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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 JOINT MOTION FOR
DETERMINATION OF DISCOVERY
DISPUTE [PEER REVIEWER
IDENTITIES]**

Judge: The Honorable Janis L.
Sammartino
Courtroom: 4A

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

4 1. Plaintiff and Defendant’s portion of the parties’ Joint Motion for
5 Determination of Discovery Dispute [Peer Reviewer Identities] (“Joint Motion”);

6 2. Declaration of Mitch (Micha) Danzig in Support of the Joint Motion (the
7 “Danzig Declaration”);

8 3. Exhibits N, P, S, T, V, and W to the Danzig Declaration.

9 This application is made on the grounds that:

10 1. “Compelling reasons” exists to allow public filing of the redacted
11 documents, and sealing of the un-redacted versions. *Foltz v. State Farm Mut. Auto*
12 *Ins Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

13 2. Exhibit S to the Danzig Declaration is a document containing sensitive
14 business information that CrossFit, Inc. previously designated “Confidential”
15 pursuant to the Protective Order in this action and that the Court previously sealed
16 (Dkt No. 75).

17 3. Exhibits P,T,V, and W to the Danzig Declaration are documents that
18 non-party the American College of Sports Medicine (“ACSM”) has designated
19 “Confidential” pursuant to the Protective Order in this action. The Court recently
20 granted CrossFit, Inc.’s request to file these exhibits under seal in connection with
21 CrossFit, Inc.’s Renewed Motion for Partial Summary Judgment (Dkt No. 75).

22 4. Exhibit N to the Danzig Declaration is a document that non-party
23 Lippincott Williams & Wilkins has designated “Confidential” pursuant to the
24 Protective Order in this action.

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

4
5 Respectfully submitted,
6 Dated: May 5, 2016 MINTZ LEVIN COHN FERRIS GLOVSKY
7 AND POPEO PC

8 By Micha Danzig
9 Micha Danzig, Esq.
Justin S. Nahama, Esq.

10 *Attorneys for Plaintiff*
11 *CrossFit, Inc.*
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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 May 6, 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 May 6, 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