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January 7, 2021

**BY ECF**

The Honorable Ronnie Abrams  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: Everlast World's Boxing Headquarters Corp. v. Transform SR LLC, Transform KM LLC, and Transform SR Holdings LLC  
Case No. 20 Civ. 9095 (RA)

Dear Judge Abrams:

Our firm represents the plaintiff, Everlast World's Boxing Headquarters Corp., in this matter. We have recently filed a Reply to the Counterclaims of the Defendants.

This Court has scheduled an initial telephonic pretrial conference for February 12<sup>th</sup>, with a joint letter and Case Management Plan to be filed on February 5<sup>th</sup>. We write this letter to request the opportunity to file a motion for summary judgment in lieu of filing the Case Management Plan and scheduling discovery, for the following reasons.

This lawsuit involves a License Agreement between the Plaintiff and the Defendants, entered into on or about June 20, 2019, with a term through January 21, 2022. The License required the Defendants to, among other things, pay royalties to the Plaintiff, with guaranteed minimum royalties if the actual royalties earned did not meet the guaranteed minimums.

The Defendants failed to remit the required royalties – neither the actual earned royalties nor the minimum guaranteed royalties – and as a consequence the License was terminated and this suit was instituted.

The Defendants have alleged that, due to the Covid-19 pandemic, the force majeure clause in the License operates as a defense to their failure to make the required royalty payments. We disagree, and respectfully submit that the issues in this case, to wit the admitted failure to pay the royalties, and whether the force majeure clause lawfully excuses Defendants' royalty obligations, are legal issues that are ripe for summary judgment determination.

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The Honorable Ronnie Abrams  
January 7, 2021  
Page 2

Therefore, we request the opportunity to file a motion for summary judgment in lieu of filing a Case Management Plan. We request that our motion be allowed to be filed by on or before February 9, 2021, with the Defendants' opposition to be filed 30 days after our filing, and our Reply to be filed 14 days after the opposition is filed.

We are still available for the conference scheduled for February 12<sup>th</sup>, or a sooner conference if the Court desires.

Thank you for your consideration.

Respectfully,

*/s/ Jed R. Schlacter*

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JRS/srj

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