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10 JOSEPH DIAZ, JR.

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **EASTERN DIVISION**

14 JOSEPH DIAZ, JR.,

15 Plaintiff,

16 v.

17 RALPH HEREDIA, true name
18 RAFAEL HEREDIA TARANGO, a/k/a
19 RAFAEL HEREDIA, a/k/a RAFAEL
20 BUSTAMANTE; JOHN DOE, ESQ.;
21 and JANE DOES 1 through 20,
22 inclusive,

23 Defendants.

Case No. 5:20-cv-02332-JWH-KK

**PLAINTIFF JOSEPH DIAZ, JR.'S
EVIDENTIARY OBJECTIONS TO
NEW SUBMITTED EVIDENCE
WITH DEFENDANT RALPH
HEREDIA'S REPLY TO MOTION
TO COMPEL ARBITRATION**

Date: March 12, 2021

Time: 9:00 a.m.

Courtroom: 2

Judge: Hon. John W. Holcomb

1 In yet *another* blatant disregard of this Court’s Order, the Central District Local
 2 Rules, the Federal Rules of Civil Procedure and the common law of California District
 3 courts and the Ninth Circuit, on February 26, 2021, Defendant Ralph Heredia
 4 (“Defendant”) submitted new “evidence” with his reply in support of his motion to
 5 compel arbitration (“Reply”). The new evidence, which consists of *five* declarations
 6 with eight exhibits, is improper because such new evidence and related argument
 7 cannot be raised for the first time on reply.

8 In addition, the declarations and exhibits are inadmissible because they contain
 9 *largely irrelevant* information—aside from Moses Heredia’s admission that he and
 10 Diaz are the *only* signatories to the agreement that contains the arbitration clause that
 11 Defendant seeks to enforce. This new evidence also includes private and confidential
 12 information about Plaintiff Joseph Diaz, Jr.’s (“Diaz”) finances—the disclosure of
 13 which is in violation of Diaz’s constitutional right to privacy and appears to be designed
 14 to embarrass and harass Diaz, a public figure, in this highly publicized matter. See
 15 Madrigal v. Allstate Indem. Co., 2015 WL 12746225, at *7 (C.D. Cal. Apr. 22, 2015)
 16 (“right to privacy ‘embraces confidential financial information in whatever form it
 17 takes, whether that form be tax returns, checks, statements, or other account
 18 information’”).

19 Diaz objects to the new evidence filed by Defendant and requests that the Court
 20 sustain his objections, disregard Defendant’s inadmissible evidence submitted in
 21 support of his unmeritorious motion, and strike the irrelevant statements and exhibits
 22 containing Diaz’s personal financial information from the Court’s record.

23 **I. THE COURT SHOULD DISREGARD DEFENDANT’S NEW REPLY** 24 **EVIDENCE**

25 It is well settled that new evidence and arguments cannot be raised for the first
 26 time on reply. Townsend v. Monster Beverage Corp., 303 F. Supp. 3d 1010, 1027 (C.D.
 27 Cal. 2018) (“New evidence submitted as part of a reply is improper because it does not
 28 allow the defendant an adequate opportunity to respond.”). But this is precisely what

1 Defendant has done. Defendant presented *five* declarations and eight exhibits on Reply.
 2 This significant amount of new evidence relates to issues that are largely irrelevant to
 3 this motion (and this lawsuit altogether) and that Defendant should and could have
 4 fully briefed in his moving papers. For instance, the only attempt that Defendant makes
 5 to argue that the arbitration clause that Defendant seeks to enforce somehow applies to
 6 him, conceding (as he must) that he is not a party to the agreement, is that he is an
 7 owner of Heredia Boxing Management (“HRB”). But that does nothing to change the
 8 fact that this Court must deny his motion because HRB is *not a party* to the agreement
 9 either.

10 The Court should not permit Defendant to wait until his Reply to spring on Diaz
 11 evidence and argument (even though the purported evidence and argument that
 12 Defendant presented on Reply is insufficient to carry his burden of proof). See id.; C.D.
 13 Cal. R. 7-10 (limiting reply papers to “rebuttal evidence”); Iconix, Inc. v. Tokuda, 457
 14 F. Supp. 2d 969, 975-76 (N.D. Cal. 2006) (sustaining objection to evidence first filed
 15 in reply brief). “The remedy for dealing with new evidence first appearing in a reply is
 16 that [the court] will not consider issues or evidence raised for the first time in [the]
 17 reply.” Kaufman v. City of San Francisco, 2009 WL 5184468, at *1 (N.D. Cal. Dec.
 18 22, 2009) (quoting Am. Traffic Solutions, Inc. v. Redflex Traffic Sys., Inc., 2009 WL
 19 775104, at *1 (D. Ariz. Mar. 20, 2009)). If the Court is inclined to consider such
 20 evidence, it must provide Diaz the opportunity to respond. Provenz v. Miller, 102 F.3d
 21 1478, 1483 (9th Cir. 1996) (“[w]here new evidence is presented in a reply . . . the
 22 district court should not consider the new evidence without giving the [non-]movant
 23 an opportunity to respond”).

24 Accordingly, Diaz objects to the submission of the declarations and attached
 25 exhibits filed with Defendant’s Reply as improper and contrary to Local Rule 7-10.
 26 Therefore, the Court should not consider Defendant’s new purported evidence.
 27
 28

II. DEFENDANT’S NEW REPLY EVIDENCE SHOULD BE STRICKEN FROM THE COURT’S RECORD

Diaz also objects to the new Reply evidence on the grounds detailed below. Most concerning is the fact that Defendant has used this Court as a platform to reveal private and confidential financial information about Diaz’s finances. The Court may properly strike these statements and exhibits from the record.

A. Declaration of Carmina Ledesma

The statements in Ms. Ledesma’s declaration lack foundation, are based on inadmissible speculation and hearsay, and *are completely irrelevant* to this motion to compel arbitration and this litigation. There is not even any mention of the arbitration clause that Defendant purports to enforce (even though Defendant concedes he is not a party to the agreement) or the contract that contains that clause. Ms. Ledesma’s declaration appears to have been filed solely to harass and embarrass Diaz in violation of Diaz’s constitutional right to privacy.

Purported Testimony	Grounds for Objections	Ruling
“Based on his interactions with me, I believe he knew I was an employee of Heredia Boxing Management, Inc.” (Par. 5 at p. 2:11-12)	No Foundation /Lack of Personal Knowledge. <u>Fed. R. Evid. 602</u> (“A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”).	Sustained ____ Overruled ____
“Mr. Moses Heredia instructed me to	Irrelevant. <u>Fed. R. Evid. 402</u> (“Irrelevant evidence is not admissible.”).	Sustained ____

1 [language omitted to protect Diaz's
 2 privacy] from the Heredia Boxing
 3 Management, Inc. account. My
 4 understanding was that [language
 5 omitted to protect Diaz's privacy].
 6 Mr. Diaz and I exchanged text
 7 messages [language omitted to
 8 protect Diaz's privacy]."
 9 (Par. 5 at p. 2:12-15)

402 ("Irrelevant evidence is
 not admissible.").

Overruled ____

**Violates Constitutional
 Right to Privacy.** Madrigal
 v. Allstate Indem. Co., 2015
 WL 12746225, at *7 (C.D.
 Cal. Apr. 22, 2015) ("right to
 privacy 'embraces
 confidential financial
 information in whatever form
 it takes, whether that form be
 tax returns, checks,
 statements, or other account
 information'").

**No Foundation /Lack of
 Personal Knowledge.** Fed.
 R. Evid. 602 ("A witness
 may testify to a matter only if
 evidence is introduced
 sufficient to support a finding
 that the witness has personal
 knowledge of the matter.").

Hearsay. Fed. R. Evid. 802
 (noting that "[h]earsay is not
 admissible" unless a specific

1		rule applies).	
2	“Attached hereto as Exhibit A is a	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
3	true and correct copy portion of a text	402 (“Irrelevant evidence is	Overruled ____
4	exchange I had with Mr. Diaz. In	not admissible.”).	
5	these text messages, Mr. Diaz		
6	provided information concerning	Violates Constitutional	
7	[<i>language omitted to protect Diaz’s</i>	Right to Privacy. <u>Madrigal</u>	
8	<i>privacy</i>]. I recognize these screen	<u>v. Allstate Indem. Co.</u> , 2015	
9	captures as they are screen captures	WL 12746225, at *7 (C.D.	
10	from my phone and fairly and	Cal. Apr. 22, 2015) (“right to	
11	accurately depict a portion of the	privacy ‘embraces	
12	conversation between Mr. Diaz and	confidential financial	
13	me.”	information in whatever form	
14	(Par. 6 at p. 2:17-22)	it takes, whether that form be	
15		tax returns, checks,	
16		statements, or other account	
17		information”).	
18	Exhibit A	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
19		402 (“Irrelevant evidence is	Overruled ____
20		not admissible.”).	
21			
22		Violates Constitutional	
23		Right to Privacy. <u>Madrigal</u>	
24		<u>v. Allstate Indem. Co.</u> , 2015	
25		WL 12746225, at *7 (C.D.	
26		Cal. Apr. 22, 2015) (“right to	
27		privacy ‘embraces	
28		confidential financial	

information in whatever form it takes, whether that form be tax returns, checks, statements, or other account information”).

B. Declaration of Moses Heredia (Defendant’s brother)

The statements in Mr. Heredia’s declaration lack foundation, are based on inadmissible speculation and hearsay, and are largely *irrelevant* to this motion to compel arbitration and this litigation. Mr. Heredia’s declaration also appears to have been filed to harass and embarrass Diaz in violation of Diaz’s constitutional right to privacy.

Purported Testimony	Grounds for Objections	Ruling
“I am a co-owner and CEO of Heredia Boxing Management, Inc. (hereinafter “HBM”) a duly registered California Corporation.” (Par. 2 at p. 2:5-6)	Irrelevant. <u>Fed. R. Evid.</u> 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____
“Mr. Ralph Heredia is also a co-owner and employed by HBM.” (Par. 3 at p. 2:7)	Irrelevant. <u>Fed. R. Evid.</u> 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____
“Mr. Diaz’s falsely claims in his Declaration to have never met any employees of HBM.” (Par. 11 at p. 2:25-26)	No Foundation /Lack of Personal Knowledge. <u>Fed. R. Evid.</u> 602 (“A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal	Sustained ____ Overruled ____

1		knowledge of the matter.”).	
2			
3		Irrelevant. <u>Fed. R. Evid.</u>	
4		402 (“Irrelevant evidence is	
5		not admissible.”).	
6	“Mr. Diaz maintained frequent	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
7	communications with Ms. Carmina	402 (“Irrelevant evidence is	
8	Ledesma.”	not admissible.”).	Overruled ____
9	(Par. 12 at p. 3:1-2)		
10		No Foundation /Lack of	
11		Personal Knowledge. <u>Fed.</u>	
12		<u>R. Evid.</u> 602 (“A witness	
13		may testify to a matter only if	
14		evidence is introduced	
15		sufficient to support a finding	
16		that the witness has personal	
17		knowledge of the matter.”).	
18			
19		Hearsay. <u>Fed. R. Evid.</u> 802	
20		(noting that “[h]earsay is not	
21		admissible” unless a specific	
22		rule applies).	
23	“Mr. Diaz and I had an oral	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
24	agreement that [<i>language omitted to</i>	402 (“Irrelevant evidence is	
25	<i>protect Diaz’s privacy</i>].”	not admissible.”).	Overruled ____
26	(Par. 13 at p. 3:3-6)		
27		Violates Constitutional	
28		Right to Privacy. <u>Madrigal</u>	

1		<u>v. Allstate Indem. Co.</u> , 2015	
2		WL 12746225, at *7 (C.D.	
3		Cal. Apr. 22, 2015) (“right to	
4		privacy ‘embraces	
5		confidential financial	
6		information in whatever form	
7		it takes, whether that form be	
8		tax returns, checks,	
9		statements, or other account	
10		information”).	
11	“Pursuant to the terms of the oral	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
12	agreement, Mr. Diaz would provide	402 (“Irrelevant evidence is	
13	Ms. Ledesma information concerning	not admissible.”).	Overruled ____
14	<i>[language omitted to protect Diaz’s</i>		
15	<i>privacy]</i> . The actions of Mr. Diaz and	Violates Constitutional	
16	I demonstrate that I accepted Mr.	Right to Privacy. <u>Madrigal</u>	
17	Diaz’s offer and we intended to enter	<u>v. Allstate Indem. Co.</u> , 2015	
18	into an oral agreement so Mr. Diaz	WL 12746225, at *7 (C.D.	
19	could focus on his boxing career.”	Cal. Apr. 22, 2015) (“right to	
20	(Par. 14 at p. 3:7-11)	privacy ‘embraces	
21		confidential financial	
22		information in whatever form	
23		it takes, whether that form be	
24		tax returns, checks,	
25		statements, or other account	
26		information”).	
27	“I also insisted that he avail himself of	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
28	<i>[language omitted to protect Diaz’s</i>	402 (“Irrelevant evidence is	

1 2 3 4 5 6 7 8 9 10 11 12 13 14	<i>privacy</i>].” (Par. 15 at p. 3:12-13)	not admissible.”). Violates Constitutional Right to Privacy. <u>Madrigal v. Allstate Indem. Co.</u> , 2015 WL 12746225, at *7 (C.D. Cal. Apr. 22, 2015) (“right to privacy ‘embraces confidential financial information in whatever form it takes, whether that form be tax returns, checks, statements, or other account information’”).	Overruled ____
15 16 17 18 19 20 21 22 23 24 25 26 27 28	“I directed Ms. Ledesma to assist Mr. Diaz and [<i>language omitted to protect Diaz’s privacy</i>]. See Declaration of Ms. Carmina Ledesma and Exhibit A concerning the text messages.” (Par. 16 at p. 3:14-17)	Irrelevant. <u>Fed. R. Evid.</u> 402 (“Irrelevant evidence is not admissible.”). Violates Constitutional Right to Privacy. <u>Madrigal v. Allstate Indem. Co.</u> , 2015 WL 12746225, at *7 (C.D. Cal. Apr. 22, 2015) (“right to privacy ‘embraces confidential financial information in whatever form it takes, whether that form be tax returns, checks,	Sustained ____ Overruled ____

1		statements, or other account	
2		information”).	
3	“Furthermore, HBM also sent	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
4	additional money via check to Mr.	402 (“Irrelevant evidence is	
5	Diaz.”	not admissible.”).	Overruled ____
6	(Par. 17 at p. 3:18)		
7		Violates Constitutional	
8		Right to Privacy. <u>Madrigal</u>	
9		<u>v. Allstate Indem. Co.</u> , 2015	
10		WL 12746225, at *7 (C.D.	
11		Cal. Apr. 22, 2015) (“right to	
12		privacy ‘embraces	
13		confidential financial	
14		information in whatever form	
15		it takes, whether that form be	
16		tax returns, checks,	
17		statements, or other account	
18		information”).	
19	“Attached hereto as Exhibit B are true	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
20	and correct images of checks	402 (“Irrelevant evidence is	
21	sent from HBM to Mr. Diaz. I	not admissible.”).	Overruled ____
22	recognize the checks as they were		
23	sent from the HBM account and fairly	Violates Constitutional	
24	and accurately depict a portion of the	Right to Privacy. <u>Madrigal</u>	
25	checks HBM has sent to Mr. Diaz.”	<u>v. Allstate Indem. Co.</u> , 2015	
26	(Par. 18 at p. 3:19-22)	WL 12746225, at *7 (C.D.	
27		Cal. Apr. 22, 2015) (“right to	
28		privacy ‘embraces	

1		confidential financial	
2		information in whatever form	
3		it takes, whether that form be	
4		tax returns, checks,	
5		statements, or other account	
6		information”).	
7	“On July 24, 2020, Mr. Diaz texted	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
8	me concerning our future and asked	402 (“Irrelevant evidence is	
9	for an additional [<i>language omitted to</i>	not admissible.”).	Overruled ____
10	<i>protect Diaz’s privacy</i>].”		
11	(Par. 19 at p. 3:23-24)	Violates Constitutional	
12		Right to Privacy. <u>Madrigal</u>	
13		<u>v. Allstate Indem. Co.</u> , 2015	
14		WL 12746225, at *7 (C.D.	
15		Cal. Apr. 22, 2015) (“right to	
16		privacy ‘embraces	
17		confidential financial	
18		information in whatever form	
19		it takes, whether that form be	
20		tax returns, checks,	
21		statements, or other account	
22		information”).	
23	“Attached hereto as Exhibit C is a true	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
24	and correct copy of the July 24, 2020	402 (“Irrelevant evidence is	
25	text exchange between Mr. Diaz and	not admissible.”).	Overruled ____
26	me. I recognize this screen captures as		
27	it is a screen capture from my phone		
28	and fairly and accurately depict a		

1	portion of the conversation between		
2	Mr. Diaz and me.”		
3	(Par. 20 at p. 3:25-4:2)		
4	“Attached hereto as Exhibit D is a	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
5	true and correct copy of an image of	402 (“Irrelevant evidence is	Overruled ____
6	a check sent on July 25, 2020 from	not admissible.”).	
7	me to Mr. Diaz. I recognize the check		
8	as it was sent from one of my	Violates Constitutional	
9	accounts and fairly and accurately	Right to Privacy. <u>Madrigal</u>	
10	depict check I sent to Mr. Diaz on	<u>v. Allstate Indem. Co.</u> , 2015	
11	July 25, 2020.”	WL 12746225, at *7 (C.D.	
12	(Par. 21 at p. 4:3-6)	Cal. Apr. 22, 2015) (“right to	
13		privacy ‘embraces	
14		confidential financial	
15		information in whatever form	
16		it takes, whether that form be	
17		tax returns, checks,	
18		statements, or other account	
19		information”).	
20	“On or about August 12, 2020, I	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
21	learned for the first time through	402 (“Irrelevant evidence is	Overruled ____
22	social media that Mr. Diaz signed	not admissible.”).	
23	with MTK Global management and		
24	promotion company.”	Hearsay. <u>Fed. R. Evid.</u> 802	
25	(Par. 22 at p. 4:7-9)	(noting that “[h]earsay is not	
26		admissible” unless a specific	
27		rule applies).	
28			

1		Best Evidence Rule. <u>Fed. R. Evid.</u> 1002 (“An original	
2		writing . . . is required in	
3		order to prove its	
4		contents unless these rules or	
5		a federal statute provides	
6		otherwise.”).	
7			
8	“On or about August 20, 2020, I	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
9	submitted a proper request for	402 (“Irrelevant evidence is	
10	arbitration to the Commission per the	not admissible.”).	Overruled ____
11	terms of the Boxer-Manager		
12	Contract.”	Legal Conclusion. <u>Fed. R.</u>	
13	(Par. 23 at p. 4:7-9)	<u>Evid.</u> 702	
14	“Attached hereto as Exhibit E is a true	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
15	and correct copy of the Request	402 (“Irrelevant evidence is	
16	for Arbitration, cover letter, and	not admissible.”).	Overruled ____
17	declaration. I recognize my signature		
18	on the Request for Arbitration and		
19	declaration. I also recognize the cover		
20	letter drafted by Mr. Steve Bash as I		
21	reviewed that document. The		
22	Commission accepted the request.		
23	The arbitration is in the process of		
24	being scheduled within the next 60		
25	days and have been delayed due to the		
26	ongoing COVID-19 pandemic.”		
27	(Par. 24 at p. 4:12-17)		
28	“At no time between August 12, 2020	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____

1 through the present has Mr. Diaz 2 included me in ongoing negotiations 3 with Golden Boy Promotions up to 4 and including the securing of the 5 mandatory title defense fight against 6 Mr. Shavkatdzhon Rakhimov.” 7 (Par. 25 at p. 4:18-21) 8 9 10 11 12 13 14 15 16	402 (“Irrelevant evidence is not admissible.”). No Foundation /Lack of Personal Knowledge. Fed. R. Evid. 602 (“A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”). Hearsay. Fed. R. Evid. 802 (noting that “[h]earsay is not admissible” unless a specific rule applies).	Overruled ____
17 “All attempts in reaching an 18 understanding have been met with 19 hostility.” 20 (Par. 26 at p. 4:22-23)	Irrelevant. Fed. R. Evid. 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____
21 “On or about February 12, 2021, prior 22 to the mandatory title defense 23 fight against Mr. Shavkatdzhon 24 Rakhimov, Mr. Diaz failed to make 25 weight.” 26 (Par. 27 at p. 4:24-25)	Irrelevant. Fed. R. Evid. 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____
27 “Mr. Diaz’s failure to make weight 28 resulted in him forfeiting his IBF	Irrelevant. Fed. R. Evid. 402 (“Irrelevant evidence is	Sustained ____

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	super featherweight belt and having to pay fines to the Commission. Mr. Diaz's unlicensed managers then entered into negotiations with Mr. Rakhimov's promoter to salvage the fight. These negotiations are a strictly management function." (Par. 28 at p. 4:26-5:2)	not admissible.""). No Foundation /Lack of Personal Knowledge. Fed. R. Evid. 602 ("A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.""). Hearsay. Fed. R. Evid. 802 (noting that "[h]earsay is not admissible" unless a specific rule applies).	Overruled ____
16 17 18 19 20 21 22 23 24 25 26 27 28	"I did not participate in these negotiations. I was informed that during the negotiations and communication with the Commission that Mr. James Greeley of VGC, LLP asserted that the boxing management contract was 'not valid' and 'no payment would be made to HBM.' Mr. Paul Gibson from MTK Global also took the same positions contrary to the Commissions that payment should be made." (Par. 29 at p. 5:3-7)	Irrelevant. Fed. R. Evid. 402 ("Irrelevant evidence is not admissible.""). No Foundation /Lack of Personal Knowledge. Fed. R. Evid. 602 ("A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter."").	Sustained ____ Overruled ____

1		Hearsay. <u>Fed. R. Evid. 802</u>	
2		(noting that “[h]earsay is not	
3		admissible” unless a specific	
4		rule applies).	
5	“Under the Boxer-Manager Contract,	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
6	Mr. Diaz is required to pay 18% of his	402 (“Irrelevant evidence is	
7	purse to me as his manager. This did	not admissible.”).	Overruled ____
8	not occur after the fight on February		
9	13, 2021. As of the date of this		
10	Declaration, it still has not yet		
11	occurred.”		
12	(Par. 30 at p. 5:8-10)		
13	Exhibit B	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
14		402 (“Irrelevant evidence is	
15		not admissible.”).	Overruled ____
16			
17		Violates Constitutional	
18		Right to Privacy. <u>Madrigal</u>	
19		<u>v. Allstate Indem. Co.</u> , 2015	
20		WL 12746225, at *7 (C.D.	
21		Cal. Apr. 22, 2015) (“right to	
22		privacy ‘embraces	
23		confidential financial	
24		information in whatever form	
25		it takes, whether that form be	
26		tax returns, checks,	
27		statements, or other account	
28		information”).	

1	Exhibit C	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
2		402 (“Irrelevant evidence is	
3		not admissible.”).	Overruled ____
4			
5		Violates Constitutional	
6		Right to Privacy. <u>Madrigal</u>	
7		<u>v. Allstate Indem. Co.</u> , 2015	
8		WL 12746225, at *7 (C.D.	
9		Cal. Apr. 22, 2015) (“right to	
10		privacy ‘embraces	
11		confidential financial	
12		information in whatever form	
13		it takes, whether that form be	
14		tax returns, checks,	
15		statements, or other account	
16		information”).	
17	Exhibit D	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
18		402 (“Irrelevant evidence is	
19		not admissible.”).	Overruled ____
20			
21		Violates Constitutional	
22		Right to Privacy. <u>Madrigal</u>	
23		<u>v. Allstate Indem. Co.</u> , 2015	
24		WL 12746225, at *7 (C.D.	
25		Cal. Apr. 22, 2015) (“right to	
26		privacy ‘embraces	
27		confidential financial	
28		information in whatever form	

1		it takes, whether that form be	
2		tax returns, checks,	
3		statements, or other account	
4		information”).	
5	Exhibit E	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
6		402 (“Irrelevant evidence is	
7		not admissible.”).	Overruled ____

C. Declaration of Rhajan Dhungana

The statements in Mr. Dhungana’s declaration *are completely irrelevant* to this motion to compel arbitration. There is not even any mention of the arbitration clause that Defendant purports to enforce (even though Defendant concedes he is not a party to the agreement) or the contract that contains that clause.

Purported Testimony	Grounds for Objections	Ruling
“On December 9, 2020, Defendant filed a motion to dismiss.” (Par. 2 at p. 2:6)	Irrelevant. <u>Fed. R. Evid.</u> 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____
“On January 5, 2021, following the denial without prejudice, I called Mr. Alexander Safyan, VGC, LLP to discuss a refiling the motion to dismiss. The call lasted approximately 25 minutes. During the call Mr. Safyan stated words to the effect of ‘This is the meet and confer.’ This statement contained the legally operative language concerning the requirement under Local Rule 7-3. I	Irrelevant. <u>Fed. R. Evid.</u> 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____

1 asked Mr. Safyan to speak again so
 2 that I could include Mr. Montalvo, my
 3 co-counsel, and Mr. Safyan did not
 4 agree to a rescheduled call, again
 5 reiterated that ‘This is the meet and
 6 confer, right now’.”
 7 (Par. 2 at p. 2:9-16)

8 9 **D. Declaration of Eric Montalvo**

10 The statements in Mr. Montalvo’s declaration *are completely irrelevant* to this
 11 motion to compel arbitration and this litigation, and are riddled with inadmissible
 12 hearsay. There is not even any mention of the arbitration clause that Defendant
 13 purports to enforce (even though Defendant concedes he is not a party to the
 14 agreement).

15 Purported Testimony	Grounds for Objections	Ruling
16 “On February 10, 2021, I called Mr. 17 Andy Foster of the State Athletic 18 Commission (hereinafter 19 ‘Commission’) to discuss the 20 upcoming bout between Mr. Diaz and 21 his mandatory contender Mr. 22 Shavkatdzhon Rakhimov. The 23 purpose of this call concerned the 24 management fees that would be owed 25 to Mr. Moses Heredia. I asked the 26 Commission to hold those in trust 27 pending the arbitration on the Boxer- 28 Manager Contract’s validity.”	Irrelevant. <u>Fed. R. Evid.</u> 402 (“Irrelevant evidence is not admissible.”).	Sustained ____ Overruled ____

1	(Par. 3 at p. 2:9-14)		
2	“During this call, Mr. Foster stated he	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
3	knew about this lawsuit and the	402 (“Irrelevant evidence is	Overruled ____
4	arguments concerning Mr. Ralph	not admissible.”).	
5	Heredia. Mr. Foster stated that he had	Hearsay. <u>Fed. R. Evid.</u> 802	
6	received correspondence from Mr.	(noting that “[h]earsay is not	
7	Diaz’s counsel concerning the	admissible” unless a specific	
8	arbitration which involved arguments	rule applies).	
9	concerning Mr. Ralph Heredia.”		
10	(Par. 4 at p. 2:15-18)		
11	“Mr. Foster stated he would discuss	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
12	my request to withhold funds in	402 (“Irrelevant evidence is	Overruled ____
13	trust with opposing counsel during	not admissible.”).	
14	this call.”	Hearsay. <u>Fed. R. Evid.</u> 802	
15	(Par. 5 at p. 2:19-20)	(noting that “[h]earsay is not	
16		admissible” unless a specific	
17		rule applies).	
18			
19	“On February 13, 2021, no payment	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
20	was remitted to Mr. Moses Heredia.	402 (“Irrelevant evidence is	Overruled ____
21	My understanding is that Mr. Diaz did	not admissible.”).	
22	not believe the Boxer-Manager	Hearsay. <u>Fed. R. Evid.</u> 802	
23	Contract is valid and told Golden Boy	(noting that “[h]earsay is not	
24	Promotions not to pay Mr. Moses	admissible” unless a specific	
25	Heredia.”	rule applies).	
26	(Par. 6 at p. 2:21-23)		
27	“On February 18, 2021, I directed my	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
28	associate to send a letter I	402 (“Irrelevant evidence is	

1	drafted to counsel for Golden Boy	not admissible.”).	Overruled ____
2	Promotions, counsel for Mr. Diaz, and		
3	Mr. Gibson of MTK Global		
4	demanding compliance with the		
5	Boxer-Manager Contract.”		
6	(Par. 7 at p. 2:24-26)		
7	“As of the time of this declaration I	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
8	have not received a response to this	402 (“Irrelevant evidence is	Overruled ____
9	demand.”	not admissible.”).	
10	(Par. 8 at p. 3:1-2)		
11	“On February 18-19, 2021, Mr. Foster	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
12	stated the Commission is able to hold	402 (“Irrelevant evidence is	Overruled ____
13	the arbitration in the case of <i>Moses</i>	not admissible.”).	
14	<i>Heredia v. Joseph Diaz</i> on March 19,		
15	2021. Upon follow up Mr. Foster	Hearsay. <u>Fed. R. Evid.</u> 802	
16	requested my associate reach out to	(noting that “[h]earsay is not	
17	opposing counsel and attempt to come	admissible” unless a specific	
18	up with a date that is feasible for both	rule applies).	
19	parties and that the Commission has		
20	availability starting in mid-March.”		
21	(Par. 9 at p. 3:3-7)		
22	“Attached hereto as Exhibit F is a true	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
23	and correct copy of the email chain	402 (“Irrelevant evidence is	Overruled ____
24	from Mr. Foster. I was copied on all	not admissible.”).	
25	e-mails.”		
26	(Par. 10 at p. 3:8-9)		
27	“On February 24, 2021, my associate	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
28	emailed Mr. James Greeley with a	402 (“Irrelevant evidence is	

1	letter signed by me requesting his	not admissible.”).	Overruled ____
2	availability for the arbitration.		
3	Attached hereto as Exhibit G is a true		
4	and correct copy of the email and		
5	letter from me to Mr. Greeley.”		
6	(Par. 11 at p. 3:10-13)		
7	Exhibit F	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
8		402 (“Irrelevant evidence is	
9		not admissible.”).	Overruled ____
10	Exhibit G	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
11		402 (“Irrelevant evidence is	
12		not admissible.”).	Overruled ____

E. Declaration of Steven Bash

The statements in Mr. Bash’s declaration *are completely irrelevant* to this motion to compel arbitration and this litigation, and are riddled with inadmissible hearsay and speculation. There is not even any mention of the arbitration clause that Defendant purports to enforce (even though Defendant concedes he is not a party to the agreement) or the contract that contains that clause.

Purported Testimony	Grounds for Objections	Ruling
21 “I spoke to Mr. George Gallegos, an	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
22 attorney that works for Golden Boy	402 (“Irrelevant evidence is	
23 Promotions on February 12, 2021	not admissible.”).	Overruled ____
24 concerning the scheduled bout on		
25 February 13, 2021 between Mr.	Hearsay. <u>Fed. R. Evid.</u> 802	
26 Joseph ‘JoJo’ Diaz, Jr. and Mr.	(noting that “[h]earsay is not	
27 Shavkatdzhon Rakhimov.”	admissible” unless a specific	
28 (Par. 3 at p. 2:6-8)	rule applies).	

1	“Mr. Gallegos and I discussed the	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
2	payment of management fees to Mr.	402 (“Irrelevant evidence is	
3	Moses Heredia. After the	not admissible.”).	Overruled ____
4	conversation, I had the impression		
5	that Golden Boy Promotions would	Hearsay. <u>Fed. R. Evid.</u> 802	
6	pay the management fee unless Mr.	(noting that “[h]earsay is not	
7	Diaz instructed Golden Boy not to	admissible” unless a specific	
8	make the payment. Mr. Gallegos	rule applies).	
9	related to me that Mr. James Greeley		
10	was at the bout site in Indio,	No Foundation /Lack of	
11	California and was communicating	Personal Knowledge. <u>Fed.</u>	
12	directly with Mr. Gallegos regarding	<u>R. Evid.</u> 602 (“A witness	
13	all payments and deductions to be	may testify to a matter only if	
14	made by Mr. Diaz.”	evidence is introduced	
15	(Par. 4 at p. 2:9-14)	sufficient to support a finding	
16		that the witness has personal	
17		knowledge of the matter.”).	
18	“On February 12, 2021, Mr. Diaz	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
19	failed to make weight.”	402 (“Irrelevant evidence is	
20	(Par. 5 at p. 2:15)	not admissible.”).	Overruled ____
21	“Because of Mr. Diaz’s failure to	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
22	make weight he forfeited his IBF	402 (“Irrelevant evidence is	
23	super featherweight belt. Further, he	not admissible.”).	Overruled ____
24	had to pay a fine of \$50,000 to the		
25	California State Athletic Commission		
26	(hereinafter ‘Commission’) and		
27	\$50,000 to the opposing fighter.”		
28	(Par. 6 at p. 2:16-19)		

1	“The opposing fighter’s promoter	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
2	wanted more than the minimum	402 (“Irrelevant evidence is	
3	\$50,000. In order to salvage the fight,	not admissible.”).	Overruled ____
4	Mr. Rakhimov’s manager and		
5	promoter negotiated with Mr. Paul	Hearsay. <u>Fed. R. Evid.</u> 802	
6	Gibson of MTK Global for an	(noting that “[h]earsay is not	
7	increased amount. From news and	admissible” unless a specific	
8	California State Athletic Commission	rule applies).	
9	reports, this was an additional		
10	\$50,000. This negotiation is normally	No Foundation /Lack of	
11	handled by the boxer’s licensed	Personal Knowledge. <u>Fed.</u>	
12	boxing manager.”	<u>R. Evid.</u> 602 (“A witness	
13	(Par. 7 at p. 2:20-25)	may testify to a matter only if	
14		evidence is introduced	
15		sufficient to support a finding	
16		that the witness has personal	
17		knowledge of the matter.”).	
18	“After the fight, I had another	Irrelevant. <u>Fed. R. Evid.</u>	Sustained ____
19	conversation with Mr. Gallegos who	402 (“Irrelevant evidence is	
20	informed me that Mr. Diaz instructed	not admissible.”).	Overruled ____
21	Golden Boy Promotions not to make		
22	the required management fee payment	Hearsay. <u>Fed. R. Evid.</u> 802	
23	claiming the Boxer-Manager Contract	(noting that “[h]earsay is not	
24	is invalid. Mr. Diaz did instruct	admissible” unless a specific	
25	Golden Boy Promotions to pay his	rule applies).	
26	trainers and strength and conditioning		
27	coach directly but not his manager.”	No Foundation /Lack of	
28	(Par. 8 at p. 2:26-3:3)	Personal Knowledge. <u>Fed.</u>	

1		<u>R. Evid. 602</u> (“A witness	
2		may testify to a matter only if	
3		evidence is introduced	
4		sufficient to support a finding	
5		that the witness has personal	
6		knowledge of the matter.”).	

7
8
9 Dated: March 1, 2021

VGC, LLP

10
11 By: /s/ Diyarí Vázquez

12 James L. Greeley
13 Diyarí Vázquez
14 Attorneys for Plaintiff
JOSEPH DIAZ, JR.
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