

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

COMMODITY EXCHANGE, INC., GOLD  
FUTURES AND OPTIONS TRADING  
LITIGATION

*This Document Relates To All Actions*

Case No. 14-MD-2548 (VEC)  
14-MC-2548 (VEC)

Hon. Valerie E. Caproni

**DECLARATION OF MICHAEL DELL'ANGELO IN SUPPORT OF CO-LEAD  
COUNSEL'S MOTION FOR ATTORNEYS' FEES AND LITIGATION EXPENSES**

Pursuant to 28 U.S.C. § 1746, I, Michael Dell'Angelo, declare as follows:

1. I am an Executive Shareholder at the law firm of Berger Montague PC (“Berger Montague” or “BMPC”), serving as interim co-lead counsel (“Co-Lead Counsel”) with Quinn Emanuel Urquhart & Sullivan, LLP (“Quinn Emanuel”). I have been actively involved in prosecuting and resolving this Action, am familiar with its proceedings, and have personal knowledge of the matters set forth herein.

2. The specifics of the work performed by Berger Montague attorneys and staff are set forth in the previously filed Declaration of Merrill G. Davidoff (ECF No. 567) and Joint Declaration (ECF No. 569) and concurrently filed additional declarations.

3. Attached as Exhibit A is a schedule indicating the amount of time spent by Berger Montague attorneys and professional support staff who were involved in this Action from inception through March 31, 2022, excluding timekeepers who have billed less than 20 hours to the Action. The schedule was created from contemporaneous daily time records regularly prepared and maintained by my Firm. None of the time was spent in connection with the applications for attorneys’ fees and expenses.

4. Our hourly rates have been found reasonable and consistent with the market in other complex or class action litigation. These hourly rates were utilized in our 2014 Leadership application and were similar to the Quinn Emanuel rates after discounting. The Court’s July 22, 2014 Opinion approving our leadership application found the rates generally reasonable given the size and complexity of the case. Moreover, in line with the representations in our leadership application, we calculated our lodestar going forward from 2014 as follows: (a) we froze our rates for three (3) years starting from our leadership application; and (b) limited rate increases in subsequent periods to five percent (5%) per annum or the applicable firm rate increase,

whichever was lower. This limitation on rate increases applied regardless of any changes in circumstance that would normally result in the increase in our rates charged to our clients, such as the promotion of the attorney from one class to another, or even the promotion to partner. Document reviewers hired through a third-party vendor are included as lodestar—rather than as an at-cost expense—at the rate of \$225 per hour and review supervisors at the rate of \$300. One such reviewer, Kerri Petty, whose work had included the significant assignment of analyzing Defendants’ pm audio tape recordings, was hired by BMPC as a full-time associate on March 1, 2021. Ms. Petty’s work assignments grew with higher responsibility and her rate was raised for lodestar computation from \$225 to \$500, beginning with the date of her hire.

5. The total number of hours reflected in Exhibit A is 56,194.82, resulting in a lodestar using the conservative approach discussed above of \$21,530,860.61. If we had instead calculated lodestar at historical rates, *i.e.*, rates in existence at the time the work was performed, our lodestar would have been approximately \$22,147,507.28. If we had instead calculated lodestar at current rates, *i.e.*, rates currently in existence for work performed, our lodestar would have been approximately \$29,508,476.48.

6. Attached as Exhibit B is a schedule indicating the amount of expenses incurred by Berger Montague in connection with this action from inception through November 11, 2020 to March 31, 2022. These expenses are all reflected on the books and records of Berger Montague. These books and records are prepared from expense vouchers, check records, and other source materials and are an accurate record of the expenses incurred. My Firm has reviewed the time and expense records that form the basis of this declaration to correct any billing errors.

7. The document delivery category includes things like postage and filing fees, but also charges from vendors that provide service of process, including abroad. There are no administrative charges included in these figures.

8. The document reproduction category includes copying costs, binding costs, creation of hard-drives for production purposes, document scanning, and similar services. Internal copying is included at \$0.15 per page for black and white copies and \$0.40 per page for color copies. Document projects involving third-party vendors are passed through at-cost. There are no administrative charges included in these figures.

9. The document hosting category includes charges associated with a third party which maintained and temporarily secured case documents.

10. The teleconference category is primarily charges in holding multi-party conference calls. These are amounts paid to third parties. There are no administrative charges included in these figures.

11. The amounts in the travel and meals category, though already minimal, are being submitted at 50% of our actual cost incurred.

12. None of the expenses listed were incurred in connection with the application for attorneys' fees and expenses.

13. As described in the July 9, 2021 Declaration of Merrill G. Davidoff (ECF No. 567), a common litigation fund was established in 2019 and managed by my Firm. Berger Montague, along with Quinn Emanuel, continued to make contributions to the litigation fund after November 1, 2020. Those contributions are not included in my Exhibit B hereto. Rather, to ensure expenditures are only single-counted, the expenses incurred by the common fund are described and accounted for only in my Declaration herein. (*See* Exhibit C attached hereto.)

Exhibit “C” provides a listing of the categories of vendors paid, the total amount paid or to be paid, for work incurred from November 1, 2020 through May 31, 2022 from the common litigation fund. The total amount counsel seeks for reimbursement for common litigation fund-related expenses is \$2,042,171.19.

14. Exhibit D to the Declaration of Merrill G. Davidoff (ECF No. 567) contained brief biographies of Berger Montague and a selection of the individual attorneys who worked on this action.

\* \* \*

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed June 3, 2022  
Philadelphia, PA



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Michael Dell'Angelo

**Exhibit A****Berger Montague Time Report***As of 3/31/2022*

| <b>Timekeeper Name</b>    | <b>Position</b>                               | <b>Hours</b> | <b>Lowest Rate</b> | <b>Highest Rate</b> | <b>Lodestar</b> |
|---------------------------|---|--------------|--------------------|---------------------|-----------------|
| Avery, Ekene              | Lit. Support                                  | 54.50        | 54.95              | 54.95               | 2,994.78        |
| Aviles, Natisha           | Doc. Rev.                                     | 3,479.80     | 225                | 225                 | \$782,955.00    |
| Badejo, Ayoola            | Doc. Rev.                                     | 1,207.80     | 225                | 225                 | 271,755.00      |
| Belenson, Bryan           | Doc. Rev.                                     | 913.60       | 225                | 225                 | 205,560.00      |
| Bethune, Siedel           | Doc. Rev.                                     | 1,052.30     | 225                | 225                 | 236,767.50      |
| Boyce, John               | Doc. Rev.                                     | 511.40       | 225                | 225                 | 115,065.00      |
| Brockington, Allison      | Doc. Rev.                                     | 259.10       | 225                | 225                 | 58,297.50       |
| Broomfield, Rashad        | Doc. Rev.                                     | 438.00       | 225                | 225                 | 98,550.00       |
| Brown, Kevin              | Doc. Rev.                                     | 885.50       | 225                | 225                 | 199,237.50      |
| Brutvan, Alexander        | Doc. Rev.                                     | 101.60       | 225                | 225                 | 22,860.00       |
| Cantor, Gary E            | Former Shareholder                            | 990.40       | 720                | 800                 | 716,812.90      |
| Caplan, Zachary D         | Former Shareholder                            | 3,436.70     | 365                | 465.84              | \$1,371,510.31  |
| Coan, Nerissa             | Doc. Rev.                                     | 954.40       | 225                | 225                 | 214,740.00      |
| Cummings, Scott           | Doc. Rev.                                     | 813.70       | 225                | 225                 | 183,082.50      |
| Davidoff, Merrill G.      | Exec Shareholder;<br><i>Chairman Emeritus</i> | 1,912.10     | 900                | 995                 | \$1,770,386.00  |
| Deleon Magnus, Eleanor C. | Paralegal                                     | 39.30        | 150                | 150                 | 6,535.47        |
| Dell'Angelo, Michael C.   | Exec. Shareholder                             | 1,573.30     | 660                | 840                 | \$1,118,512.24  |
| Doucette, Tyschelle       | Doc. Rev.                                     | 560.50       | 225                | 225                 | 126,112.50      |
| Duff, Siobhan             | Doc. Rev.                                     | 123.30       | 225                | 225                 | 27,742.50       |
| Enders, Candice J.        | Shareholder                                   | 3,163.90     | 635                | 670                 | \$2,053,759.50  |
| Forrester, Melody         | Doc. Rev.                                     | 357.00       | 225                | 225                 | 80,325.00       |
| Garlington, Monica        | Doc. Rev.                                     | 319.10       | 225                | 225                 | 71,797.50       |
| Kalantari, Nikoo          | Doc. Rev.                                     | 1,123.60     | 225                | 225                 | 252,810.00      |
| Kane, Michael J.          | Shareholder                                   | 126.80       | 720                | 720                 | 91,296.00       |
| Kazemi, Mojan             | Doc. Rev.                                     | 549.50       | 225                | 225                 | 123,637.50      |
| Kim, Hana                 | Doc. Rev. Supervisor                          | 160.00       | 300                | 300                 | 48,000.00       |
| Langer, David A.          | Sr. Associate                                 | 103.50       | 535                | 535                 | 55,372.50       |
| Leo, Susan L.             | Paralegal                                     | 1,387.40     | 150                | 191.44              | \$246,812.00    |
| Leonov, Roman             | Doc. Rev.                                     | 652.60       | 225                | 225                 | 146,835.00      |
| Lewy, Dror                | Doc. Rev.                                     | 197.20       | 225                | 225                 | 44,370.00       |
| Listwa, Daniel            | Associate                                     | 3,936.92     | 500                | 520                 | \$1,983,738.50  |
| Lopez, Byron              | Doc. Rev.                                     | 90.50        | 225                | 225                 | 20,362.50       |

| <b>Timekeeper Name</b>           | <b>Position</b>         | <b>Hours</b> | <b>Lowest Rate</b> | <b>Highest Rate</b> | <b>Lodestar</b> |
|----------------------------------|-------------------------|--------------|--------------------|---------------------|-----------------|
| Mangiaracina, Frank              | Associate               | 97.40        | 300                | 300                 | 29,220.00       |
| McCollum, Christina              | Paralegal               | 225.20       | 200                | 215                 | 45,176.00       |
| McGrath, Julia R.                | Associate               | 75.20        | 470                | 470                 | 35,344.00       |
| McSwain, Deanna                  | Doc. Rev.               | 502.70       | 225                | 225                 | 113,107.50      |
| Mencher, Maria                   | Doc. Rev.               | 38.90        | 225                | 225                 | 8,752.50        |
| Nanan, Zeeta                     | Doc. Rev.               | 270.50       | 225                | 225                 | 60,862.50       |
| Naples, Eileen                   | Doc. Rev.               | 235.80       | 225                | 225                 | 53,055.00       |
| Nguyen, Hinh                     | Doc. Rev.               | 648.40       | 225                | 225                 | 145,890.00      |
| Noteware, Ellen T.               | Shareholder             | 56.10        | 550                | 550                 | 30,855.00       |
| Ocasio, Myrna                    | Doc. Rev.               | 140.00       | 225                | 225                 | 31,500.00       |
| Ostrega, Andrew                  | Doc. Rev.               | 380.20       | 225                | 225                 | 85,545.00       |
| Othman, Yaser                    | Doc. Rev.               | 102.00       | 225                | 225                 | 22,950.00       |
| Petty, Kerri <sup>1</sup>        | Doc. Rev.;<br>Associate | 4,501.50     | 225                | 500                 | \$1,119,262.50  |
| Popiel, Monique <sup>2</sup>     | Doc. Rev.<br>Supervisor | 912          | 300                | 300                 | 273,600.00      |
| Price, Geoffrey                  | Doc. Rev.               | 3,521.70     | 225                | 225                 | \$792,382.50    |
| Pritchard, Haley B.              | Associate               | 119.30       | 430                | 430                 | 51,299.00       |
| Ripley, Josh                     | Associate               | 64.30        | 300                | 300                 | 19,290.00       |
| Rosenfeld, Levi                  | Doc. Rev.               | 442.00       | 225                | 225                 | 99,450.00       |
| Sauder, Karissa                  | Associate               | 756.70       | 350                | 385.88              | 281,649.99      |
| Scalzo, James                    | Doc. Rev.               | 566.20       | 225                | 225                 | 127,395.00      |
| Schor, Edward                    | Doc. Rev.               | 1,008.70     | 225                | 225                 | 226,957.50      |
| Silverstein, Barry               | Doc. Rev.               | 268.20       | 225                | 225                 | 60,345.00       |
| Smith, Sharon                    | Doc. Rev.               | 395.00       | 225                | 225                 | 88,875.00       |
| Steele, Richard                  | Doc. Rev.               | 77.50        | 225                | 225                 | 17,437.50       |
| Stein, Mark R.                   | Former<br>Sr. Paralegal | 113.40       | 275                | 303.19              | 31,340.03       |
| Suter, Mark R                    | Associate               | 304.20       | 225                | 287.16              | 78,627.00       |
| Tarnove, Billie                  | Doc. Rev.               | 635.20       | 225                | 225                 | 142,920.00      |
| Tompkins, Eugene R.              | Former<br>Associate     | 903.50       | 525                | 570                 | 476,151.00      |
| Torres, Jacqueline               | Doc. Rev.               | 670.00       | 225                | 225                 | 150,750.00      |
| Twersky, Martin I.               | Shareholder             | 4,544.50     | 720                | 830                 | 3,524,234.00    |
| Twersky [Savett],<br>Shoshana M. | Former<br>Sr. Associate | 30.00        | 510                | 530                 | 15,628.00       |
| Vargas, Steven                   | Doc. Rev.               | 758.00       | 225                | 225                 | 170,550.00      |
| Walenta, Craig                   | Doc. Rev.               | 478.80       | 225                | 225                 | 107,730.00      |
| Weisblatt, Roseann E             | Doc. Rev.               | 23.90        | 225                | 225                 | 5,377.50        |

<sup>1</sup> See paragraph 4 for explanation of upward rate adjustment.

<sup>2</sup> Ms. Popiel's hours were reduced from 924.2 in the previous Davidoff Declaration (ECF 567) due to a mistake in calculation.

| <b>Timekeeper Name</b> | <b>Position</b> | <b>Hours</b>     | <b>Lowest Rate</b> | <b>Highest Rate</b> | <b>Lodestar</b>        |
|------------------------|-----------------|------------------|--------------------|---------------------|------------------------|
| West, Courtney         | Doc. Rev.       | 332.90           | 225                | 225                 | 74,902.50              |
| Wilson, Andrea         | Doc. Rev.       | 278.90           | 225                | 225                 | 111,560.00             |
| York, Mary Elizabeth   | Paralegal       | 240.70           | 300                | 300                 | 72,296.40              |
| <b>TOTALs</b>          |                 | <b>56,194.82</b> |                    |                     | <b>\$21,530,860.61</b> |

\* Does not include timekeepers with less than 20 hours as of 3/31/2022.

\*\* Rates calculated in accordance with 2014 rate freeze and modest yearly increase discussed in paragraph 4 above.



**Exhibit B****Berger Montague Expense Report***Incurred but not reimbursed 11/11/2020 - 3/31/2022*

| <b>Category</b>   | <b>Amount</b>    |
|---|------------------|
| Document delivery (postage, messengers, service, filing fees, etc.)         | 764.80           |
| Document reproduction (on and off-site copying, binding, transcripts, etc.) | 2,437.77         |
| Document hosting (third-party vendor)                                       | 10,400.34        |
| Telephone, conference fees, etc.  | 229.50           |
| Travel and meals*   | 565.59           |
| <b>TOTAL</b>  | <b>14,398.00</b> |

\*Reduced by 50% as noted in paragraph 14 above.

**Exhibit C****Litigation Fund Report**

| <b>CATEGORIES OF SERVICES PROVIDED</b>                                      | <b>TOTAL AMOUNTS<br/>for WORK INCURRED<br/>11/1/2020 THROUGH 5/31/2022</b> |
|---|--|
| E-discovery Services<br>(Storage, Production, Deactivation, other services) | 544,837.83   |
| Experts, Consultants, etc.  | 1,334,075.04   |
| Service of Subpoenas, etc.  | 204.63   |
| Deposition Services, including HAGUE examiner fees                          | 163,053.69   |
| <b>TOTAL</b>  | <b>\$2,042,171.19</b>  |