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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

20 CROSSFIT, INC., a Delaware
21 corporation,

22 Plaintiff,

23 v.

24 NATIONAL STRENGTH AND
25 CONDITIONING ASSOCIATION, a
26 Colorado corporation,

27 Defendant.

CASE NO. 14cv1191-JLS(KSC)

PLAINTIFF'S APPLICATION TO
FILE MATERIALS UNDER SEAL

Judge: The Honorable Janis L.
Sammartino

The Honorable Karen S.
Crawford

1 Pursuant to Local Rule 79.2 and Chambers Rule IX, Plaintiff hereby applies
2 to file the following documents under seal (the “Application”):

3 1. Exhibit 15 to the Declaration of Paul A. Serritella, a document bearing
4 bates number NSCA 00373-77;

5 2. Unredacted Version of Plaintiff’s Memorandum of Points and
6 Authorities in Support of Joint Motion for Determination of Discovery Dispute.

7 This application is made on the grounds that:

8 1. “Good cause” exists to file the above-identified documents under seal.
9 *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)
10 (where document is submitted in support of a non-dispositive motion, the party
11 seeking to seal need only make a “particularized showing” that “good cause”
12 exists).

13 2. The above listed exhibit was designated by Defendant NSCA as
14 “Confidential” pursuant to the Protective Order entered in this case, which allows
15 the parties to designate as “Confidential,” any material whose disclosure “could be
16 potentially prejudicial to the business or operations of such party.” Protective
17 Order (Dkt. No. 14) ¶ 4. Pursuant to the Confidentiality Order, documents
18 designated by the parties as “Confidential” are required to be filed under seal. *Id.*
19 ¶ 12. Plaintiff’s Memorandum of Points and Authorities discusses and quotes this
20 exhibit. Plaintiff will separately submit a redacted version of the Memorandum
21 with such references removed.

22 3. Good cause exists to seal these documents because they contain highly
23 confidential, competitively valuable information that is not generally available to
24 the public whose disclosure may prejudice the Defendant NSCA.

25 4. Plaintiff has discussed this matter with counsel for the NSCA, who has
26 indicated that they intend the document to be designated “confidential” under the
27 protective order, and who does not oppose this application.

28 Accordingly, Plaintiff requests that the Court enter an Order permitting the

1 above referenced documents to be filed under seal. A Proposed Order granting this
2 Application has been submitted herewith.

3
4 Respectfully submitted,

5 Dated: November 3, 2014

6 LATHAM & WATKINS LLP

7 By: /s/ Paul A. Serritella

8 Paul A. Serritella
9 (*pro hac vice*)

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PROOF OF SERVICE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**CROSSFIT, INC., v. NATIONAL STRENGTH AND CONDITIONING
ASSOCIATION,**

District Court Case No. 14-cv-1191-JLS(KSC)

I, Paul A. Serritella, hereby certify that I am over the age of eighteen and not a party to the within action; I am employed by Latham & Watkins LLP in the County of New York at 885 Third Avenue, New York, New York 10022.

On November 3, 2014, I served the document below described as :

PLAINTIFF'S APPLICATION TO FILE MATERIALS UNDER SEAL

The document(s) was/were served by the following means:

- **BY ELECTRONIC TRANSMISSION VIA NEF:** I hereby certify that I electronically filed the foregoing document(s) with the Clerk of Court using the CM/ECF system, which sent Notifications of Electronic Filing to the persons at the e-mail addresses listed immediately below. Accordingly, pursuant to the Court's Local Rule 5.4(c), I caused the document(s) to be sent electronically to the persons listed immediately below.

I declare under penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Executed on November 3, 2014 at New York, New York.

/s/ Paul A. Serritella

Paul A. Serritella

SERVICE LIST
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CROSSFIT, INC., v. NATIONAL STRENGTH AND CONDITIONING
ASSOCIATION,

District Court Case No. 14-cv-1191-JLS(KSC)

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