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14	SUPERIOR COURT OF THE STATE OF CALIFORNIA				
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15	COUNTY O				
15 16	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION,	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND			
15 16 17	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff,	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL			
15 16 17 18	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v.	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL			
15 16 17 18 19	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER; RUSS GREENE; CROSSFIT, INC., a	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR:			
15 16 17 18 19 20	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER;	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL 2) DEFAMATION			
15 16 17 18 19 20 21	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER; RUSS GREENE; CROSSFIT, INC., a Delaware Corporation; and DOES 1 through	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL 2) DEFAMATION			
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15 16 17 18 19 20 21 22 23	COUNTY O NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER; RUSS GREENE; CROSSFIT, INC., a Delaware Corporation; and DOES 1 through 20, inclusive,	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL 2) DEFAMATION			
15 16 17 18 19 20 21 22 23 23 24	NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER; RUSS GREENE; CROSSFIT, INC., a Delaware Corporation; and DOES 1 through 20, inclusive, Defendants.	F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL 2) DEFAMATION			
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 15 16 17 18 19 20 21 22 23 24 25 26 	NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER; RUSS GREENE; CROSSFIT, INC., a Delaware Corporation; and DOES 1 through 20, inclusive, Defendants.	 F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL 2) DEFAMATION 3) UNFAIR BUSINESS PRACTICES 			
 15 16 17 18 19 20 21 22 23 24 25 26 27 	NATIONAL STRENGTH AND CONDITIONING ASSOCIATION, Plaintiff, v. GREG GLASSMAN; RUSSELL BERGER; RUSS GREENE; CROSSFIT, INC., a Delaware Corporation; and DOES 1 through 20, inclusive, Defendants. National Strength and Conditioning Assochereby complains and alleges as follows: /// 4848-9944-4529.1	 F SAN DIEGO Case No. 37-2016-00014339-CU-DF-CTL NATIONAL STRENGTH AND CONDITIONING ASSOCIATION COMPLAINT FOR: 1) TRADE LIBEL 2) DEFAMATION 3) UNFAIR BUSINESS PRACTICES 			

1	JURISDICTION AND VENUE				
2	1. Jurisdiction and venue are proper in this Court because all of the claims alleged				
3	herein arose in San Diego County and DEFENDANTS (as defined below) were doing business in				
4	the County of San Diego at all relevant times herein.				
5	2. The amount in controversy exceeds the sum of \$25,000, exclusive of interest and				
6	costs.				
7	PARTIES				
8	3. Plaintiff NATIONAL STRENGTH AND CONDITIONING ASSOCIATION				
9	("NSCA") is a non-profit corporation organized under the laws of the State of Colorado.				
10	4. The NSCA is informed and believes and thereon alleges that Defendant Greg				
11	Glassman ("GLASSMAN") is and at all relevant times herein mentioned was a resident of the				
12	state of California, and splits his time between Watsonville, CA in Santa Cruz County and Solana				
13	Beach, CA in San Diego County.				
14	5. The NSCA is informed and believes and thereon alleges that Defendant Russell				
15	Berger ("BERGER") is and at all relevant times herein mentioned was a resident of Madison				
16	County, Alabama.				
17	6. The NSCA is informed and believes that and thereon alleges Defendant Russ				
18	Greene ("GREENE") is and at all relevant times herein mentioned was a resident of the District of				
19	Columbia.				
20	7. CrossFit, Inc. ("CROSSFIT") is a corporation organized under the laws of the state				
21	of Delaware, with its principal place of business at 444 S. Cedros Avenue, Solana Beach,				
22	California.				
23	8. The true names and capacities of Does 1 through 20 (collectively, "DOES"),				
24	inclusive, are unknown to the NSCA at this time, and the NSCA therefore sues such defendants				
25	under fictitious names. The NSCA is informed and believes, and thereon alleges, that each				
26	defendant designated as a "Doe" is highly responsible in some manner for the events and				
27	happenings referred to herein, and legally caused the injuries and damages alleged in this				
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Complaint. The NSCA will seek leave of the court to amend this Complaint to allege their true
 names and capacities when ascertained.

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

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

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

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1B.February 12, 2015: "The American College of Sports Medicine (ACSM)2and National Strength and Conditioning Association (NSCA) published unsubstantiated and/or3fraudulent claims about CrossFit."

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

6D.June 1, 2015: "In 2013 the NSCA knowingly published fabricated injury7data about CrossFit. That didn't work, either. CrossFit uncovered the fraud."

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

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

The foregoing are merely illustrative of the types of false statements made by BERGER
and GREENE on behalf of CROSSFIT and are not an exhaustive list of all false statements made
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

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is informed and believes that the video remains on YouTube with continual viewing by the public. 1 In that video Greene makes the following false statements. 2 Peer reviewers for the NSCA's scientific publication are handpicked by Dr. 3 A. Kraemer. 4 The NSCA has publicly stated that they want to see state licensure Β. 5 requirements of personal trainers that exclude CROSSFIT. 6 The NSCA has literally gotten every single thing about fitness and health 7 C. 8 wrong for the past couple of decades. Each of the statements set out in Paragraphs 13 and 14 above is false as it pertains 9 15. to the NSCA. 10 The statements set out in Paragraphs 13 and 14 above are libelous on their face in 11 16. that they tend to expose the NSCA to hatred, contempt, ridicule, and/or obloquy, and/or has and 12 will in the future cause the NSCA to be shunned and/or avoided, and/or which has a tendency to 13 14 injure the NSCA in its business reputation. The statements set out in Paragraphs 13 and 14 above were seen and read by 15 17. persons who reside in and around the State of California. 16 FIRST CAUSE OF ACTION 17 (Trade Libel Against DEFENDANTS) 18 The NSCA realleges and incorporates by reference the allegations set forth in 19 18. Paragraphs 1 through 17 above as if fully set forth herein. 20 As set forth more fully above, the NSCA is informed, believes and on that basis 21 19. alleges that CROSSFIT, by and through GLASSMAN, BERGER and GREENE, willfully, 22 knowingly, without justification, and without privilege made the false and disparaging statements 23 set forth above, without limitation, to existing and potential future members, customers, and 24 sponsors of the NSCA. 25 As a proximate result of the above-described publications, the NSCA has suffered 26 20. loss of its business reputation, all to its general damage. As a direct and proximate cause of 27 DEFENDANTS' actions, the NSCA has been injured financially. If not preliminary and 28 4848-9944-4529.1 5

permanently enjoined, DEFENDANTS' false statements will continue to cause the NSCA to
 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:

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

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

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

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SECOND CAUSE OF ACTION

(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 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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6 Complaint of NSCA

As a proximate result of the above-described statements, the NSCA has suffered 1 26. harm to its business, trade, profession, and/or occupation, reputation. If not preliminary and 2 permanently enjoined, DEFENDANTS' false statements will continue to cause the NSCA to 3 suffer irreparable harm. 4

Because of DEFENDANTS' defamatory statements, the NSCA has been damaged 5 27. and will continue to be damaged in an amount that will be proven at trial, but is in excess of the 6 7 court's jurisdiction.

DEFENDANTS' false statements, including without limitation those set forth in 8 28. Paragraph 13 and 14 above, were published by DEFENDANTS with malice and/or oppression 9 10 and/or fraud, in that:

At the time DEFENDANTS published those statements, they were either Α. 11 aware of their falsity or acted with reckless disregard as to whether those statements were true or 12 false; 13

At the time DEFENDANTS published those statements, they either were 14 Β. aware that the publications of those statements would injure the NSCA's business reputation or 15 acted with reckless disregard as to whether the publications of those statements would injure the 16 NSCA's business reputation; and 17

At the time DEFENDANTS published those statements, they intended that C. 18 the publications of those statements would injure the NSCA's business reputation or acted with 19 willful and conscious disregard of the possibility that the publications of those statements would 20 injury the NSCA's business reputation. 21

Accordingly, the NSCA is entitled to an award of punitive and exemplary damages 22 29. from DEFENDANTS, and each of them. 23

THIRD CAUSE OF ACTION

(Unfair Business Practices Against DEFENDANTS)

24 25 The NSCA realleges and incorporates by reference the allegations set forth in 26 30. Paragraphs 1 through 17, above, as if fully set forth herein. 27

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COMPLAINT OF NSCA

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

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

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

All such acts were intended to cause the NSCA's members, customers, and/or
sponsors to cease business relationships with the NSCA, all to the inurement of CROSSFIT. As a
direct and proximate result of DEFENDANTS' conduct, the NSCA has been injured, and has and
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, as17 follows:

1. For general damages according to proof.

2. For special damages according to proof.

20 3. For disgorgement.

21 4. For punitive damages.

22 5. For costs of suit incurred herein.

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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8 COMPLAINT OF NSCA

1	6. For such other and further relief as the Court may deem proper.			
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3	DATED: April	29, 2016	MANNING & KASS	
4			ELLROD, RAMIREZ, TRESTER LLP	
5			Kingert	
6			By: Anthony J. Ellrod,	
7			Jeffrey M. Lenkov, Kenneth S. Kawabata,	
8			Brandon K. Braga, Attorneys for NATIONAL STRENGTH AND	
9			CONDITIONING ASSOCIATION	
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		÷	COMPLAINT OF NSCA	