11. If any documents requested have been lost or destroyed, the documents lost or
17 destroyed must be identified by author, date and subject matter.

18 12. For any document which was once in Defendant's control, but is no longer, please
19 indicate the date the document ceased to be in the Defendant's control, the manner in which it is
20 ceased, and the name and address of its present custodian.

21 13. If you do not agree with any definition of the terms provided herein, you are
22 instructed to provide a reasonable, alternative definition for that term, consistent with industry
23 custom and usage.

24 14. Each of the definitions and instructions contained herein shall be fully applicable
25 to each request notwithstanding that a definition or instruction may, in whole or in part, be
26 reiterated in a particular request and notwithstanding that a particular request may incorporate
27 supplemental instructions or definitions. If, however, you provided any alternate definitions in
28 accordance with Instruction 14, indicate whether, and how, any answer to any request would

1 differ if you relied on your alternate definition in responding to that request instead of the
2 definitions provided.

3 15. Unless otherwise indicated, each request is to be construed as encompassing all
4 documents from the date the document (or thing) was first created, generated or received and
5 continues to the date of production.

6 16. If any document or request is deemed to call for the disclosure of confidential or
7 proprietary information within the meaning of Rule 26(c)(7) of the Federal Rules of Civil
8 Procedure, Defendant's counsel is prepared to receive such documents or information and will
9 maintain each document's confidentiality pending the entry of an appropriate protective order.

10 **DEFINITIONS**

11 1. "ALLCELLS," "YOU" and "YOUR" shall mean Plaintiff AllCells, LLC,
12 including without limitation agents, representatives, employees, consultants, attorneys, and
13 others acting on behalf of ALLCELLS.

14 2. "ZHAI" shall mean Defendant JACK ZHAI.

15 3. "LEE" shall mean Defendant JAMES LEE.

16 4. "CEPHEUS" shall mean Defendant CEPHEUS BIOSCIENCES, INC.

17 5. The term "DOCUMENT," as used in these Production Requests has the broadest
18 meaning accorded that term by Rule 34 of the Federal Rules of Civil Procedure and Rule 1001 of
19 the Federal Rules of Evidence, and includes, but is not limited to, any kind of written or graphic
20 material, however produced or reproduced, of any kind or description, whether sent or received
21 or neither, including originals, copies, drafts and both sides thereof, and including, but not
22 limited to: any papers, reports, binder, cover note, certificate, letter, correspondence, record,
23 table, chart, analysis, graph, schedule, report, test, study memorandum, note, list, diary, log,
24 calendar, telex, message (including, but not limited to, inter-office and intra-office
25 communications), questionnaire, bill, purchase order, blogs, charts, data files, log files of
26 computer access activity, shipping order, contract, memorandum of contract, agreement,
27 assignment, license, certificate, permit, ledger, ledger entry, book of account, check, order,
28 invoice, receipt, statement, financial data, acknowledgement, computer or data processing card,

1 computer or data processing disk, computer- generated matter, photograph, photographic
2 negative, phonograph recording, transcript or log of an such recording, projection, videotape,
3 film, microfiche, and all other data compilations from which information can be obtained or
4 translated, reports and/or summaries of investigations, drafts and revisions of drafts of any
5 documents and original preliminary notes or sketches, and all of the records kept by electronic,
6 photographic, optical, mechanical, magnetic means and things similar to any of the foregoing,
7 including computer media, regardless of their author, no matter how produced or maintained, in
8 your actual or constructive possession, custody or control, or the existence of which you have
9 knowledge, and whether prepared, published or released by you or by any other person. If a
10 document has been prepared in several copies, or additional copies have been made, or copies
11 are not identical (or which by reason of subsequent modification of a copy by the addition of
12 notations or other modifications, are no longer identical), each non-identical copy as a separate
13 document.

14 6. The term “COMMUNICATIONS” means any manner or means of disclosure,
15 transfer or exchange of information with any person (whether internal or external to an
16 organization), including but not limited to by means of verbal conversation, letter, memoranda,
17 message, note, telegram, telex, electronic mail, facsimile, text message, chat message, instant
18 message, Facebook message or Twitter message, posting, or by any other DOCUMENTS.

19 7. The term “CONCERNING” means embodying, referring to, relating to,
20 summarizing, constituting, containing, analyzing, studying, explaining, mentioning, showing,
21 discussing, supporting, refuting, reflecting, memorializing, describing, commenting upon, and/or
22 connected in any way factually or logically with, the matter therein.

23 8. “RELATE” or “REFER” or any variants thereof, when used in connection with
24 any document, shall be understood to apply if the document directly or indirectly evidences,
25 mentions, discusses, constitutes, concerns, supports, contradicts, refers to, or in any other way
26 deals with the subject matter described in the request in which the term appears.

27 9. “TRADE SECRETS DISCLOSURE” means ALLCELLS’ Preliminary Trade
28 Secrets Disclosure served on January 14, 2017.

