No. 20A___

In the Supreme Court of the United States

BRIGHT HARRY and RONALD S. DRAPER,

Applicants,

v.

WEDBUSH ET AL,

Respondents.

ON APPLICATION FOR STAY

EMERGENCY APPLICATION FOR STAY OF MANDATES OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (OR IN THE ALTERNATIVE, FOR STAY OF THE DISTRICT COURT'S ENFORCEMENT OF JUDGMENTS) PENDING THE FILING AND DISPOSITION OF A PETITION FOR WRIT OF CERTIORARI, AND REQUEST FOR AN ADMINISTRATIVE STAY

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PARTIES TO THE PROCEEDING AND RELATED PROCEEDING

The parties to the proceeding below are as follows:

Applicants are Bright Harry and Ronald S. Draper who were the Plaintiffs in the District Court and Appellants in the Court of Appeals.

Respondents are KCG Americas LLC, Daniel B. Coleman, Carl Gilmore, Greg Hostetler, Main Street Trading, Inc., Patrick J. Flynn, Wedbush Securities Inc., Edward W. Wedbush, ION Trading, Inc., Andrea Pignataro, Global, Robert Sylverne, Computer Voice Systems, Inc., Paul Sturm and Scott William.

The Related Proceedings below are:

1. Bright Harry vs. Wedbush et al., No. 19-15013 (Ninth Circuit) Judgment entered May 20, 2020; and

2. Ronald S. Draper vs. Wedbush et al., No. 19-15014 (Ninth Circuit) Judgment entered May 14, 2020.

CORPORATE DISCLOSURE STATEMENT

Per Supreme Court Rule 29, Applicants Bright Harry and Ronald S. Draper state that they have no parent companies or publicly-held companies with a 10% or greater ownership interest in them.

Pursuant to the Supreme Court Rules 10(a) and (c), the Ninth Circuit Court of Appeals (1) "has entered a decision in conflict with the decision of another United States court of appeals on the same important matter", (2) "has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power", and (3) has "decided an important federal question in a way that conflicts with relevant decisions of this Court".

TABLE OF CONTENTS

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

It's been 7 brutal years for two Elderly American Citizens in their Sixties and Seventies, just seeking to have their day in Court but to no avail. They are the last two still standing out of tens of millions of Investors, whose Retirement Funds and income to live were stolen from them in broad daylight, with arrogant impunity by the very wealthy and powerful Defendants. These two Elderly Americans are now at the last Bus Stop waiting for the last Bus that will take them to the Temple of Justice, the Supreme Court of the United States, where there are currently 8 blacked-robbed Priests and Priestesses of the Temple of Justice. This is their last chance to ever have their day in any Court for that matter in the past 7 years. Will the only Priestess in charge of the last Bus to the Temple of Justice, the Honorable Elena Kagan, allow these elderly Americans board this last Bus to the Temple of Justice to at least have a drink of water and for the first time in 5 years, have their Day in Court, pursuant to their 5th Amendment Right of Due Process? These elderly Men's 5th Amendment Right of Due Process and 7th Amendment Right of Jury Trial have been abused with Arrogant Impunity by CFTC, the District Court and the Ninth Circuit Court of Appeals for the past 5 years. This is the last Bus Stop for these two elderly men to proceed to the Temple of Justice. It is the end of the Judicial Road of Justice for them. The core question again is, will the Priestess in charge of the Bus allow these two men enter the Bus to the Temple of Justice, to prevent Monumental Injustice? Law is Justice and the Purpose of Law is Prevention of Injustice from Reigning.

Now, as required by this Court's Rule 23, elderly Plaintiffs/Applicants Bright Harry and Ronald S. Draper, respectfully request a stay of their respective Mandates of the United States Court of Appeals of the Ninth Circuit, which have already been issued, pending the timely filing of and disposition of Applicants' forthcoming petition for a writ of certiorari and any further proceedings in this Court. Alternatively, Applicants suggest that the Court treat this application as a petition for writ of certiorari and grant the writ. *See* Nken v. Mukasey, 555 U.S. 1042 (2008). Finally, Plaintiffs/Applicants request an administrative stay while the Court considers this application.

INTRODUCTION

1. In *Camreta v. Greene*, 101 131 S. Ct. 2020 (2011), the Honorable Justice Elena Kagan reiterated what the Supreme Court has said consistently over the last forty years:

> Article III of the Constitution grants this Court authority to adjudicate legal disputes only in the context of "Cases" or "Controversies." To enforce this limitation, we demand that litigants demonstrate a "personal stake" in the suit. The party invoking the Court's authority has such a stake when three condi-tions are satisfied: The petitioner must show that he has "suffered an injury in fact" that is caused by "the conduct complained of" and that "will be redressed by a favorable decision." 102 *Id.* at 2028 (citations omitted).

In concert with *Camreta,* Applicant Harry suffered Economic Injury of at least **$6,078.60** in software subscription fee loss and **$18,157.40** in Trading Account Deposit loss, both totaling **$24,236.00**, due to Respondents' Fraud. As such, Harry proved to the District Court and the Ninth Circuit Court of appeals, without a scintilla of doubt, that he has "suffered an injury in fact" that is caused by "the conduct complained of" and that "will be redressed by a favorable decision." 102 *Id.* at 2028, but the Lower Courts still hold that Harry lacks Article III Standing. The Lower Courts did not give any viable or logical reasons for their Indisputably Erroneous Claim that Harry lacks Article III Standing.

2. **As *Lujan* explains, Article III Standing is easy to establish where the Plaintiff is the object of the Defendants' actions.** Article III of the Constitution limits the authority of the federal courts: they decide "Cases" and "Controversies." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559 (1992). For a dispute to be within the power (the subject-matter jurisdiction) of a federal court, the plaintiff must have standing—that means, the plaintiff must have alleged a sufficient interest in the dispute. This "irredu-cible constitutional minimum" of standing has three elements: (1) the plaintiff has suffered a concrete injury; (2) that injury is fairly traceable to actions of the defendant; and (3) it must be likely—not merely speculative—that the injury will be redressed by a favorable decision. *Id.* at 560–61.

3. Because this is a standard lawsuit regarding the Defendants' conduct directly

against Plaintiff Harry (and not against someone else), Harry easily met his burden to establish and established standing at every stage. All Harry had to do, and did, was make sufficient showings of his basic claim that Defendants injured him by defrauding him of his $24,236 including the specific $1,227.80 paid in checks. At the pleading stage, Harry presented those factual allegations. *See id.* at 561. At the summary-judgment stage, Harry also presented the specific facts (assumed to be true). *Id.* Thus, Harry never lacked Article III Standing at any stage of this Case.

4. Subsequently, it is unconscionable and unfathomable that both the Defendants and especially the Lower Courts continued and continue to falsely claim that Harry lacks Article III Standing despite the obvious and very visible $24,236, including the specific $1,227.80 check payments Defendants defrauded Harry of. Harry has four grounds proving his Article III Standing as lucidly explained in Pages 209 through 227 of the attached Appendix. The full details are in Exhibit H9 **(Case 4:17-cv-02385-HSG Document 158)** of the attached Appendix (Page 199).

5. Applicant Harry has never lacked Article III Standing, and still does not lack Article III Standing in this Case. Subsequently, the question for this Court is, what Statutory Authority does the District Court and especially the Ninth Circuit Court of Appeals have to arrogantly Violate Harry's 5th Amendment Right of Due Process and also his 7th Amendment Right to a Jury trial, by falsely alleging that Harry lacks Article III Standing? Are the Lower Courts above the Law to Violate the Constitutional Rights of American Citizens with Impunity? This is the essence of the request for the Stay of Mandate/Stay of Enforcement of Judgment and the Petition for the Writ of Certiorari. Exhibit H for Harry, Pages 60 to 275 give the full spectrum of the horrific experiences of Applicant Harry.

6. Similarly, elderly Ronald S. Draper ("Draper"), Harry's Investment Partner for the same Investment Account, suffered identical horrific experience with the Defendants, District Court and the Ninth Circuit Court of Appeals. In Draper's Case, they falsely

accused him of being time-barred when he was never time-barred, has not been time-barred, and is still not time-barred in his Case.

Draper was never time-bared, has not been time-barred and is not time-barred in his Case.

7. This is a very simple and straight-forward Case with Four specific Grounds, each proving that Draper was never time-barred, has not been time-barred and is still not time-barred.

(i) ***First***, Draper has multiple Causes of Action subject to several different limitation periods, as shown in Table 1 below. Each different Cause of Action has its own Statute of Limitation.

Violations, Violated Laws and Statutes of Limitations

No.	Violations	Violated Laws		Statute of Limitation
		Federal	California State	
1.	RICO	18 U.S.C. 1961, 18 U.S.C. §1962(a) - (d), 18 U.S.C. §1341 and §1343		4 Years
2.	Financial Elder Abuse (Draper)		Cal. Welf. & Inst. Code §15657.5, *et seq,* Cal. Welf. & Inst. Code §15610.30, Cal. Civ. Code §3294 and Cal. Welf. & Inst. Code §15657.05, Cal. Civ. Code §3345,	4 Years
3.	(a) Breach of Obligation with Contract Under California Law --- (b) Breach of Obligation without Contract Under California Law		C.C.C. 3300 --- Cal. Civ. Code § 1709, § 3294 and § 3333	4 Years ---
4.	Breach of Fiduciary Duty		California Civil Code § 3333 *and* California Civil Code § 3294	3 or 4 Years
5.	Fraud in violation of 7 U.S.C. § 6b	7 U.S.C. § 6b		2 Years
6.	Fraud in violation of CEA § 6(c)(1)	CEA § 6(c)(1)		2 Years

7.	Fraudulent Concealment Fraudulent Misrepresentations	Federal Common Law Fraud based on Federal Rule of Civil Procedure 9(b)		3 Years (FRCP 9(b))
			Cal. Civil Code § 1709, § 1710, § 1572 and § 1573	3 Years (Cal. Civ. Code)
8.	Fraudulent Deceits Fraudulent Inducement	Federal Common Law Fraud based on Federal Rule of Civil Procedure 9(b)		3 Years (FRCP 9(b))
			Cal. Civil Code § 1709, § 1710, § 1572 and § 1573	3 Years (Cal. Civ. Code)
9.	Violations of California Unlawful Activity and Fraudulent Conduct Law		Cal. Corp. Code § 29536	3 Years
10.	Violation of California Unfair Competition Law		Cal. Bus. & Prof. Code § 17200 *et seq.*	4 Years
11.	Violations of The California Consumer Legal Remedies Law		Cal. Civ. Code § 1750 *et seq.*	3 Years
12.	Violation of California False Advertising Law		California Bus. & Prof. Code § 17500	3 Years

As such, the Lower Courts have no Statutory Authority whatsoever, to impose the 2-year CEA Statute of Limitation on all 12 Causes of Action. That's illegal, simply unlawful.

(ii) Out of the 12 Causes of Action, only the two causes of action pertaining to (a) Fraud in violation of 7 U.S.C. § 6b (5th cause of action in the table) and (b) Fraud in violation of CEA § 6(c)(1) (6th cause of action in the table) are governed by the alleged 2-year CEA Statute of Limitations. Draper's first cause of action, RICO, is based on federal common law which has a 4-year statute of limitation. Draper's second cause of action, elder financial abuse is premised on California State statute that has a 4-year statute of limitation. Draper's third cause of action, breach of contract, is premised on California State statute that has a 4-year statute of limitation. Draper's fourth cause of action, breach of fiduciary duty, is premised on California State statute that has a 3 or 4-year statute of limitation. Draper's seventh and eighth causes of action, fraudulent concealment,

fraudulent misrepresentations, fraudulent deceits and fraudulent induce-ment are premised on federal common law based on Federal Rule of Civil Procedure 9(b), which has a 3-year statute of limitation, and California State statutes that also have 3-year statutes of limitations. Draper's ninth, tenth, eleventh and twelfth causes of action are based on California State statutes that have 3 or 4-year statutes of limitations.

(iii) Furthermore, Plaintiff Draper filed his Federal Complaint on April 27, 2018, within the 3-year Statute of Limitations which began on April 28, 2015. As such, Draper is not time-barred for his 1st, 2nd, 3rd, 4th, 7th, 8th, 9th, 10th, 1th and 12th causes of action. The only issue under contention is the alleged 2-year CEA statute of limitations for his 5th and 6th causes of action. Hence, the profound question again is, why did the Lower Courts impose the alleged 2-year CEA statute of limitations on all Draper's 12 causes of action and not on his 5th and 6th Causes of Action only, and then dismissed Draper's case as a whole, premised on the same alleged 2-year CEA statute of limitations violation?

(iv) The Lower Courts manifestly erred by imposing an arbitrary and erroneous 2-year CEA Statute of Limitations on all Draper's 12 Causes of Action with Different Statutes of Limitations, and then claiming that Draper is time-barred. Pursuant to Rule 60(b)(1), this Indisputable Mistake by the Lower Courts warrant the Vacation of the Judgment against Draper.

(v) ***Second***, the Lower Courts clearly erred again with the 5th and 6th causes of action, which were equitably tolled to October 29, 2018 by CFTC, from April 6, 2018, as shown by the last paragraph of page 1 of the attached Exhibit L5 in Draper's ECF # 75-2. (Page 30 of Appendix). This equitable Tolling by the Commodity Futures Trading Commission ("Commission") began on April 6, 2018 and ended on October 29, 2018, when judgment officer Kavita Kumar Puri issued her order. Draper filed his Federal Lawsuit on April 27, 2018, within the Commission's mandated Tolling Period, which started on April 6, 2018. Thus, Draper's 5th and 6th causes of action based on the CEA were tolled from the CFTC tribunal to the Federal District Court. *United States v. Wong*

("*Wong/June*"), — U.S. —, 135 S. Ct. 1625, 191 L. Ed. 2d 533 (2015). The Supreme Court remanded June's case. "["[A] court may pause the running of a limitations statute . . . when a party 'has pursued his rights diligently but some extraordinary circumstance' prevents him from meeting a deadline." *Wong/June*, 135 S. Ct. at 1631 (quoting *Lozano v. Montoya Alvarez*, — U.S. —, 134 S. Ct. 1224, 1231–32, 188 L. Ed. 2d 200 (2014)). This means, Draper's Claims in the Federal Court, for his 5th and 6th causes of action, based on the CEA, are not time-barred.

(vi) ***Third***, Exhibits L28 through L33 (*See* Pages 34 to 50 of Appendix) give details of the contentious arguments between Attorneys Baldwin and Mader, and Draper and Harry with regards to filing of Draper's and Harry's joint Federal Lawsuit, which the two Attorneys vehemently opposed and stopped Draper from filing his federal lawsuit before April 28, 2017, and even after, thereby causing the equitable tolling of Draper's CEA statute of limitations for the 5th and 6th causes of action. What all these boil down to is that the Lower Courts clearly erred in the judgment against Draper. This is clearly a manifest error of fact and law that has convulsed into manifest injustice because it deprives Draper of his 5th Amendment Right of Due Process under the Law, and also deprives him of his 7th Amendment Right to a Jury Trial.

(vii) ***Fourth***, since there is no scintilla of doubt anymore that Harry has Article III Standing, and is not time-barred by the spurious 2-year Statute of Limitation, Harry has the legal right to add Draper to his Complaint, as the Real Party In Interest, and he has done so, pursuant to Rules 17(a)(3) and 15(c).

8. Under FRCP 17(a)(3), a "court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action". Since the lower courts and defendants claim that Draper is the Real Party In Interest and Draper had already joined Harry in his (Harry's) Third Amended Complaint (Harry's and Draper's Joint Complaint), the lower courts cannot dismiss Harry's Federal Case. *In County of*

Riverside v. McLaughlin, 500 U.S. 44 (1991), the U.S. Supreme Court found standing existed after examining the injury and redressability of three additional plaintiffs who were not named in the initial complaint, and who were added through a second amended complaint. 500 U.S. at 51. Rule 17 is a proper procedural device to cure a jurisdictional defect by enabling a plaintiff to avoid being dismissed for failing to be the real party in interest when he filed his complaint, and also for enabling a Plaintiff from being dismissed because he is time-barred.

9. Rule 17(a)(3) allows joinder of the real party in interest so long as doing so does not change the substance of the action and does not reflect bad faith from the plaintiffs or unfairness to the defendants. There is no ''honest mistake'' requirement beyond that. As lucidly stated above, Draper Joining Harry does not change the substance of the action, does not reflect bad faith from Plaintiffs/Applicants Draper and Harry because both already have Article III Constitutional and Prudential Standing, and Draper is not Time-barred. Furthermore, the joinder of Harry and Draper imposes no unfairness to Defendants/Respondents, who after all, are the culprits of the allegations that Harry Lacks Standing and Draper is Time-barred. The lower courts should have allowed the Joinder of Harry and Draper and denied defendants' motions to dismiss Draper's and Harry's Federal Cases premised on the Defendants' false allegations that Harry lacks Article III standing and Draper is time-barred. Draper and Harry, haven filed their full Joint Complaint, ECF # 154-1, with the District Court, as an attachment, cures the District Court's alleged jurisdictional defect. Subsequently, it is incumbent on this Court to grant the stay so that the Applicants can at least have their day in Court for the first time in 5 years of 7 brutal years of defendants immense fraud.

STATEMENT

10. This is technologically complex Case that has been simplified to its very essence to fit current and nascent Laws. In Essence, Harry and Draper opened a Commodity Futures Trading Account with Defendants under Draper's name only on November 6, 2013. Draper

deposited $275,000 in the Account with Harry contributing **$18,157.40** and Draper contributing **$256,842.60** to make up the total $275,000. Draper was a passive Investor who only contributed the monetary deposit. Harry was the Sole Trader of the Account who paid for all the operational expenses of Trading including software subscription fees of **$6,078.60** including **$1,227.80** check payments made to Defendants through Defendant Patrick Flynn of MST. In short, while Draper contributed **$256,842.60** Harry contributed at least **$18,157.40** + **$6,078.60** or **$24,236.00**, affirming that Harry has Article III Standing and Prudential Standing, as does Draper, to sue the Defendants.

11. Through fraudulent Concealment, Fraudulent Misrepresentations and Fraudulent Deceits, Defendants through Defendants Scott Benz of QST and Patrick Flynn of MST, Induced Harry and Draper to move their Successful Futures Trading Account from OEC/Daniels Trading, their former broker, to defendants, to defraud and defrauded Harry and Draper. Harry and Draper then sued Defendants first at the CFTC Tribunal to recover their stolen money but CFTC did not have jurisdiction over all 14 Defendants. Draper and Harry then sued in this Court, where Harry's Case was dismissed under the false allegation that Harry lacked Article III Standing and Draper's also dismis-sed under the false claim that he was time-barred. Harry and Draper appealed their separate Lawsuits to the 9th Circuit Court of Appeals which affirmed the District Court's erroneous Judgments that Harry lacked Article III Standing and Draper was time-barred.

12. On August 27, 2018, the district court dismissed and closed Harry's and Draper's separate Cases, claiming that (1) Harry lacked Article III Standing despite Harry's insis-tence and persistence, and backed by preponderant evidence, that he (Harry) had both Article III and Prudential Standing, with just his Trading Software Subscription Fees alone; and (2) Draper was time-barred despite 10 of his 12 Causes of Action with longer Statute of Limitations not time-barred, and the remaining two Causes of Action tolled equitably.

13. On September 24, 2018, Plaintiffs/Applicants filed 59(e) and 60(b) Motions for the District Court to Amend or Vacate the Indisputably Erroneous 8/27/2018 Judgments

against Harry and Draper. There was no response from the Court. Unsure of what more to offer the District Court, to prove once and for all that Harry did not lack Article III Standing, and Draper was not time-barred, Applicants filed Notices of Appeal with the 9th Circuit on December 26, 2018 but the Appeals were placed in abeyance pending the District Court's Ruling on Harry's and Draper's 09/24/2018 Motions.

14. On April 19, 2019, the District Court denied Plaintiffs Motions and dismissed their cases, triggering the removal of the 9th circuit appeal abeyance. Harry immediately filed Documents ECF #s 151 and 152 on 5/2/2019 and 5/3/2019 respectively, with this Court, as substitutes for a 60(b) Motion, for the Court to vacate the 4/19/2019 Judgment against him, and proceeded with the 9th circuit Appeal on May 6, 2019. Draper also immediately filed documents ECF #s 99 and 100 on 5/2/2019 and 5/3/2019 respectively, with this court, as substitutes for a 60(b) motion, for the Court to vacate the 4/19/2019 Judgment against him, and also proceeded with the 9th Circuit Appeal on May 6, 2019. This now posed a dilemma for the District Court which no longer had Jurisdiction over Plaintiffs' cases because their "filing of notice[s] of appeal divest[ed] the district court of jurisdiction." *Gould v. Mutual Life Ins. Co.*, 790 F.2d 769, 772 (9th Cir. 1986). When a rule 60(b) motion is filed in district court after the filing of a notice of appeal, the district court lacks jurisdiction to entertain the motion. *Katzir Floor & Home Designs, Inc. v. M-MLS.com*, 394 F.3d 1143, 1148 (9th Cir. 2004). This also posed a real dilemma for Applicants because their case(s) were already closed by the district court, and they could no longer file any Motions, especially a Rule 62.1 Motion for Indicative Ruling on Rules 60(b) and 15(a)(2) Motions. With no viable solution to this legal conundrum, Hary and Draper decided to allow the Judicial Process run its course, confident that no matter what, the Cases would be remanded back to the District Court, and the District Court finally realizing its Indisputable Mistakes that it always had Jurisdiction over Plaintiffs' Cases, would correct its Manifest Errors. *See* Exhibits D1 and D2, Pages 3 and 7 respec-tively of the Appendix for Draper and exhibits H1 and H2, Pages 61 and 65 respectively of the

Appendix for Harry.

15. On September 15, 2020 the 9th Circuit Appellate Court made its final Rulings by simply affirming the District Court's April 19, 2019 Judgments, with no additional instructions, and remanded the Cases back to the District Court. *See* Exhibit D5, Page 54 of the Appendix for Draper, and Exhibit H6, Page 193 of the Appendix for Harry.

16. On September 23, 2020, the Ninth Circuit issued its Mandate for Draper's Case. *See* Exhibit D6, Page 56 of the Appendix.

17. On October 2, 2020, the Ninth Circuit denied Draper's Motion to Stay Mandate. *See* Exhibit D7, Page 58 of the Appendix.

18. On October 5, 2020, the Ninth Circuit issued its Mandate for Harry's Case. *See* Exhibit H8, Page 197 of the Appendix.

19. On October 7, 2020 Harry filed a Motion for Leave to file a Supplemental Memorandum to his previously filed Documents ECF #s 151 and 152, for the district court to vacate its manifestly erroneous Judgments against him, and reopen his Case for real jury trial on the Merits. By correcting its Indisputable Mistake, the District Court still aligns with the 9th Circuit's Rulings, affirmation of the District Court's Judgments, albeit the Corrected Judgments. *See* Exhibit H9, Page 199 of the Appendix.

20. On October 10, 2020, the District Court denied Harry's Motion for leave to file the Supplemental Memorandum *See* Exhibit H10, Page 273 of the Appendix. As a result, Draper did not deem it necessary to request his own leave to file a Supplemental Memorandum, since it would be futile.

21. Under this Court's miscellaneous order of March 19, 2020, which extended the deadline for filing all certiorari petitions "to 150 days from the date of the lower court judgment," the deadline for filing a petition in this case is February 15, 2021. This Court would have jurisdiction over Applic-ants' Petition under 28 U.S.C. §1254(1).

ARGUMENT

22. "To obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." Hollingsworth v. Perry, 558 U.S. 183, 190 (2010) (per curiam). "In close cases the Circuit Justice or the Court will balance the equities and weigh the relative harms to the applicant and to the respondent." Id. Applicants present to this Court indisputable facts that the Ninth Circuit profoundly erred in its Arrogant Decisions but the Question is, what Statutory Authority empowered the Ninth Circuit to Violate the Constitutional 5th and 7th Amendment Rights of these two Elderly Americans with Judicial Impunity? Based on this question, the standard for a stay is satisfied.

I. There is a reasonable probability that this Court will grant certiorari to deter-mine whether the Ninth Circuit Court of Appeals is above the Law, to Violate the 5th and 7th Amendment Rights of American Citizens with impunity

23. Three circumstances that commonly occasion this Court's review of the lower court's decision are: (1) conflict with a decision of another court of appeals on the same important matter, (2) departure from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power" or (3) resolving a decision on an important federal question that conflicts with relevant decisions of this Court. See S. Ct. R. 10. The Ninth Circuit's decision implicates all three circumstances.

A. The Ninth Circuit's Holding on Article III Standing contradicts its cited Lujan, and the Ninth Circuit and Supreme Court Precedents

24. Certiorari is at least reasonably probable here because the decision of Ninth Circuit departs from other circuits, and of this Court, in holding that (1) a Plaintiff who satisfies the tenets or the three required elements of *Lujan* as Harry did, lacks Article III Standing, and (2) a Plaintiff with 12 different Causes of action where 10 of the Causes of Action are not time-barred and the remaining 2 Causes of Action are equitably tolled pursuant to *Wong* is time-barred.

25. The 9th Circuit Article III standing precedent in *Krottner v. Starbucks Corp.* underlies the unjustifiability of its decision in Harry's case. In *Krottner*, a laptop was stolen from Starbucks that contained the unencrypted names, addresses, and Social Security numbers of just under 100,000 Starbucks employees. Starbucks argued that the employees did not have standing to sue because there was no indication that any of the personal information in question had been misused or that any economic loss had occurred as a result of the data theft. The *Krottner* court disagreed, holding that "the possibility of future injury may be sufficient to confer standing" where the plaintiff is "immediately in danger of sustaining some direct injury as a result of the challenged conduct." The 9th Circuit further held that the Starbucks employees' claims described "a credible threat of real and immediate harm stemming from the theft of a laptop containing their unencrypted data," and held that the plaintiffs "sufficiently alleged an injury-in-fact for purposes of Article III standing." Despite no known economic loss in *Krottner*, the 9th Circuit allowed Article III Standing, but in the case of Harry, here, where there is an economic loss of at least **$24,036.00** including the specific **$1,227.80** Check Payment loss, the Ninth Circuit unjustifiably adjudicates that Harry lacks Article III Standing.

26. Furthermore, in Monsanto v. Geertson Seed Farms, the plaintiffs/respondents, a number of organic alfalfa farmers, argued that they could be harmed if the deregulation of Monsanto's genetically-modified seed spread to fields containing their organic seeds. The Supreme Court held that the plaintiffs/respondents had demonstrated sufficient injury to meet standing requirements, even if they could not prove actual contamination. Despite no known economic loss in *Monsanto*, the Supreme Court allowed Article III Standing, but in Harry's Case, here, where there is a minimum economic loss of **$24,036.00** including the specific **$1,227.80** Check Payment loss, the Ninth Circuit unjustifiably decides that Harry lacks Article III Standing. The consequence of the Lower Courts' Actions have resulted in Manifest Injustice by depriving the Applicants' their 5th and 7th Amendment Rights. The lower courts, especially the Ninth Circuit Court of Appeals have no Statutory Authority,

whatsoever, to Violate Harry's and Draper's 5th Amendment Due Process Rights and 7th Amendment Rights of Jury Trial with impunity. This is why this Court must grant the stay of mandates or stay of enforcement of judgments to prevent Plaintiffs from being deprived of their 5th and 7th Amendment rights, and most importantly prevent Manifest Injustice.

II. There is also reasonable probability that this Court will grant certiorari to prevent the Lower Courts' Manifest Injustice of depriving 74-year old Draper and 69-year old Harry, their day in Court at the least, to recover their brazenly stolen retirement funds, just like the tens of millions of other American and Global Investors similarly defrauded but who are powerless, fearful, unable or maybe penniless or simply too exhausted to legally fight back.

27. Tens of millions of Investors in the United States and Globally are constantly being fleeced by these Wealthy and Powerful Defendants with their high-powered and highly paid Attorneys who ensure that those they cheated or defrauded like Draper and Harry never have their day in Court. Draper and Harry have not had their day in Court in at least 5 of the 7 years of Defendants' Monumental Fraud and Loot. This Court must not allow Defendants, especially their high-powered Attorneys get away with such monumental injustice of depriving American Citizens of their Day in Court, through legal chicanery and judicial tricks to subvert the Judiciary or legal system to their advantage. Exhibit H9, pages 217 through 222 of the Appendix gives a snapshot of the deceits and lies of Defendants' Attorneys to get Judgment without trial. No wonder millions of Investors do not fight these Wealthy and high-powered behemoths. Only this Court can stop these Defendants from perpetuating their immense fraud and loot, year in and year out, depriving tens of millions of Investors of their hard-earned retirement funds and sources of living. The ball is now in the court of this Court to stop these Defendant- Fraudsters once and from all, starting with granting of the stay.

III. There is a fair prospect that this Court will Reverse the 9th Circuit's arrogant decision to deprive American Citizens of their 5th Amendment Due Process Right and 7th Amendment Right to Jury Trial

28. The foregoing discussion and other relevant precedents of this Court show that there is — at a minimum — "a fair prospect" that this Court will reverse the Ninth

Circuit's decisions. This prediction is confirmed by the fact that the decision below conflicts with other circuit precedent as well as the Supreme Court precedent.

(i) The Lower Courts' Violation of Applicants' 5th Amendment Right of Due Process

29. The Fifth Amendment to the U.S. Constitution prohibits deprivation of "life, liberty, or property" without due process of law. In the context of adjudication, due process requires notice and an opportunity to be heard. The Supreme Court has often stated that the core rights of due process are notice and hearing. *Cleveland Bd. of Educ. v. Loudermill, 105 S. Ct. 1487, 1493 (1985)* ("An essential principle of due process is that a deprivation of life, liberty, or property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case.'") (quoting Mullane v. Central Hano. The procedural due process aims to ensure fundamental fairness by guaranteeing a party the right to be heard, ensuring that the parties receive proper notification throughout the litigation, and ensures that the adjudicating court has the appropriate jurisdiction to render a judgment. By the Lower Courts' Indisputable Mistakes of claiming that Harry lacked Article III Standing and Draper is time-barred and dismissing their Cases, Harry and Draper were deprived their 5th Amendment Right of Due Process. Hence, the necessity of this Court staying the Mandates.

(ii) The Lower Courts' Violation of Harry's 7th Amendment Right to Jury Trial

30. The lower courts' indisputably erroneous allegation that Harry lacks Article III Standing and Draper is time-barred, to pursue their federal claims, which resulted in the improper dismissal of Plaintiffs' federal cases, akin to a bench trial, is not a harmless error. It violated Applicants' fundamental Seventh Amendment Constitutional Right. Although courts have broad discretion to decide jurisdictional facts, they may not exercise that discretion where it would infringe upon the plaintiff's right to a jury trial. *See Beacon Theaters, Inc. v. Westover*, 359 U.S. 500 (1959); *Lytle v. Household Manufac-turing, Inc.*, 494 U.S. 545. By deciding issues that are intertwined with the merits of the case under the guise of determining a purely jurisdictional issue, courts are limiting a plaintiff's right to a trial by jury. In *Lytle v. Household Manufacturing, Inc.*, 494 U.S. 545., the Supreme Court

held that the doctrine of collateral estoppel did not bar relitigation of the issues decided by the judge because it would not "constitute a second, separate action. Moreover, where the court decides elements of the cause of action by calling the issues purely jurisdictional, the dismissal of the plaintiff's claim under Rule 12(b)(1) takes away the plaintiff's right to a trial by jury. 2 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 12.30 [1], at 12-36 (3d ed. 1997). (A "dismissal for lack of subject matter jurisdiction is not a judgment on the merits, and it therefore has no claim preclusive or res judicata effect.")

31. Since Applicants' Cases are for Jury Trial where the jurisdictional issue is "intertwined with the merits", and since it has been proven without a scintilla of doubt that Harry's minimum **$24,236** Contribution, especially the specific **$1,227.80** Software Subscription fee check payment, to the Draper-Harry Commodity Futures Account gives Harry both Article III and Prudential Standing, Harry's Stay of Mandate by this court is warranted, and so is Draper's Stay.

IV. Harry and Draper will suffer irreparable harm absent a stay

32. Harry and Draper have already lost hundreds of thousands of dollars of their hard-earned retirement funds and source of living, not counting the collateral damages of their lost funds that would have generated more income for them. Absent a stay, Applicants' cases may come to a unjust finality that will likely cause lasting irreparable harm to both elderly Applicants. In other words, absent a stay, Applicants' Cases will be dismissed, and their 5th Amendment Right of Due Process and their 7th Amendment Right of Jury Trial will be violated with impunity by the district court and especially the Ninth circuit court of appeals. In short, the lower courts would get away with their judicial arrogance of violating the constitutional rights of American Citizens, affirming that they are above the law.

33. The effects of the decision below, moreover, will not be limited to these 2 elderly Applicants/Investors, but also to the tens of millions of current and future Investors in the United States and Globally, who will get the clear message that they (the Investors) cannot fight for their Constitutional Rights against the very powerful defend-

ants/respondents and their high powered attorneys, with the support of the Judiciary. And this will give license to the defendants/respondents to violate the law, defraud and disenfranchise tens of millions of American-Investors and global-Investors with arrogant impunity.

34. The harms just discussed would not be easily undone, if the decision were later reversed. Indeed, Investors perception would likely never revert. This irreparable harm would begin to be felt as soon as the district court's judgment is enforced.

Defendants/Respondents will suffer no Harm absent a Stay

35. Defendants will suffer no harm whatsoever because they are the genesis of the legal quagmire. They have tried every legal chicanery, and judicial deceits, lies and outright fraud ever conceived by the human mind to ensure that Plaintiffs/Applicants never had their day in any court, whether at the CFTC tribunal, the federal district court and the 9th Circuit court of appeals. Moreover Defendants would getaway with the funds they looted from Draper and Harry, and also with their egregious Elder Financial Abuse. The only harm Defendants/Respondents will mention is their spurious and irrelevant claims of Court Costs, as if Plaintiffs do not have Court Costs, besides losing their retirement funds, openly stolen in broad daylight by Defendants/Respondents.

V. The balance of equities and relative harms weighs strongly in favor of granting a stay

36. The harm a stay might cause (mere Court costs to Defendants) is far less than the harm without a stay that would result in depriving Plaintiffs/Applicants of their 5th Amendment Right of Due Process and 7th Amendment Right of Jury Trial). Furthermore, the lower courts would get away with their judicial arrogance of violating the Constitutional Rights of American Citizens with impunity, and Plaintiffs/Applicants would lose all their retirement funds brazenly stolen by Defendants/Respondents. These aside, the Court's decision of not granting the stay will fundamentally change the mindset of tens of millions of disenfranchised and defrauded Investors from seeking legal relief through the Judiciary or Court

System. Why waste your energy, time and resources only to be deprived of your day in Court by the powerful Defendant/Respondents and their high powered lawyers, supported by the lower courts. Both Plaintiffs/Applicants and the Public have a strong interest in avoiding such harms.

CONCLUSION

This Court should stay the 9th Circuit's mandates if this is still feasible, pending the filing and disposition of a petition for writ of certiorari. Since the 9th Circuit has already issued the mandates, the Court should stay the district court's enforcement of judgments pending the filing and disposition of a petition for writ of certiorari. Alternatively, Applicants suggest that this Court treat this application as a petition for writ of certiorari and grant the petition. Finally, Applicants request an administrative or temporary stay while the Court considers this application.

APPENDIX

An Appendix with an Appendix Table of Contents of the relevant Records of each of the Applicants is attached.

APPENDIX TABLE OF CONTENTS

In the Table of Contents, Draper's Exhibits are highlighted as Exhibit D, with Sub-exhibits D1, D2, D3, etc, while Harry's Exhibits are highlighted as Exhibit H, with Sub-exhibits H1, H2, H3, etc.

Respectfully Submitted

Bright Harry

Ronald S. Draper

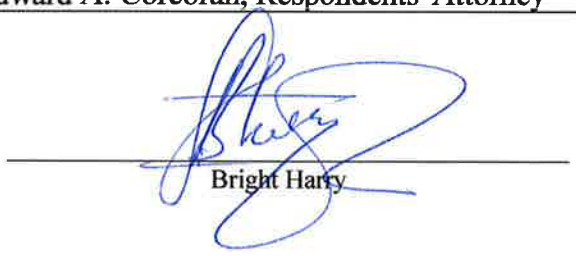
October 15, 2020

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiffs/Applicants Harry's and Draper's Emergency Stay of Mandates or Enforcement of Judgments, and accompanying Appendix were electronically filed to the following Parties via the Court's CM/ECF System:

KCG Americas LLC,	Andrea Pignataro,
Daniel B. Coleman,	Robert Sylverne,
Carl Gilmore,	Computer Voice Systems, Inc.,
Greg Hostetler,	Paul Sturm,
Main Street Trading, Inc.,	Scott William Benz,
Patrick J. Flynn,	Howard Holderness, III, Respondents' Attorney
Wedbush Securities Inc.,	Danielle Kono Lewis, Respondents' Attorney
Edward W. Wedbush,	Gregg Anthony Thornton, Respondents' Attorney
ION Trading, Inc.,	Edward A. Corcoran, Respondents' Attorney

10/15/2020



Bright Harry

No. 20A___

In the Supreme Court of the United States

BRIGHT HARRY and RONALD S. DRAPER,

Applicants,

v.

WEDBUSH ET AL,

Respondents.

ON APPLICATION FOR STAY

EMERGENCY APPLICATION FOR STAY OF MANDATES OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (OR IN THE ALTERNATIVE, FOR STAY OF THE DISTRICT COURT'S ENFORCEMENT OF JUDGMENTS) PENDING THE FILING AND DISPOSITION OF A PETITION FOR WRIT OF CERTIORARI, AND REQUEST FOR AN ADMINISTRATIVE STAY

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October 13, 2020

PARTIES TO THE PROCEEDING AND RELATED PROCEEDING

The parties to the proceeding below are as follows:

Applicants are Bright Harry and Ronald S. Draper who were the Plaintiffs in the District Court and Appellants in the Court of Appeals.

Respondents are KCG Americas LLC, Daniel B. Coleman, Carl Gilmore, Greg Hostetler, Main Street Trading, Inc., Patrick J. Flynn, Wedbush Securities Inc., Edward W. Wedbush, ION Trading, Inc., Andrea Pignataro, Global, Robert Sylverne, Computer Voice Systems, Inc., Paul Sturm and Scott William.

The Related Proceedings below are:

1. Bright Harry vs. Wedbush et al., No. 19-15013 (Ninth Circuit) Judgment entered May 20, 2020; and

2. Ronald S. Draper vs. Wedbush et al., No. 19-15014 (Ninth Circuit) Judgment entered May 14, 2020.

CORPORATE DISCLOSURE STATEMENT

Per Supreme Court Rule 29, Applicants Bright Harry and Ronald S. Draper state that they have no parent companies or publicly-held companies with a 10% or greater ownership interest in them.

Pursuant to the Supreme Court Rules 10(a) and (c), the Ninth Circuit Court of Appeals (1) "has entered a decision in conflict with the decision of another United States court of appeals on the same important matter", (2) "has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power", and (3) has "decided an important federal question in a way that conflicts with relevant decisions of this Court".

TABLE OF CONTENTS

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

It's been 7 brutal years for two Elderly American Citizens in their Sixties and Seventies, just seeking to have their day in Court but to no avail. They are the last two still standing out of tens of millions of Investors, whose Retirement Funds and income to live were stolen from them in broad daylight, with arrogant impunity by the very wealthy and powerful Defendants. These two Elderly Americans are now at the last Bus Stop waiting for the last Bus that will take them to the Temple of Justice, the Supreme Court of the United States, where there are currently 8 blacked-robbed Priests and Priestesses of the Temple of Justice. This is their last chance to ever have their day in any Court for that matter in the past 7 years. Will the only Priestess in charge of the last Bus to the Temple of Justice, the Honorable Elena Kagan, allow these elderly Americans board this last Bus to the Temple of Justice to at least have a drink of water and for the first time in 5 years, have their Day in Court, pursuant to their 5th Amendment Right of Due Process? These elderly Men's 5th Amendment Right of Due Process and 7th Amendment Right of Jury Trial have been abused with Arrogant Impunity by CFTC, the District Court and the Ninth Circuit Court of Appeals for the past 5 years. This is the last Bus Stop for these two elderly men to proceed to the Temple of Justice. It is the end of the Judicial Road of Justice for them. The core question again is, will the Priestess in charge of the Bus allow these two men enter the Bus to the Temple of Justice, to prevent Monumental Injustice? Law is Justice and the Purpose of Law is Prevention of Injustice from Reigning.

Now, as required by this Court's Rule 23, elderly Plaintiffs/Applicants Bright Harry and Ronald S. Draper, respectfully request a stay of their respective Mandates of the United States Court of Appeals of the Ninth Circuit, which have already been issued, pending the timely filing of and disposition of Applicants' forthcoming petition for a writ of certiorari and any further proceedings in this Court. Alternatively, Applicants suggest that the Court treat this application as a petition for writ of certiorari and grant the writ. *See* Nken v. Mukasey, 555 U.S. 1042 (2008). Finally, Plaintiffs/Applicants request an administrative stay while the Court considers this application.

INTRODUCTION

1. In *Camreta v. Greene*, 101 131 S. Ct. 2020 (2011), the Honorable Justice Elena Kagan reiterated what the Supreme Court has said consistently over the last forty years:

> Article III of the Constitution grants this Court authority to adjudicate legal disputes only in the context of "Cases" or "Controversies." To enforce this limitation, we demand that litigants demonstrate a "personal stake" in the suit. The party invoking the Court's authority has such a stake when three condi-tions are satisfied: The petitioner must show that he has "suffered an injury in fact" that is caused by "the conduct complained of" and that "will be redressed by a favorable decision." 102 *Id.* at 2028 (citations omitted).

In concert with *Camreta,* Applicant Harry suffered Economic Injury of at least **$6,078.60** in software subscription fee loss and **$18,157.40** in Trading Account Deposit loss, both totaling **$24,236.00**, due to Respondents' Fraud. As such, Harry proved to the District Court and the Ninth Circuit Court of appeals, without a scintilla of doubt, that he has "suffered an injury in fact" that is caused by "the conduct complained of" and that "will be redressed by a favorable decision." 102 *Id.* at 2028, but the Lower Courts still hold that Harry lacks Article III Standing. The Lower Courts did not give any viable or logical reasons for their Indisputably Erroneous Claim that Harry lacks Article III Standing.

2. **As *Lujan* explains, Article III Standing is easy to establish where the Plaintiff is the object of the Defendants' actions.** Article III of the Constitution limits the authority of the federal courts: they decide "Cases" and "Controversies." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559 (1992). For a dispute to be within the power (the subject-matter jurisdiction) of a federal court, the plaintiff must have standing—that means, the plaintiff must have alleged a sufficient interest in the dispute. This "irredu-cible constitutional minimum" of standing has three elements: (1) the plaintiff has suffered a concrete injury; (2) that injury is fairly traceable to actions of the defendant; and (3) it must be likely—not merely speculative—that the injury will be redressed by a favorable decision. *Id.* at 560–61.

3. Because this is a standard lawsuit regarding the Defendants' conduct directly

against Plaintiff Harry (and not against someone else), Harry easily met his burden to establish and established standing at every stage. All Harry had to do, and did, was make sufficient showings of his basic claim that Defendants injured him by defrauding him of his $24,236 including the specific $1,227.80 paid in checks. At the pleading stage, Harry presented those factual allegations. *See id.* at 561. At the summary-judgment stage, Harry also presented the specific facts (assumed to be true). *Id.* Thus, Harry never lacked Article III Standing at any stage of this Case.

4. Subsequently, it is unconscionable and unfathomable that both the Defendants and especially the Lower Courts continued and continue to falsely claim that Harry lacks Article III Standing despite the obvious and very visible $24,236, including the specific $1,227.80 check payments Defendants defrauded Harry of. Harry has four grounds proving his Article III Standing as lucidly explained in Pages 209 through 227 of the attached Appendix. The full details are in Exhibit H9 **(Case 4:17-cv-02385-HSG Document 158)** of the attached Appendix (Page 199).

5. Applicant Harry has never lacked Article III Standing, and still does not lack Article III Standing in this Case. Subsequently, the question for this Court is, what Statutory Authority does the District Court and especially the Ninth Circuit Court of Appeals have to arrogantly Violate Harry's 5th Amendment Right of Due Process and also his 7th Amendment Right to a Jury trial, by falsely alleging that Harry lacks Article III Standing? Are the Lower Courts above the Law to Violate the Constitutional Rights of American Citizens with Impunity? This is the essence of the request for the Stay of Mandate/Stay of Enforcement of Judgment and the Petition for the Writ of Certiorari. Exhibit H for Harry, Pages 60 to 275 give the full spectrum of the horrific experiences of Applicant Harry.

6. Similarly, elderly Ronald S. Draper ("Draper"), Harry's Investment Partner for the same Investment Account, suffered identical horrific experience with the Defendants, District Court and the Ninth Circuit Court of Appeals. In Draper's Case, they falsely

accused him of being time-barred when he was never time-barred, has not been time-barred, and is still not time-barred in his Case.

Draper was never time-bared, has not been time-barred and is not time-barred in his Case.

7. This is a very simple and straight-forward Case with Four specific Grounds, each proving that Draper was never time-barred, has not been time-barred and is still not time-barred.

(i) ***First***, Draper has multiple Causes of Action subject to several different limitation periods, as shown in Table 1 below. Each different Cause of Action has its own Statute of Limitation.

Violations, Violated Laws and Statutes of Limitations

No.	Violations	Violated Laws		Statute of Limitation
		Federal	California State	
1.	RICO	18 U.S.C. 1961, 18 U.S.C. §1962(a) - (d), 18 U.S.C. §1341 and §1343		4 Years
2.	Financial Elder Abuse (Draper)		Cal. Welf. & Inst. Code §15657.5, *et seq,* Cal. Welf. & Inst. Code §15610.30, Cal. Civ. Code §3294 and Cal. Welf. & Inst. Code §15657.05, Cal. Civ. Code §3345,	4 Years
3.	(a) Breach of Obligation with Contract Under California Law --- (b) Breach of Obligation without Contract Under California Law		C.C.C. 3300 --- Cal. Civ. Code § 1709, § 3294 and § 3333	4 Years ---
4.	Breach of Fiduciary Duty		California Civil Code § 3333 *and* California Civil Code § 3294	3 or 4 Years
5.	Fraud in violation of 7 U.S.C. § 6b	7 U.S.C. § 6b		2 Years
6.	Fraud in violation of CEA § 6(c)(1)	CEA § 6(c)(1)		2 Years

7.	Fraudulent Concealment Fraudulent Misrepresentations	Federal Common Law Fraud based on Federal Rule of Civil Procedure 9(b)		3 Years (FRCP 9(b))
			Cal. Civil Code § 1709, § 1710, § 1572 and § 1573	3 Years (Cal. Civ. Code)
8.	Fraudulent Deceits Fraudulent Inducement	Federal Common Law Fraud based on Federal Rule of Civil Procedure 9(b)		3 Years (FRCP 9(b))
			Cal. Civil Code § 1709, § 1710, § 1572 and § 1573	3 Years (Cal. Civ. Code)
9.	Violations of California Unlawful Activity and Fraudulent Conduct Law		Cal. Corp. Code § 29536	3 Years
10.	Violation of California Unfair Competition Law		Cal. Bus. & Prof. Code § 17200 *et seq.*	4 Years
11.	Violations of The California Consumer Legal Remedies Law		Cal. Civ. Code § 1750 *et seq.*	3 Years
12.	Violation of California False Advertising Law		California Bus. & Prof. Code § 17500	3 Years

As such, the Lower Courts have no Statutory Authority whatsoever, to impose the 2-year CEA Statute of Limitation on all 12 Causes of Action. That's illegal, simply unlawful.

(ii) Out of the 12 Causes of Action, only the two causes of action pertaining to (a) Fraud in violation of 7 U.S.C. § 6b (5th cause of action in the table) and (b) Fraud in violation of CEA § 6(c)(1) (6th cause of action in the table) are governed by the alleged 2-year CEA Statute of Limitations. Draper's first cause of action, RICO, is based on federal common law which has a 4-year statute of limitation. Draper's second cause of action, elder financial abuse is premised on California State statute that has a 4-year statute of limitation. Draper's third cause of action, breach of contract, is premised on California State statute that has a 4-year statute of limitation. Draper's fourth cause of action, breach of fiduciary duty, is premised on California State statute that has a 3 or 4-year statute of limitation. Draper's seventh and eighth causes of action, fraudulent concealment,

fraudulent misrepresentations, fraudulent deceits and fraudulent induce-ment are premised on federal common law based on Federal Rule of Civil Procedure 9(b), which has a 3-year statute of limitation, and California State statutes that also have 3-year statutes of limitations. Draper's ninth, tenth, eleventh and twelfth causes of action are based on California State statutes that have 3 or 4-year statutes of limitations.

(iii) Furthermore, Plaintiff Draper filed his Federal Complaint on April 27, 2018, within the 3-year Statute of Limitations which began on April 28, 2015. As such, Draper is not time-barred for his 1st, 2nd, 3rd, 4th, 7th, 8th, 9th, 10th, 1th and 12th causes of action. The only issue under contention is the alleged 2-year CEA statute of limitations for his 5th and 6th causes of action. Hence, the profound question again is, why did the Lower Courts impose the alleged 2-year CEA statute of limitations on all Draper's 12 causes of action and not on his 5th and 6th Causes of Action only, and then dismissed Draper's case as a whole, premised on the same alleged 2-year CEA statute of limitations violation?

(iv) The Lower Courts manifestly erred by imposing an arbitrary and erroneous 2-year CEA Statute of Limitations on all Draper's 12 Causes of Action with Different Statutes of Limitations, and then claiming that Draper is time-barred. Pursuant to Rule 60(b)(1), this Indisputable Mistake by the Lower Courts warrant the Vacation of the Judgment against Draper.

(v) ***Second***, the Lower Courts clearly erred again with the 5th and 6th causes of action, which were equitably tolled to October 29, 2018 by CFTC, from April 6, 2018, as shown by the last paragraph of page 1 of the attached Exhibit L5 in Draper's ECF # 75-2. (Page 30 of Appendix). This equitable Tolling by the Commodity Futures Trading Commission ("Commission") began on April 6, 2018 and ended on October 29, 2018, when judgment officer Kavita Kumar Puri issued her order. Draper filed his Federal Lawsuit on April 27, 2018, within the Commission's mandated Tolling Period, which started on April 6, 2018. Thus, Draper's 5th and 6th causes of action based on the CEA were tolled from the CFTC tribunal to the Federal District Court. *United States v. Wong*

("*Wong/June*"), — U.S. —, 135 S. Ct. 1625, 191 L. Ed. 2d 533 (2015). The Supreme Court remanded June's case. "["[A] court may pause the running of a limitations statute . . . when a party 'has pursued his rights diligently but some extraordinary circumstance' prevents him from meeting a deadline." *Wong/June*, 135 S. Ct. at 1631 (quoting *Lozano v. Montoya Alvarez*, — U.S. —, 134 S. Ct. 1224, 1231–32, 188 L. Ed. 2d 200 (2014)). This means, Draper's Claims in the Federal Court, for his 5th and 6th causes of action, based on the CEA, are not time-barred.

(vi) ***Third***, Exhibits L28 through L33 (*See* Pages 34 to 50 of Appendix) give details of the contentious arguments between Attorneys Baldwin and Mader, and Draper and Harry with regards to filing of Draper's and Harry's joint Federal Lawsuit, which the two Attorneys vehemently opposed and stopped Draper from filing his federal lawsuit before April 28, 2017, and even after, thereby causing the equitable tolling of Draper's CEA statute of limitations for the 5th and 6th causes of action. What all these boil down to is that the Lower Courts clearly erred in the judgment against Draper. This is clearly a manifest error of fact and law that has convulsed into manifest injustice because it deprives Draper of his 5th Amendment Right of Due Process under the Law, and also deprives him of his 7th Amendment Right to a Jury Trial.

(vii) ***Fourth***, since there is no scintilla of doubt anymore that Harry has Article III Standing, and is not time-barred by the spurious 2-year Statute of Limitation, Harry has the legal right to add Draper to his Complaint, as the Real Party In Interest, and he has done so, pursuant to Rules 17(a)(3) and 15(c).

8. Under FRCP 17(a)(3), a "court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action". Since the lower courts and defendants claim that Draper is the Real Party In Interest and Draper had already joined Harry in his (Harry's) Third Amended Complaint (Harry's and Draper's Joint Complaint), the lower courts cannot dismiss Harry's Federal Case. *In County of*

Riverside v. McLaughlin, 500 U.S. 44 (1991), the U.S. Supreme Court found standing existed after examining the injury and redressability of three additional plaintiffs who were not named in the initial complaint, and who were added through a second amended complaint. 500 U.S. at 51. Rule 17 is a proper procedural device to cure a jurisdictional defect by enabling a plaintiff to avoid being dismissed for failing to be the real party in interest when he filed his complaint, and also for enabling a Plaintiff from being dismissed because he is time-barred.

9. Rule 17(a)(3) allows joinder of the real party in interest so long as doing so does not change the substance of the action and does not reflect bad faith from the plaintiffs or unfairness to the defendants. There is no ''honest mistake'' requirement beyond that. As lucidly stated above, Draper Joining Harry does not change the substance of the action, does not reflect bad faith from Plaintiffs/Applicants Draper and Harry because both already have Article III Constitutional and Prudential Standing, and Draper is not Time-barred. Furthermore, the joinder of Harry and Draper imposes no unfairness to Defendants/Respondents, who after all, are the culprits of the allegations that Harry Lacks Standing and Draper is Time-barred. The lower courts should have allowed the Joinder of Harry and Draper and denied defendants' motions to dismiss Draper's and Harry's Federal Cases premised on the Defendants' false allegations that Harry lacks Article III standing and Draper is time-barred. Draper and Harry, haven filed their full Joint Complaint, ECF # 154-1, with the District Court, as an attachment, cures the District Court's alleged jurisdictional defect. Subsequently, it is incumbent on this Court to grant the stay so that the Applicants can at least have their day in Court for the first time in 5 years of 7 brutal years of defendants immense fraud.

STATEMENT

10. This is technologically complex Case that has been simplified to its very essence to fit current and nascent Laws. In Essence, Harry and Draper opened a Commodity Futures Trading Account with Defendants under Draper's name only on November 6, 2013. Draper

deposited $275,000 in the Account with Harry contributing **$18,157.40** and Draper contributing **$256,842.60** to make up the total $275,000. Draper was a passive Investor who only contributed the monetary deposit. Harry was the Sole Trader of the Account who paid for all the operational expenses of Trading including software subscription fees of **$6,078.60** including **$1,227.80** check payments made to Defendants through Defendant Patrick Flynn of MST. In short, while Draper contributed **$256,842.60** Harry contributed at least **$18,157.40** + **$6,078.60** or **$24,236.00**, affirming that Harry has Article III Standing and Prudential Standing, as does Draper, to sue the Defendants.

11. Through fraudulent Concealment, Fraudulent Misrepresentations and Fraudulent Deceits, Defendants through Defendants Scott Benz of QST and Patrick Flynn of MST, Induced Harry and Draper to move their Successful Futures Trading Account from OEC/Daniels Trading, their former broker, to defendants, to defraud and defrauded Harry and Draper. Harry and Draper then sued Defendants first at the CFTC Tribunal to recover their stolen money but CFTC did not have jurisdiction over all 14 Defendants. Draper and Harry then sued in this Court, where Harry's Case was dismissed under the false allegation that Harry lacked Article III Standing and Draper's also dismis-sed under the false claim that he was time-barred. Harry and Draper appealed their separate Lawsuits to the 9th Circuit Court of Appeals which affirmed the District Court's erroneous Judgments that Harry lacked Article III Standing and Draper was time-barred.

12. On August 27, 2018, the district court dismissed and closed Harry's and Draper's separate Cases, claiming that (1) Harry lacked Article III Standing despite Harry's insis-tence and persistence, and backed by preponderant evidence, that he (Harry) had both Article III and Prudential Standing, with just his Trading Software Subscription Fees alone; and (2) Draper was time-barred despite 10 of his 12 Causes of Action with longer Statute of Limitations not time-barred, and the remaining two Causes of Action tolled equitably.

13. On September 24, 2018, Plaintiffs/Applicants filed 59(e) and 60(b) Motions for the District Court to Amend or Vacate the Indisputably Erroneous 8/27/2018 Judgments

against Harry and Draper. There was no response from the Court. Unsure of what more to offer the District Court, to prove once and for all that Harry did not lack Article III Standing, and Draper was not time-barred, Applicants filed Notices of Appeal with the 9th Circuit on December 26, 2018 but the Appeals were placed in abeyance pending the District Court's Ruling on Harry's and Draper's 09/24/2018 Motions.

14. On April 19, 2019, the District Court denied Plaintiffs Motions and dismissed their cases, triggering the removal of the 9th circuit appeal abeyance. Harry immediately filed Documents ECF #s 151 and 152 on 5/2/2019 and 5/3/2019 respectively, with this Court, as substitutes for a 60(b) Motion, for the Court to vacate the 4/19/2019 Judgment against him, and proceeded with the 9th circuit Appeal on May 6, 2019. Draper also immediately filed documents ECF #s 99 and 100 on 5/2/2019 and 5/3/2019 respectively, with this court, as substitutes for a 60(b) motion, for the Court to vacate the 4/19/2019 Judgment against him, and also proceeded with the 9th Circuit Appeal on May 6, 2019. This now posed a dilemma for the District Court which no longer had Jurisdiction over Plaintiffs' cases because their "filing of notice[s] of appeal divest[ed] the district court of jurisdiction." *Gould v. Mutual Life Ins. Co.*, 790 F.2d 769, 772 (9th Cir. 1986). When a rule 60(b) motion is filed in district court after the filing of a notice of appeal, the district court lacks jurisdiction to entertain the motion. *Katzir Floor & Home Designs, Inc. v. M-MLS.com*, 394 F.3d 1143, 1148 (9th Cir. 2004). This also posed a real dilemma for Applicants because their case(s) were already closed by the district court, and they could no longer file any Motions, especially a Rule 62.1 Motion for Indicative Ruling on Rules 60(b) and 15(a)(2) Motions. With no viable solution to this legal conundrum, Hary and Draper decided to allow the Judicial Process run its course, confident that no matter what, the Cases would be remanded back to the District Court, and the District Court finally realizing its Indisputable Mistakes that it always had Jurisdiction over Plaintiffs' Cases, would correct its Manifest Errors. *See* Exhibits D1 and D2, Pages 3 and 7 respec-tively of the Appendix for Draper and exhibits H1 and H2, Pages 61 and 65 respectively of the

Appendix for Harry.

15. On September 15, 2020 the 9th Circuit Appellate Court made its final Rulings by simply affirming the District Court's April 19, 2019 Judgments, with no additional instructions, and remanded the Cases back to the District Court. *See* Exhibit D5, Page 54 of the Appendix for Draper, and Exhibit H6, Page 193 of the Appendix for Harry.

16. On September 23, 2020, the Ninth Circuit issued its Mandate for Draper's Case. *See* Exhibit D6, Page 56 of the Appendix.

17. On October 2, 2020, the Ninth Circuit denied Draper's Motion to Stay Mandate. *See* Exhibit D7, Page 58 of the Appendix.

18. On October 5, 2020, the Ninth Circuit issued its Mandate for Harry's Case. *See* Exhibit H8, Page 197 of the Appendix.

19. On October 7, 2020 Harry filed a Motion for Leave to file a Supplemental Memorandum to his previously filed Documents ECF #s 151 and 152, for the district court to vacate its manifestly erroneous Judgments against him, and reopen his Case for real jury trial on the Merits. By correcting its Indisputable Mistake, the District Court still aligns with the 9th Circuit's Rulings, affirmation of the District Court's Judgments, albeit the Corrected Judgments. *See* Exhibit H9, Page 199 of the Appendix.

20. On October 10, 2020, the District Court denied Harry's Motion for leave to file the Supplemental Memorandum *See* Exhibit H10, Page 273 of the Appendix. As a result, Draper did not deem it necessary to request his own leave to file a Supplemental Memorandum, since it would be futile.

21. Under this Court's miscellaneous order of March 19, 2020, which extended the deadline for filing all certiorari petitions "to 150 days from the date of the lower court judgment," the deadline for filing a petition in this case is February 15, 2021. This Court would have jurisdiction over Applic-ants' Petition under 28 U.S.C. §1254(1).

ARGUMENT

22. "To obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." Hollingsworth v. Perry, 558 U.S. 183, 190 (2010) (per curiam). "In close cases the Circuit Justice or the Court will balance the equities and weigh the relative harms to the applicant and to the respondent." Id. Applicants present to this Court indisputable facts that the Ninth Circuit profoundly erred in its Arrogant Decisions but the Question is, what Statutory Authority empowered the Ninth Circuit to Violate the Constitutional 5th and 7th Amendment Rights of these two Elderly Americans with Judicial Impunity? Based on this question, the standard for a stay is satisfied.

I. There is a reasonable probability that this Court will grant certiorari to deter-mine whether the Ninth Circuit Court of Appeals is above the Law, to Violate the 5th and 7th Amendment Rights of American Citizens with impunity

23. Three circumstances that commonly occasion this Court's review of the lower court's decision are: (1) conflict with a decision of another court of appeals on the same important matter, (2) departure from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power" or (3) resolving a decision on an important federal question that conflicts with relevant decisions of this Court. See S. Ct. R. 10. The Ninth Circuit's decision implicates all three circumstances.

A. The Ninth Circuit's Holding on Article III Standing contradicts its cited Lujan, and the Ninth Circuit and Supreme Court Precedents

24. Certiorari is at least reasonably probable here because the decision of Ninth Circuit departs from other circuits, and of this Court, in holding that (1) a Plaintiff who satisfies the tenets or the three required elements of *Lujan* as Harry did, lacks Article III Standing, and (2) a Plaintiff with 12 different Causes of action where 10 of the Causes of Action are not time-barred and the remaining 2 Causes of Action are equitably tolled pursuant to *Wong* is time-barred.

25. The 9th Circuit Article III standing precedent in *Krottner v. Starbucks Corp.* underlies the unjustifiability of its decision in Harry's case. In *Krottner*, a laptop was stolen from Starbucks that contained the unencrypted names, addresses, and Social Security numbers of just under 100,000 Starbucks employees. Starbucks argued that the employees did not have standing to sue because there was no indication that any of the personal information in question had been misused or that any economic loss had occurred as a result of the data theft. The *Krottner* court disagreed, holding that "the possibility of future injury may be sufficient to confer standing" where the plaintiff is "immediately in danger of sustaining some direct injury as a result of the challenged conduct." The 9th Circuit further held that the Starbucks employees' claims described "a credible threat of real and immediate harm stemming from the theft of a laptop containing their unencrypted data," and held that the plaintiffs "sufficiently alleged an injury-in-fact for purposes of Article III standing." Despite no known economic loss in *Krottner*, the 9th Circuit allowed Article III Standing, but in the case of Harry, here, where there is an economic loss of at least **$24,036.00** including the specific **$1,227.80** Check Payment loss, the Ninth Circuit unjustifiably adjudicates that Harry lacks Article III Standing.

26. Furthermore, in Monsanto v. Geertson Seed Farms, the plaintiffs/respondents, a number of organic alfalfa farmers, argued that they could be harmed if the deregulation of Monsanto's genetically-modified seed spread to fields containing their organic seeds. The Supreme Court held that the plaintiffs/respondents had demonstrated sufficient injury to meet standing requirements, even if they could not prove actual contamination. Despite no known economic loss in *Monsanto*, the Supreme Court allowed Article III Standing, but in Harry's Case, here, where there is a minimum economic loss of **$24,036.00** including the specific **$1,227.80** Check Payment loss, the Ninth Circuit unjustifiably decides that Harry lacks Article III Standing. The consequence of the Lower Courts' Actions have resulted in Manifest Injustice by depriving the Applicants' their 5th and 7th Amendment Rights. The lower courts, especially the Ninth Circuit Court of Appeals have no Statutory Authority,

whatsoever, to Violate Harry's and Draper's 5th Amendment Due Process Rights and 7th Amendment Rights of Jury Trial with impunity. This is why this Court must grant the stay of mandates or stay of enforcement of judgments to prevent Plaintiffs from being deprived of their 5th and 7th Amendment rights, and most importantly prevent Manifest Injustice.

II. There is also reasonable probability that this Court will grant certiorari to prevent the Lower Courts' Manifest Injustice of depriving 74-year old Draper and 69-year old Harry, their day in Court at the least, to recover their brazenly stolen retirement funds, just like the tens of millions of other American and Global Investors similarly defrauded but who are powerless, fearful, unable or maybe penniless or simply too exhausted to legally fight back.

27. Tens of millions of Investors in the United States and Globally are constantly being fleeced by these Wealthy and Powerful Defendants with their high-powered and highly paid Attorneys who ensure that those they cheated or defrauded like Draper and Harry never have their day in Court. Draper and Harry have not had their day in Court in at least 5 of the 7 years of Defendants' Monumental Fraud and Loot. This Court must not allow Defendants, especially their high-powered Attorneys get away with such monumental injustice of depriving American Citizens of their Day in Court, through legal chicanery and judicial tricks to subvert the Judiciary or legal system to their advantage. Exhibit H9, pages 217 through 222 of the Appendix gives a snapshot of the deceits and lies of Defendants' Attorneys to get Judgment without trial. No wonder millions of Investors do not fight these Wealthy and high-powered behemoths. Only this Court can stop these Defendants from perpetuating their immense fraud and loot, year in and year out, depriving tens of millions of Investors of their hard-earned retirement funds and sources of living. The ball is now in the court of this Court to stop these Defendant- Fraudsters once and from all, starting with granting of the stay.

III. There is a fair prospect that this Court will Reverse the 9th Circuit's arrogant decision to deprive American Citizens of their 5th Amendment Due Process Right and 7th Amendment Right to Jury Trial

28. The foregoing discussion and other relevant precedents of this Court show that there is — at a minimum — "a fair prospect" that this Court will reverse the Ninth

Circuit's decisions. This prediction is confirmed by the fact that the decision below conflicts with other circuit precedent as well as the Supreme Court precedent.

(i) The Lower Courts' Violation of Applicants' 5th Amendment Right of Due Process

29. The Fifth Amendment to the U.S. Constitution prohibits deprivation of "life, liberty, or property" without due process of law. In the context of adjudication, due process requires notice and an opportunity to be heard. The Supreme Court has often stated that the core rights of due process are notice and hearing. *Cleveland Bd. of Educ. v. Loudermill, 105 S. Ct. 1487, 1493 (1985)* ("An essential principle of due process is that a deprivation of life, liberty, or property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case.'") (quoting Mullane v. Central Hano. The procedural due process aims to ensure fundamental fairness by guaranteeing a party the right to be heard, ensuring that the parties receive proper notification throughout the litigation, and ensures that the adjudicating court has the appropriate jurisdiction to render a judgment. By the Lower Courts' Indisputable Mistakes of claiming that Harry lacked Article III Standing and Draper is time-barred and dismissing their Cases, Harry and Draper were deprived their 5th Amendment Right of Due Process. Hence, the necessity of this Court staying the Mandates.

(ii) The Lower Courts' Violation of Harry's 7th Amendment Right to Jury Trial

30. The lower courts' indisputably erroneous allegation that Harry lacks Article III Standing and Draper is time-barred, to pursue their federal claims, which resulted in the improper dismissal of Plaintiffs' federal cases, akin to a bench trial, is not a harmless error. It violated Applicants' fundamental Seventh Amendment Constitutional Right. Although courts have broad discretion to decide jurisdictional facts, they may not exercise that discretion where it would infringe upon the plaintiff's right to a jury trial. *See Beacon Theaters, Inc. v. Westover*, 359 U.S. 500 (1959); *Lytle v. Household Manufac-turing, Inc.*, 494 U.S. 545. By deciding issues that are intertwined with the merits of the case under the guise of determining a purely jurisdictional issue, courts are limiting a plaintiff's right to a trial by jury. In *Lytle v. Household Manufacturing, Inc.*, 494 U.S. 545., the Supreme Court

held that the doctrine of collateral estoppel did not bar relitigation of the issues decided by the judge because it would not "constitute a second, separate action. Moreover, where the court decides elements of the cause of action by calling the issues purely jurisdictional, the dismissal of the plaintiff's claim under Rule 12(b)(1) takes away the plaintiff's right to a trial by jury. 2 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 12.30 [1], at 12-36 (3d ed. 1997). (A "dismissal for lack of subject matter jurisdiction is not a judgment on the merits, and it therefore has no claim preclusive or res judicata effect.")

31. Since Applicants' Cases are for Jury Trial where the jurisdictional issue is "intertwined with the merits", and since it has been proven without a scintilla of doubt that Harry's minimum **$24,236** Contribution, especially the specific **$1,227.80** Software Subscription fee check payment, to the Draper-Harry Commodity Futures Account gives Harry both Article III and Prudential Standing, Harry's Stay of Mandate by this court is warranted, and so is Draper's Stay.

IV. Harry and Draper will suffer irreparable harm absent a stay

32. Harry and Draper have already lost hundreds of thousands of dollars of their hard-earned retirement funds and source of living, not counting the collateral damages of their lost funds that would have generated more income for them. Absent a stay, Applicants' cases may come to a unjust finality that will likely cause lasting irreparable harm to both elderly Applicants. In other words, absent a stay, Applicants' Cases will be dismissed, and their 5th Amendment Right of Due Process and their 7th Amendment Right of Jury Trial will be violated with impunity by the district court and especially the Ninth circuit court of appeals. In short, the lower courts would get away with their judicial arrogance of violating the constitutional rights of American Citizens, affirming that they are above the law.

33. The effects of the decision below, moreover, will not be limited to these 2 elderly Applicants/Investors, but also to the tens of millions of current and future Investors in the United States and Globally, who will get the clear message that they (the Investors) cannot fight for their Constitutional Rights against the very powerful defend-

ants/respondents and their high powered attorneys, with the support of the Judiciary. And this will give license to the defendants/respondents to violate the law, defraud and disenfranchise tens of millions of American-Investors and global-Investors with arrogant impunity.

34. The harms just discussed would not be easily undone, if the decision were later reversed. Indeed, Investors perception would likely never revert. This irreparable harm would begin to be felt as soon as the district court's judgment is enforced.

Defendants/Respondents will suffer no Harm absent a Stay

35. Defendants will suffer no harm whatsoever because they are the genesis of the legal quagmire. They have tried every legal chicanery, and judicial deceits, lies and outright fraud ever conceived by the human mind to ensure that Plaintiffs/Applicants never had their day in any court, whether at the CFTC tribunal, the federal district court and the 9th Circuit court of appeals. Moreover Defendants would getaway with the funds they looted from Draper and Harry, and also with their egregious Elder Financial Abuse. The only harm Defendants/Respondents will mention is their spurious and irrelevant claims of Court Costs, as if Plaintiffs do not have Court Costs, besides losing their retirement funds, openly stolen in broad daylight by Defendants/Respondents.

V. The balance of equities and relative harms weighs strongly in favor of granting a stay

36. The harm a stay might cause (mere Court costs to Defendants) is far less than the harm without a stay that would result in depriving Plaintiffs/Applicants of their 5th Amendment Right of Due Process and 7th Amendment Right of Jury Trial). Furthermore, the lower courts would get away with their judicial arrogance of violating the Constitutional Rights of American Citizens with impunity, and Plaintiffs/Applicants would lose all their retirement funds brazenly stolen by Defendants/Respondents. These aside, the Court's decision of not granting the stay will fundamentally change the mindset of tens of millions of disenfranchised and defrauded Investors from seeking legal relief through the Judiciary or Court

System. Why waste your energy, time and resources only to be deprived of your day in Court by the powerful Defendant/Respondents and their high powered lawyers, supported by the lower courts. Both Plaintiffs/Applicants and the Public have a strong interest in avoiding such harms.

CONCLUSION

This Court should stay the 9th Circuit's mandates if this is still feasible, pending the filing and disposition of a petition for writ of certiorari. Since the 9th Circuit has already issued the mandates, the Court should stay the district court's enforcement of judgments pending the filing and disposition of a petition for writ of certiorari. Alternatively, Applicants suggest that this Court treat this application as a petition for writ of certiorari and grant the petition. Finally, Applicants request an administrative or temporary stay while the Court considers this application.

APPENDIX

An Appendix with an Appendix Table of Contents of the relevant Records of each of the Applicants is attached.

APPENDIX TABLE OF CONTENTS

In the Table of Contents, Draper's Exhibits are highlighted as Exhibit D, with Sub-exhibits D1, D2, D3, etc, while Harry's Exhibits are highlighted as Exhibit H, with Sub-exhibits H1, H2, H3, etc.

Respectfully Submitted

Bright Harry _____

Ronald S. Draper _____

October 15, 2020

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiffs/Applicants Harry's and Draper's Emergency Stay of Mandates or Enforcement of Judgments, and accompanying Appendix were electronically filed to the following Parties via the Court's CM/ECF System:

KCG Americas LLC,	Andrea Pignataro,
Daniel B. Coleman,	Robert Sylverne,
Carl Gilmore,	Computer Voice Systems, Inc.,
Greg Hostetler,	Paul Sturm,
Main Street Trading, Inc.,	Scott William Benz,
Patrick J. Flynn,	Howard Holderness, III, Respondents' Attorney
Wedbush Securities Inc.,	Danielle Kono Lewis, Respondents' Attorney
Edward W. Wedbush,	Gregg Anthony Thornton, Respondents' Attorney
ION Trading, Inc.,	Edward A. Corcoran, Respondents' Attorney

10/15/2020

Bright Harry