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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF SAN DIEGO**

17 NATIONAL STRENGTH AND
CONDITIONING ASSOCIATION,

18 Plaintiff,

19 v.

20 GREG GLASSMAN; RUSSELL BERGER;
21 RUSS GREENE; CROSSFIT, INC., a
Delaware Corporation; and DOES 1 through
22 20, inclusive,

23 Defendants.

Case No. **37-2016-00014339-CU-DF-CTL**

**NATIONAL STRENGTH AND
CONDITIONING ASSOCIATION
COMPLAINT FOR:**

- 1) **TRADE LIBEL**
- 2) **DEFAMATION**
- 3) **UNFAIR BUSINESS PRACTICES**

26 National Strength and Conditioning Association ("NSCA"), by and through their counsel,
27 hereby complains and alleges as follows:

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1 Complaint. The NSCA will seek leave of the court to amend this Complaint to allege their true
2 names and capacities when ascertained.

3 9. GLASSMAN, BERGER, GREENE, CROSSFIT and DOES are collectively
4 referred to as "DEFENDANTS". Each of the defendants named herein was at all times herein
5 mentioned the agent and/or employee of each of the other defendants, and in doing the things
6 hereinafter alleged was acting within the course and scope of such agency and the permission and
7 consent of the other defendants.

8 10. The NSCA is informed and believes and thereon alleges that each and every
9 defendant was the authorized agent, principal, partner, joint venturer, guarantor, actual or
10 ostensible, of the other defendants and had full authority to do as alleged herein, unless alleged
11 otherwise. Furthermore, each and every defendant was operating within the course and scope of
12 their agency, or as principal, partner, joint venturer, guarantor, actual or ostensible, relationship
13 with the other defendants during the course of events described herein unless alleged otherwise.

14 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

15 11. Founded in 1978, the NSCA is the worldwide authority on strength and
16 conditioning, and as such supports and disseminates research-based knowledge and its practical
17 application to improve athletic performance and fitness. The NSCA is highly respected and
18 enjoys an excellent reputation in the sports, exercise, scientific, health, and general communities.

19 12. BERGER and GREENE are both employees of CROSSFIT. BERGER and
20 GREENE jointly publish a blog known as "The Russells". BERGER and GREENE publish this
21 blog as part of their job duties and in the course and scope of their employment with CROSSFIT.

22 13. On or about the dates indicated below, BERGER and GREENE, on behalf of
23 CROSSFIT, published the following written statements on The Russells:

24 A. June 3, 2014: "Unfortunately, the NSCA's corrupted science didn't just
25 harm CrossFit 614. The NSCA also falsely besmirched the reputation of all CrossFit affiliates,
26 and spread the lie that they are practicing dangerous training."

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1 B. February 12, 2015: “The American College of Sports Medicine (ACSM)
2 and National Strength and Conditioning Association (NSCA) published unsubstantiated and/or
3 fraudulent claims about CrossFit.”

4 C. June 1, 2015: “[T]he NSCA’s alleged authority figures are inconsistent on
5 many topics.”

6 D. June 1, 2015: “In 2013 the NSCA knowingly published fabricated injury
7 data about CrossFit. That didn’t work, either. CrossFit uncovered the fraud.”

8 E. June 9, 2015: “We are honored to present this message from CrossFit Inc.
9 Founder and CEO Greg Glassman. . . . The American College of Sports Medicine (ACSM) and
10 the National Strength and Conditioning Association (NSCA) are partners with Mr. Beddie in
11 ICREPs, through the U.S. Registry of Exercise Professionals (USREPS). These organizations have
12 all engaged in long-term, systematic, regular, and collaborative fraud – fraud that is scientific,
13 academic, and tortious – in their representatives’ collective statements, publications, press
14 releases, and in a paid public-relations campaign against CrossFit. We’ve documented this effort
15 publicly and have filed suit against the NSCA in a United States District Court. Much in the
16 manner of Beddie, the NSCA altered a study to include injuries that never occurred and fed it to
17 media including Outside Magazine, which dutifully asked ‘Is CrossFit Killing Us?’ in its
18 December 2013 issue.”

19 F. June 12, 2012 comment by GREENE to posting on The Russells dated June
20 9, 2015: “Coca-Cola, ACSM, Pepsico, and NSCA are funding a campaign to throw CrossFit
21 affiliate owners in jail for teaching air squats (and telling their clients not to drink branded sugar
22 water).”

23 The foregoing are merely illustrative of the types of false statements made by BERGER
24 and GREENE on behalf of CROSSFIT and are not an exhaustive list of all false statements made
25 by BERGER and GREENE regarding the NSCA.

26 14. On or about March 9, 2015 a video was posted on YouTube with BERGER
27 discussing the NSCA and CROSSFIT. The NSCA became aware of the video some time later and
28

1 permanently enjoined, DEFENDANTS' false statements will continue to cause the NSCA to
2 suffer irreparable harm.

3 21. The statements set out in Paragraphs 13 and 14 above were published by
4 DEFENDANTS with malice and/or oppression and/or fraud, in that:

5 A. At the time DEFENDANTS published those statements, they were either
6 aware of their falsity or acted with reckless disregard as to whether those statements were true or
7 false;

8 B. At the time DEFENDANTS published those statements, they either were
9 aware that the publications of those statements would injure the NSCA's business reputation or
10 acted with reckless disregard as to whether the publications of those statements would injure the
11 NSCA's business reputation; and

12 C. At the time DEFENDANTS published those statements, they intended that
13 the publications of those statements would injure the NSCA's business reputation or acted with
14 willful and conscious disregard of the possibility that the publications of those statements would
15 injure the NSCA's business reputation.

16 22. Accordingly, the NSCA is entitled to an award of punitive and exemplary damages
17 from DEFENDANTS, and each of them.

18 **SECOND CAUSE OF ACTION**

19 **(Defamation Against DEFENDANTS)**

20 23. The NSCA realleges and incorporates by reference the allegations set forth in
21 Paragraphs 1 through 17, above, as if fully set forth herein.

22 24. The NSCA is informed and believes and thereon alleges that CROSSFIT, by and
23 through GLASSMAN, BERGER and GREENE communicated, in writing, one or more false
24 statements to third parties.

25 25. DEFENDANTS knew the statements, including without limitation those set forth in
26 Paragraph 13 and 14 above, were untrue when they made them, or DEFENDANTS failed to use
27 reasonable care to determine the truth or falsity of the statements prior to making the statements.

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1 31. DEFENDANTS engaged in unlawful, unfair and fraudulent business acts and
2 practices with the specific intent to damage the reputation of the NSCA within the sports, exercise,
3 scientific, health, and general communities.

4 32. By knowingly making the foregoing false statements, DEFENDANTS tortiously
5 interfered with the business relationships between the NSCA and its members, customers and/or
6 sponsors, all in an attempt to gain an unfair competitive advantage.

7 33. Such alleged acts include, but are not limited to, running an advertisement and
8 marketing campaign in general and social media, defaming the NSCA, including but not limited to
9 making false statements regarding the NSCA, its publications and its services.

10 34. All such acts were intended to cause the NSCA's members, customers, and/or
11 sponsors to cease business relationships with the NSCA, all to the inurement of CROSSFIT. As a
12 direct and proximate result of DEFENDANTS' conduct, the NSCA has been injured, and has and
13 will continue to lose business as a result of these unfair competitive practices.

14 35. The NSCA seeks injunctive relief to ensure that these unfair business practices will
15 cease and desist, and disgorgement of any diverted profits.

16 WHEREFORE, the NSCA prays judgment against DEFENDANTS, and each of them, as
17 follows:

18 1. For general damages according to proof.

19 2. For special damages according to proof.

20 3. For disgorgement.

21 4. For punitive damages.

22 5. For costs of suit incurred herein.

23 5. That the Court issue an order preliminarily and permanently enjoining
24 DEFENDANTS from engaging in further unfair business practices and defamation of the NSCA.

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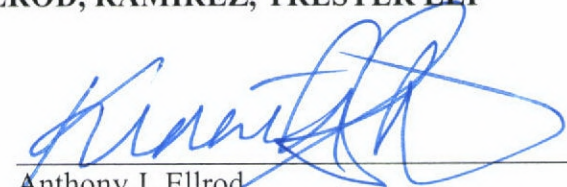
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6. For such other and further relief as the Court may deem proper.

DATED: April 29, 2016

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

By:



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