No. 22-990

In the Supreme Court of the United States

BRIGHT HARRY and RONALD S. DRAPER,

Petitioners,

v.

KCG AMERICAS LLC, ET AL,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SUPPLEMENT TO PETITION FOR REHEARING

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September 20, 2023

QUESTION PRESENTED (SIMPLIFIED)

This is an extremely complex commodity futures Case of Respondents' fraud against Petitioners. Just as this Court held in *Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-257 (1986)*, that the "Court of Appeals did not apply the correct standard in reviewing the district court's grant of summary judgment". Petitioners similarly hold that the 9th Circuit "Court of Appeals did not apply the, correct standard[s] in reviewing the district court[s'] grant of [interlocutory orders that undergird all the subsequent orders and judgment including the judgment order and,] summary judgment" and, correct FRAP 34(a)2*) Standards* which essentially state that,

> Oral argument must be allowed in every case unless a panel of three judges who have examined the briefs and record unanimously agrees that oral argument is unnecessary for any of the following reasons:
>
> (A) the appeal is frivolous;
> (B) the dispositive issue or issues have been authoritatively decided;

Thus, the simplified Question Presented, which has divided the lower courts, is:

Whether by applying Local-Rule-Modified FRAP 34(a)2), a panel of three judges can disallow oral argument in an appeal they've not concluded that is wholly frivolous, and unanimously agree that oral argument is unnecessary to determine "the dispositive issues [that] have [not] been authoritatively decided".

And the dispositive issues are:

a. A federal court of appeals cannot and should not apply the wrong standard in reviewing a district court's grant of summary judgment.
b. A federal court cannot and should not assume "hypothetical" Article III subject matter jurisdiction to reach a decision on the merits of a Case, when the *very* issue presented on appeal is that of federal subject matter jurisdiction.
c. A federal court adjudicating a dispute may not be able to predetermine the res judicata or collateral estoppel effect of its own judgment.
d. Where the record, taken as a whole, could lead a rational trier of fact to find for the nonmoving party, there is "genuine issue for trial." and thus, summary judgment is inappropriate.
e. A federal court of appeals cannot and should not deploy its judicial staff attorneys as impostor judges to adjudicate federal cases, in place of the actual federal appellate judges.
f. A federal court (district or appellate) has no statutory authority to knowingly and willfully break the law to violate the 1st, 5th and 7th Amendment Rights of any American Citizen with judicial impunity.

PARTIES TO THE PROCEEDINGS

The following individuals and entities are parties to the proceedings in the courts below:

Petitioners are Bright Harry ("Harry") and Ronald S. Draper ("Draper") who were the Plaintiffs in the District Courts 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., Gary L. Wedbush, ION Trading, Inc., Andrea Pignataro, Robert Sylverne, Computer Voice Systems, Inc., Paul Sturm and Scott William Benz.

Related Proceedings:
Harry vs. KCG Americas LLC et al., District Court Case # 4:17-cv-2385-HSG

THE COURTS

The following are the Courts involved in this Case, (i) the Ninth Circuit Court of Appeals, (ii) the **legitimate** and assigned *Harry-Draper/Judge Tigar* District Court, (iii) the **illegitimate** *Harry-Draper/Judge Gilliam, Jr.* District Court, and (iv) the **illegal closed** *Harry* District Court. The Courts and their respective Cases are succinctly described below.

(i) The Ninth Circuit Court of Appeals
Harry and Draper vs. KCG Americas LLC et al. Case No. 21-16258

Appellate Judges: Hon. Judges Barry G. Silverman, Eric D. Miller and Patrick J. Bumatay

(ii) The Legitimate and Assigned *Harry-Draper/Judge Tigar* Case and Court
(a) Harry and Draper vs. KCG Americas LLC et al. Case # 4:20-cv-7352-**JST** ("*Harry-Draper/Judge Tigar* Case")

(b) Harry and Draper vs. KCG Americas LLC et al. Case # 4:20-cv-7352-**JST** Court ("*Harry-Draper/Judge Tigar* Court")

District Court Judge: Hon. Judge John S. Tigar

(iii) The Illegitimate *Harry-Draper/Judge Gilliam, Jr.* Case and Court
(a) Harry and Draper vs. KCG Americas LLC et al. Case # 4:20-cv-7352-**HSG** ("*Harry-Draper/Judge Gilliam, Jr.* Case")

(b) Harry and Draper vs. KCG Americas LLC et al. Case # 4:20-cv-7352-**HSG** Court ("*Harry-Draper/Judge Gilliam, Jr.* Court")

District Court Judge: Hon. Judge Haywood S. Gilliam, Jr.

(iv) The Illegal Closed *Harry* Case and Court
(a) Harry vs. KCG Americas LLC et al., Case # 4:17-cv-2385-HSG ("*Harry* Case")
(b) Harry vs. KCG Americas LLC et al., Case # 4:17-cv-2385-HSG Court ("*Harry* Court")

District Court Judge: Hon. Judge Haywood S. Gilliam, Jr.

CORPORATE DISCLOSURE STATEMENT

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

TABLE OF CONTENTS

TABLE OF AUTHORITIES

PREAMBLE

"[The illegitimate Harry-Draper/Judge Gilliam, Jr. court] cannot exercise hypothetical [Article III subject matter] jurisdiction any more than [it] can issue a hypothetical judgment." *Friends of Everglades*, 699 F. 3d, at 1289.

By denying Petitioners' original cert. and subsequently affirming the 9th Circuit's **profoundly erroneous** decision, this Court has affirmed that federal courts can "[assume and] exercise hypothetical [Article III subject matter] jurisdiction", and "can issue a hypothetical judgment", violating its own precedent in *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998).

The June 26, 2023 remarkable dissent in *Waleski v. Montgomery et al,* Docket #22-914, opposing the "continued use of hypothetical jurisdiction" prompted this supplement to the rehearing petition. In their dissent in *Waleski*, Justice Thomas speaking on his behalf and for Justices Gorsuch and Barrett, stated as follows:

> "The continued use of hypothetical jurisdiction raises serious concerns. To start, the lower courts' distinction between "statutory jurisdiction" and "Article III" jurisdiction seems untenable. The jurisdiction of federal courts "is limited both by the bounds of the 'judicial power' as articulated in Article III, §2, and by the extent to which Congress has vested that power in the lower courts" as required by Article III, §1. *Kaplan* v. *Central Bank of Islamic Republic of Iran*, 896 F. 3d 501, 517 (CADC 2018) (Edwards, J., concurring); see *Sheldon* v. *Sill*, 8 How. 441, 449 (1850) ("Courts created by statute can have no jurisdiction but such as the statute confers"). Indeed, *Steel Co.* itself recognized that questions of statutory jurisdiction implicate the separation-of-powers considerations that animated its holding. See 523 U. S., at 101 ("The statutory and (especially) constitutional elements of jurisdiction are an essential ingredient of separation and equilibration of powers"); see also *Friends of Everglades*, 699 F. 3d, at 1288; *Butcher*, 975 F. 3d, at 246–249 (opinion of Menashi, J.); *Kaplan*, 896 F. 3d, at 517–518 (Edwards, J., concur-ring). It thus appears exceedingly difficult to reconcile hypothetical statutory jurisdiction with the text and structure of Article III and this Court's decision in *Steel Co.* See *Friends of Everglades*, 699 F. 3d, at 1289 ("[A court] cannot exercise hypothetical jurisdiction any more than [it] can issue a hypothetical judgment").
>
> Although "[s]ome cases might cry out for decision on the merits," and sometimes it is convenient to assume away difficult jurisdictional questions to decide a case on easier merits grounds, courts' "threshold duty to examine [their] own jurisdiction is no less obligatory in" such cases. *Cross-Sound Ferry Servs., Inc.* v. *ICC*, 934 F. 2d 327, 346 (CADC 1991) (Thomas, J., concurring in part and concurring in denial of petition for review). "Much more than legal niceties are at stake here. . . . For a court to pronounce upon the meaning or the constitutionality of a state or federal law when it has no jurisdiction to do so is, by very definition, fora court to

act ultra vires." *Steel Co.*, 523 U. S., at 101–102. Because the doctrine of hypothetical jurisdiction is the subject of an entrenched Circuit split and raises fundamental questions of constitutional law, I would grant the petition for certiorari."

Unlike *Waleski* which involved "hypothetical [statutory] jurisdiction", this case involved "hypothetical [Article III subject matter] jurisdiction". Thus, ***"[The illegitimate Harry-Draper/Judge Gilliam, Jr. court] cannot exercise hypothetical [Article III subject matter] jurisdiction any more than [it] can issue a hypothetical judgment."*** *Friends of Everglades.* Besides this egregious legal error by this Court, it granted certiorari in the subject matters of the cases (except *Waleski*) listed in the Table below but denied certiorari in this case with similar situations.

No.	Description of Cause	Certiorari Granted	Certiorari Denied
	Assumption of "Hypothetical" Subject Matter Jurisdiction		
1.	*Waleski v. Montgomery et al* Docket #22-914 to determine Whether a federal court may assume "hypothetical" [statutory] subject matter jurisdiction to reach a decision on issues of state law against the party challenging the court's jurisdiction, when the *very* issue presented on appeal is that of federal subject matter jurisdiction.	Denied on statutory grounds	
	This case, to determine whether [the **illegitimate** *Harry-Draper/Judge Gilliam, Jr.* court] may assume "hypothetical" [Article III] subject-matter jurisdiction to adjudicate this case, when the *very* issue presented on appeal is that of federal subject matter jurisdiction.		Denied on Article III grounds
	Standard of Review		
2.	*Matsushita v. Zenith Radio Corp.*, 471 U.S. 1002 (1985) to determine standard of review, this Court stated, "We granted certiorari to determine (i) whether the court of Appeals applied the proper standards in evaluating the District Court's decision to grant petitioners' motion for summary judgment.. ..".	Granted	
	This case, to determine whether the Court of Appeals applied the proper standards in evaluating the District Courts' decisions to grant Respondents' motion[s] for, [the interlocutory orders, ECF #163 and ECF #14, that undergird all the subsequent orders and judgment of the **illegitimate** *Harry-Draper/Judge Gilliam, Jr.* Court, pursuant to Rules 12(h)(3) and 60(b)(4) and,] summary judgment		Denied

A federal court may not Predetermine the res judicata or collateral estoppel effect of its own judgment			
3.	*Phillips Petroleum Co. v. Shutts,* 472 U.S. 797, 805, 105 S.Ct. 2965, 86 L.Ed.2d 628 (1985) ("[A] court adjudicating a dispute may not be able to predetermine the res judicata effect of its own judgment"); 18 C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 4405, p. 82 (2d ed. 2002) ("The first court does not get to dictate to other courts the preclusion consequences of its own judgment").	Granted	
	This case, ("[A] court adjudicating a dispute may not be able to predetermine the res judicata [or collateral] effect of its own judgment"); 18 C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 4405, p. 82 (2d ed. 2002) ("The first court does not get to dictate to other courts the preclusion consequences of its own judgment").		Denied
Lower Courts' Errors			
4.	*Consumer Financial Protection Bureau, et al., Petitioners v. Community Financial Services Association of America, Limited, et al, Docket #22-449* to determine Whether the court of appeals erred in holding that the statute providing funding to the Consumer Financial Protection Bureau (CFPB), 12 U.S.C. 5497, violates the Appropriations Clause, U.S. Const. Art. I, § 9, Cl. 7, and in vacating a regulation promulgated at a time when the CFPB was receiving such funding.	Granted	
	This case, to determine whether the court of appeals erred in holding that Rule 12(b)(6) *de novo* standard of Review in *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010) supersedes the proper and controlling Rule 12(h)(3) *de novo* standard of Review, in *Steel Co. v. Citizens for Better Environment*, 523 U.S. 83, 94 (1998), per Rule 83, to validate subject matter jurisdiction assumption by the **illegitimate** *Harry-Draper/Judge Gilliam, Jr.* Court, violates Rule 12(h)(3), and the 1st, 5th and 7th Amendment Rights.		Denied

"Th[is] Court has no more constitutional authority in civil cases than in criminal cases to disregard current law or to treat similarly situated litigants differently." *Harper* v. *Va. Dep't of Taxation*, 509 U.S. 86, 97 (1993). This Court's grant of certiorari to all the similarly situated cases in the above table, with the exception of *Waleski*, is an intervening circumstance of a substantial or controlling effect, that warrant this Court's grant of this petition for rehearing, and also the petition for a writ of certiorari.

FURTHER REASONS FOR GRANTING THE REHEARING

1. "Intervening circumstances of a substantial or controlling effect" and "other substantial grounds not previously presented". *See* Rule 44.2.

A. Intervening circumstances of a substantial or controlling effect

2. The two circuit splits in this case which this Court either missed or overlooked: (i) the circuit split in hypothetical jurisdiction, as in *Waleski*, where Justices Thomas, Gorsuch and Barrett dissented, stating that "[b]ecause the doctrine of hypothetical jurisdiction is the subject of an entrenched circuit split and raises fundamental questions of constitutional law, [they] would grant the petition for certiorari" and, (ii) the circuit split in the application of Local-Rule-Modified FRAP 34(a)2) to grant or deny oral argument in the appellate courts, are intervening circumstances of substantial or controlling effect.

B. Other substantial grounds not previously presented

3. The Geneses of this decade-long legal saga are premised on two fallacies, Respondents' and the federal courts' legally erroneous allegations that Harry lacks Article III standing and Draper is time-barred. These fallacies have been debunked in all Petitioners' filings with the Courts, and are again, debunked here to end these judicial malfeasances once and for all, so that the 9th circuit erroneous judgment can be vacated and this case remanded to an unbiased district court for real jury trial on the merits for the first time in almost a decade.

4. This whole saga of judgment without trial in this jury trial case arose because the Federal Courts denied Petitioners oral argument to voice their argument, as shown below.

***Harry-Draper* Case**

5. The 9th Circuit Panel's memorandum decision starts with, "Submitted March 16, 2022**" (App. A1, @ 1), and the asterisks "**" point to a footnote stating that,

> "The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2)".

***Harry* Case**

6. Footnote 1, Page 1, ECF # 123 of the ***Harry* Case** (08/27/2018), the *Harry* Court states as follows:

> The Court finds this matter appropriate for disposition without oral argument and the matter is deemed submitted. *See* Civil L.R. 7-1(b).

***Draper* Case**

7. Footnote 1, Page 1, ECF # 66 of the ***Draper* Case** (08/27/2018), the *Draper* Court states as follows:

> The Court finds this matter appropriate for disposition without oral argument and the matter is deemed submitted. *See* Civil L.R. 7-1(b).

8. The District and Appellate Courts' denial of oral argument to Petitioner Harry, deprived him of voicing his counter arguments against Respondents' and the Federal Courts' fallacies. The consequences are Injustice and Unfairness against Harry, as shown by the following rulings.

(a) Harry's Standing

Genesis of Harry's Standing Saga

Line 13, Page 5, ECF #123 of the ***Harry* Case** (08/27/2018), the *Harry* Court ruled as follows

> **D. The Court Grants Defendants' Motions to Dismiss.**
> In its order dismissing the FAC, the Court found that Plaintiff lacked standing to recover any alleged losses stemming from Draper's $275,000 investment in their joint venture. *See* Dkt. No. 74 at 5-6. The Court did, however, grant Plaintiff one opportunity to amend the FAC to allege additional facts regarding his alleged loss of $4,527.25, which he claimed to have paid to Defendants for the

Footnote 5, Page 9 of ECF #123 of the ***Harry* Case** (08/27/2018), the *Harry* Court states as follows:

> Although only one of the three motions before the Court expressly raises and applies the standard under Rule 12(b)(1), the Court is nonetheless "obligated to consider sua sponte whether [it has] subject matter jurisdiction." *Jasper v. Maxim Integrated Prods., Inc.*, 108 F. Supp. 3d 757, 764 (N.D. Cal. 2015) (quoting *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004)).

Line 15, Page 12, ECF #123 of the ***Harry* Case** (08/27/2018), the *Harry* Court ruled as follows:

> Accordingly, the Court finds that Plaintiff lacks standing to bring his federal CEA claims, and grants Defendants' motions as to those claims with prejudice

Because there was no oral argument, Petitioner Harry was unable to counter Respondents' and the federal courts' false allegation that Harry lacks Standing, despite the following solid facts and arguments in the hands of the federal courts: The Harry-Draper Complaint Summary (App. B1, ¶11 @ 68) clearly states as follows:

> "Both Plaintiffs Draper and Harry have Constitutional standing. Although Draper deposited the initial **$275,000** Good Faith Deposit in the Harry-Draper Trading Account under Draper's name, Draper actually contributed **$256,842.60** and

> Harry contributed **$18,157.40** of this Good Faith Deposit. Furthermore, Harry contributed **$6,078.60** trading software fee for the 17 months of trading. These Financial Contributions of both Draper and Harry that were openly stolen by the ETMF Enterprise Defendants are "concrete, particularized, and actual; fairly traceable to the challenged action of Defendants; and redressable by a favorable ruling from this Court. As such, both Draper and Harry met the Supreme Court Requirement for Constitutional Standing under Article III, Section 2 of the U.S. Constitution, and also satisfied the heightened Pleading of FRCP 9(b)".

Moreover, Exhibit B16 of App. A7 at 53-55 shows Petitioner Harry's $1,227.80 Economic-Injury-In-Fact or software subscription check payments he made to Respondents through Respondent Flynn of MST, that Respondents defrauded him of. These are copies of the actual checks paid to, and cashed by, Respondent Flynn of MST. This $1,227.80 economic injury-in-fact alone, unrelated to the $275,000, satisfies *Lujan* and, gives Harry Article III Standing, as detailed in all Harry's filings at the district and appellate courts, but the district courts under Judge Gilliam Jr., continued to deny that Harry has Constitutional Standing.

Similarly, the District and Appellate Courts' denial of oral argument to Petitioner Draper, deprived him of voicing his counter arguments against Respondents' and the Federal Courts' fallacies. The consequences are Injustice and Unfairness against Draper, as shown by the following rulings.

(b) Draper's Statutes of Limitations

Genesis of Draper's alleged Untimeliness

On Line 5, Page 6, ECF # 66 of the ***Draper Case*** (08/27/2018), the Draper Court ruled as follows:

> **C. The Court Grants Defendants' Motions to Dismiss.**
> As relevant here, Defendants contend that Plaintiff's federal claims under the Commodity Exchange Act, 7 U.S.C. §§ 1 *et seq.* ("CEA"), are time-barred and accordingly seek dismissal on that basis. The Court finds that dismissal with prejudice is warranted.

Line 13, Page 1, ECF 94 of the ***Draper*** **Case** (04/19/2019), the *Draper* Court ruled as follows:

> The Court held that Draper's federal claims were time-barred under the Commodity Exchange Act because Draper filed his lawsuit more than two years after his claims had accrued. *See id.* at 7–9.

Because there was no oral argument, Petitioner Draper was unable to counter Respondents' and the federal courts' false allegation that Draper was time-barred, despite the following solid facts and arguments in the hands of the federal courts.

9. Draper first filed his case at CFTC on October 13, 2015, within the alleged CEA 2-year statute of limitation, and then moved his Case to Federal Court on April 27, 2018, because CFTC was unable to handle the case. Pursuant to Rule 15(c)(1)(B), Draper's Complaint at CFTC relates back to his Federal Complaint, and hence, Draper was not time-barred. Besides, Draper has multiple Causes of Action subject to several different limitations periods, as shown in the Table below. Each different Cause of Action has its own Statute of Limitation or Standard. The correct standard requires that courts "break down" the matter and apply "the appropriate standard to each component." *Meridian Bank v. Alten*, 958 F.2d 1226, 1229 (3d Cir. 1992). The *Draper* court failed to apply this standard, and instead, wrongly imposed the 2-year CEA statute of limitation on all the different causes of action shown in the table below.

Table of Statutes of Limitations for *Draper* Case

No.	Violations	Violated Laws		Statute of Limitation
		Federal	California State	
1.	RICO	18 U.S.C. 1961, 18 U.S.C. §1962 (c) -(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		C.C.C. 3300	4 Years
	(b) Breach of Obligation without Contract Under California Law		Cal. Civ. Code § 1709, § 3294 and § 3333	
4.	Breach of Fiduciary Duty		Cal. Civ. Code §§ 3294 and 3333	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 Fed. Rule of Civil Procedure 9(b)		3 Years (FRCP 9(b))
			Cal. Civ. Code §§ 1709, 1710, 1572 and 1573	3 years (Cal. Civ. Code)
8.	Fraudulent Deceits	Federal Com-		3 Years

	Fraudulent Inducement	mon Law Fraud based on Fed. Rule of Civil Procedure 9(b)		(FRCP 9(b))
			Cal. Civ. 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

10. These notwithstanding, this Court held in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 135 S. Ct. 1293, 1306 (2015), that "issues are not identical if the second action involves application of a different legal standard, even though the factual setting of both suits may be the same." Hence, as pointed out in ¶¶ 10, 11, 12, 24 and 26 of the original cert, res judicata or collateral estoppel is inapplicable to Harry's standing in the *Harry-Draper* case because different legal standards were applied in the *Harry* case and the *Harry-Draper* case. Similarly, in *Draper's* contentious statute of limitation-premised claim preclusion, different statute of limitation standards were applied in the *Draper* case and the *Harry-Draper* case. Thus, res judicata or collateral estoppel does not apply where, as here, the prior proceeding applied a different legal standard for evaluating the disputed issue. Without res judicata and collateral estoppel, the 9th Circuit Judgment has no legal grounds.

CONCLUSION

For all the foregoing reasons, Petitioners' petitions for rehearing and writ of certiorari should be Granted, the profoundly legally erroneous Judgment of the 9th Circuit Vacated and this Case Remanded to the appropriate and unbiased District Court for real Jury Trial on the Merits for the first time in almost a decade.

Respectfully Submitted

Dated: September 20, 2023

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s/-*Bright Harry*
Petitioner's Signature

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s/Ronald Draper
Petitioner's Signature

CERTIFICATE OF APPELLANTS

We hereby certify that this supplement to the petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

Respectfully Submitted

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CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1, We, Bright Harry and Ronald S. Draper, certify that the Supplement to the Petition for Rehearing consists 2974 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d), in compliance with the 3,000 words limitation.

We declare under penalty of perjury that the foregoing is true and correct, in compliance with Rule 28 U.S.C. §1746. Executed on this Wednesday, September 20, 2023, in Fremont, CA.

s/-*Bright Harry* s/Ronald Draper

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PROOF OF SERVICE

I, Bright Harry declare that on this Tuesday, September 19, 2023, as required by Supreme Court Rule 29, I served the enclosed SUPPLEMENT TO THE PETITION FOR REHEARING on each party to the above proceeding through the party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, for delivery within 3 calendar days.

The names and addresses of Respondents' Attorneys served are as follows:

Howard Holderness, III Greenberg Traurig, LLP 101 Second Street, Suite 2200 San Francisco, CA 94105 Telephone: 415-655-1300 Facsimile: 415-707-2010	Danielle Kono Lewis Hawkins Parnell & Young LLP 33 New Montgomery, Suite 800 San Francisco, CA 94105 (415) 979-2073

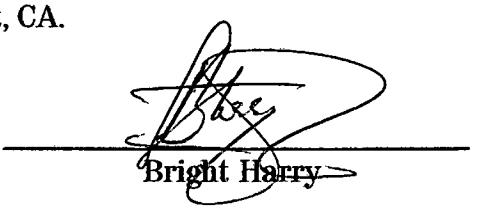
Howard Holderness, III represents the following Respondents:

KCG Americas LLC, Daniel B. Coleman, Carl Gilmore, Greg Hostetler, Main Street Trading, Inc., Patrick J. Flynn, Wedbush Securities Inc., Gary L. Wedbush,

Danielle Kono Lewis represents the following Respondents:

ION Trading, Inc., Andrea Pignataro, Robert Sylverne, Computer Voice Systems, Inc., Paul Sturm and Scott William Benz

I declare under penalty of perjury that the foregoing is true and correct. Executed on this Tuesday, September 19, 2023, in Fremont, CA.



Bright Harry