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Attorneys for Plaintiff  
CROSSFIT, INC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CROSSFIT, INC., a Delaware  
corporation,

Plaintiff,

v.

NATIONAL STRENGTH AND  
CONDITIONING ASSOCIATION, a  
Colorado corporation,

Defendant.

Case No. 3:14-cv-01191-JLS-KSC

**PLAINTIFF'S APPLICATION TO  
FILE MATERIALS UNDER SEAL  
IN SUPPORT OF ITS OPPOSITION  
TO NSCA'S MOTION FOR  
SUMMARY JUDGMENT**

Judge: The Honorable Janis L.  
Sammartino

Hearing date: June 16, 2016 at 1:30pm  
Courtroom: 4A

Pursuant to Local Rule 79.2 and Chambers Rule IX, Plaintiff hereby applies to file certain documents, listed below, under seal (the “Application”). Redacted copies of these documents will be publicly filed.

1. Plaintiff’s Response in Opposition to Defendant’s Motion for Summary Judgment Or, Alternatively, Partial Summary Judgment (“Opposition”);

2. Plaintiff’s Response to Defendant’s Separate Statement of Undisputed Facts;

3. The Declaration of Micha Danzig (“Danzig Declaration”) in Support of the Opposition; and

4. Exhibits A, B, C, D, J, N, R, U, V, W, X, Y, Z, AA, BB, CC, DD, EE, and II to the Danzig Declaration.

This application is made on the grounds that:

1. “Compelling reasons” exist to allow public filing of the redacted documents, and sealing of the unredacted versions. *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

2. The redacted content in the Opposition, the Response to Defendant’s Separate Statement and the Danzig Declaration consists of (1) the names of the participants in the study at issue, and/or (2) sensitive business information that comes from documents marked “Confidential” and is not otherwise available to the public. CrossFit also seeks to file under seal documents marked Confidential under the Stipulated Protective Order in this action.

3. The Application balances the public’s interest in disclosure by seeking primarily the redaction of names and limited substantive content. *See In re Midland Nat’l Life Ins. Co. Annuity Sales Practices Litig.*, 686 F.3d 1115, 1120 (9th Cir. 2012) (ordering “the district court [to] permit the parties in the underlying cases to redact sensitive personal . . . information before unsealing the records”).

4. Exhibits V, W, X, Y, Z, AA, BB, CC, DD, and EE are the declarations submitted by the allegedly injured participants in the study at issue. The study

1 participants are all non-parties. This application is made in order to protect these non-  
 2 parties from the risk of undue burden, harassment, and annoyance, and to protect their  
 3 sensitive personal information, including medical information. The Court has  
 4 previously granted CrossFit, Inc.'s requests to seal the names of the participants in  
 5 related filings.

6 5. Exhibits A and R to the Danzig Declaration are documents that CrossFit,  
 7 Inc. has designated "Confidential" pursuant to the Protective Order in this action  
 8 because the information contains sensitive business information. Exhibit II to the  
 9 Danzig Declaration is CrossFit's damages expert's report containing sensitive  
 10 business and financial information.<sup>1</sup>

11 6. Exhibits J, N, and U to the Danzig Declaration are documents that the  
 12 NSCA has designated "Confidential" pursuant to the Protective Order in this action.

13 7. Exhibits B, C, and D to the Danzig Declaration are documents that non-  
 14 party ACSM has designated "Confidential" pursuant to the Protective Order in this  
 15 action.

16 Accordingly, Plaintiff requests that the Court enter an Order permitting the  
 17 above referenced documents to be filed under seal. A Proposed Order granting this  
 18 Application has been submitted herewith.

19 Respectfully submitted,

20 Dated: June 16, 2016

MINTZ LEVIN COHN FERRIS GLOVSKY  
AND POPEO PC

22 By s/Micha Danzig  
 23 Micha Danzig, Esq.  
 24 Justin S. Nahama, Esq.

25 *Attorneys for Plaintiff*  
*CrossFit, Inc.*

27  
 28 <sup>1</sup> Certain portions of Dr. Solomon's report not relevant to the present motion contain  
 or reference CrossFit, Inc.'s sensitive business and financial information. CrossFit,  
 Inc. therefore requests that Dr. Solomon's full report be filed under seal.

**CERTIFICATE OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of San Diego, State of California, and am not a party to the above-entitled action.

On June 16, 2016, I filed a copy of the foregoing document by electronically filing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Executed on June 16, 2016, at San Diego, California. I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

s/Micha Danzig  
Micha Danzig, Esq.