

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:12-cv-00292-RM-KMT

In re MOLYCORP, INC. SECURITIES LITIGATION

**DECLARATION OF JEFFREY A. BERENS FILED ON BEHALF OF
BERENS LAW LLC IN SUPPORT OF APPLICATION FOR AWARD OF
ATTORNEYS' FEES AND EXPENSES**

I, JEFFREY A. BERENS, declare as follows:

1. I am the principal of Berens Law LLC and was a partner in its predecessor firm, Dyer & Berens LLP. I am submitting this declaration in support of the firms' application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. This firm is Court-appointed Liaison Counsel for plaintiffs and the settlement class, and individual counsel for Lead Plaintiff Donald E. McAlpin. *See* Doc. #49 (Order appointing co-lead and liaison counsel).¹

3. The information in this declaration regarding the firm's time and expenses is taken from time and expense printouts and supporting documentation maintained by the firm (and its predecessor) in the ordinary course of business. I am the attorney who oversaw and conducted the day-to-day activities in the litigation and I reviewed these printouts (and backup documentation where necessary or appropriate) in connection with the preparation of this declaration. The purpose of this review was to confirm both the accuracy of the entries on the printouts as well as the necessity for, and reasonableness of, the time and expenses committed to the litigation. As a result of this review, reductions were made to attorney time in the exercise of billing judgment. As a result of this review and the adjustments made, I believe that the time reflected in the lodestar calculation and the expenses for which payment is sought as set forth in this declaration are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation. In addition, I believe that the expenses are all of a type that would normally be charged to a fee-paying client in the private legal marketplace.

¹ It its Order, the Court appointed Dyer & Berens LLP as Liaison Counsel for the putative class. *See* Doc. #49 at 8. Dyer & Berens LLP later became Berens Law LLC with the retirement of Robert J. Dyer III in early 2016. *See* Doc. #177.

4. After the reductions referred to above, the number of hours spent on this litigation by my firm is 337.00. The lodestar amount for attorney time based on the firm's current rates is \$174,531.00. A breakdown of the lodestar is as follows.

Inception through April 18, 2017

<i>NAME</i>		<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
Jeffrey A. Berens	(P)	157.80	\$595	\$93,891.00
Darby K. Kennedy ²	(FA)	179.20	\$450	\$80,640.00
<i>TOTAL</i>		<i>337.00</i>		<i>\$174,531.00</i>

(P) Partner

(FA) Former Associate

The hourly rates shown above are the usual and customary rates set by the firm for each individual.

5. Set forth below is a brief description of the services rendered for each person for whom fees are claimed and a summary of their relevant qualifications and experience.

(a) I, Jeffrey A. Berens, am the principal of Berens Law LLC, and I was a partner in its predecessor firm, Dyer & Berens LLP. I have focused my legal practice on securities class actions for the past 20 years and have litigated dozens of actions under the Private Securities Litigation Reform Act as both lead and liaison counsel. Additional information regarding my background is set forth in the firm resume of Berens Law LLC, attached hereto. In this case, I committed significant time in representing plaintiffs, undertaking liaison counsel duties and completing substantive legal projects as requested by lead counsel. The services rendered include, without limitation: responding to investor inquiries regarding the lead plaintiff deadline, process, and status thereof; communicating with and advising lead plaintiff Donald McAlpin; providing input on and/or researching and drafting portions of various pleadings and filings, including the

² Ms. Kennedy is a former senior associate of Dyer & Berens LLP who last worked on this case in March 2014. The hourly rate listed is her hourly rate at the time she left the firm and is the usual and customary rate that she charged in all of her cases.

lead plaintiff briefs, the oppositions to motions to dismiss, the opposition to defendants' request for judicial notice, the response to defendants' motion for summary judgment; participating in the factual investigation; conferring with defendants' counsel; assisting with the preparation of the parties' proposed scheduling order and related discovery matters; attending the scheduling conference; and providing input on various other matters. I billed 157.80 hours during the course of this litigation.

(b) Darby K. Kennedy was a senior associate at Dyer & Berens LLP. Ms. Kennedy was admitted to practice in Colorado in 2002 and at the time of her departure from the firm she had more than 10 years of experience in litigating shareholder class and derivative actions. Ms. Kennedy committed significant time in representing plaintiffs, undertaking liaison counsel duties and completing substantive legal projects as assigned by lead counsel. The services rendered include, without limitation: finalizing pleadings and drafting and filing related documents; addressing service issues for the complaints; responding to investor inquiries; providing input on and/or researching and drafting portions of various pleadings and filings, including motions concerning deadlines and scheduling, the opposition to motion to dismiss, the opposition to defendants' request for judicial notice; researching and drafting memoranda concerning case strategy; conferring with defendants' counsel; and providing input on various other matters. Ms. Kennedy billed 179.20 hours during the course of this litigation.

6. My firm seeks an award of \$698.30 in expenses in connection with the prosecution of the litigation. A breakdown of these expenses is as follows.

Inception through April 18, 2017

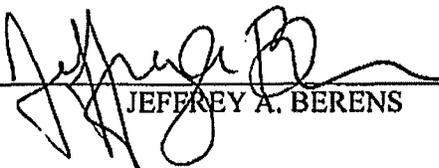
<i>DISBURSEMENT</i>	<i>TOTAL</i>
Filing Fees (<i>Albano</i> Complaint)	\$350.00
Class Action Notice (Marketwire)	\$255.00
Process Server Fees	\$25.00
Parking (2/11/16 Scheduling Conf/Meeting with Co-Counsel)	\$20.00
Photocopies (In-house, 187 @ \$0.20/page)	\$37.40
Online Legal Research (PACER research regarding a potentially related case)	\$10.90

<i>TOTAL</i>	<i>\$698.30</i>
---------------------	------------------------

7. The expenses pertaining to this case are reflected in the records of this firm and its predecessor firm. These records are prepared from receipts, expense vouchers, check records and other documents and are an accurate record of the expenses.

8. A firm resume for Berens Law LLC is attached hereto.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of April, 2017, at Denver, Colorado.



JEFFREY A. BERENS

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 5, 2017.

s/ Trig R. Smith
TRIG R. SMITH

ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail: trigs@rgrdlaw.com

Mailing Information for a Case 1:12-cv-00292-RM-KMT Molycorp Shareholder Group et al v. Molycorp, Inc. et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Matthew Alpert**
malpert@rgrdlaw.com
- **Stephen M. Baldini**
sbaldini@akingump.com,nymco@akingump.com,managing-clerk-2897@ecf.pacerpro.com,stephen-baldini-3317@ecf.pacerpro.com,AGSearch-Lit@akingump.com
- **Jeffrey Allen Berens**
jeff@jberenslaw.com,jeffreyberens@comcast.net
- **David Adam Berger**
dberger@abv.com
- **Ryan Edward Blair**
rblair@cooley.com,chourani@cooley.com
- **Brian Thomas Carney**
bcarney@akingump.com,managing-clerk-2897@ecf.pacerpro.com,brian-carney-1501@ecf.pacerpro.com,sspector@akingump.com,AGSearch-Lit@akingump.com
- **Koji F. Fukumura**
kfukumura@cooley.com,chourani@cooley.com
- **Jonah H. Goldstein**
jonahg@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Tor Gronborg**
torg@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **John Jay Gross**
jgross@ktmc.com,ahankins@ktmc.com
- **Leslie J. Hughes**
hugheslj@sec.gov,kasperg@sec.gov,blomgrene@sec.gov,CozzaC@sec.gov,pinkstonm@sec.gov,HardyM@sec.gov,nesvign@sec.gov
- **Stephen Kirk Ingebretsen**
kingebretsen@shb.com,ggargano@shb.com,jjbarker@shb.com,cbarraza@shb.com,DenverDMFiling-Records@shb.com
- **Geoffrey C. Jarvis**
gjarvis@ktmc.com,dpotts@ktmc.com
- **Gregory J. Kerwin**
gkerwin@gibsondunn.com,Denver_USDC@gibsondunn.com,AKostecka@gibsondunn.com,lhoward@gibsondunn.com
- **Peter George Koclanes**
pkoclanes@shermanhoward.com,lcrisswell@shermanhoward.com,jrobarge@shermanhoward.com,efiling@sah.com
- **Allison Kaye Kostecka**
akostecka@gibsondunn.com,lapodaca@gibsondunn.com
- **Meredith Leigh Lambert**
mlambert@ktmc.com,acashwell@ktmc.com,Jenck@ktmc.com
- **Charles Walter Lilley**
clilley@lilleylaw.com
- **Joshua Angelo Materese**
jmaterese@ktmc.com,ahankins@ktmc.com
- **Kim Elaine Miller**
kim.miller@ksfcounsel.com,tamar.pacht@ksfcounsel.com,dawn.hartman@ksfcounsel.com

- **Matthew L. Mustokoff**
mmustokoff@ktmc.com, ahankins@ktmc.com
- **Jeffrey S. Nobel**
jnobel@izardnobel.com, nkulesa@izardnobel.com
- **Sarah Emily Phillips**
sarah.phillips@stblaw.com, sarahpcoco@gmail.com
- **Jamie Somoza Raghu**
jamie.raghu@stblaw.com
- **Nicole Susan Schram**
nikki@jmvpclaw.com, monica@jmvpclaw.com
- **Kevin S. Sciarani**
ksciarani@rgrdlaw.com, tdevries@rgrdlaw.com
- **Trig Randall Smith**
trigs@rgrdlaw.com, jillk@rgrdlaw.com, e_file_sd@rgrdlaw.com, asharbutt@rgrdlaw.com
- **Benjamin James Sweet**
bsweet@carlsonlynch.com, ecf@carlsonlynch.com, sgoldin@carlsonlynch.com, ktucker@carlsonlynch.com, dhart@carlsonlynch.com
- **The Allen Group**
fmconville@faruqilaw.com
- **United States Securities and Exchange Commission**
HughesLJ@sec.gov
- **Jeffrey Mark Villanueva**
jeff@jmvpclaw.com, melissa@jmvpclaw.com, monica@jmvpclaw.com
- **Daniel F. Wake**
dwake@shb.com, jjbarker@shb.com, DenverDMFiling-Records@shb.com, mwarnecker@shb.com
- **Regis C. Worley, Jr**
rworley@rgrdlaw.com
- **Jonathan D.K. Youngwood**
jyoungwood@stblaw.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)

2373 Central Park Boulevard, Suite 100
Denver, CO 80238
Tel 303.861.1764
Fax 303.395.0393
Email jeff@jberenslaw.com

BERENS LAW

-LLC-

Berens Law LLC focuses on representing aggrieved investors in Colorado and nationwide. The firm is committed to providing clients with superior personal attention and service, and seeks to represent all clients with the highest level of skill, competence, and dedication.

ATTORNEY BIOGRAPHY

JEFFREYA A. BERENS

Mr. Berens has prosecuted state and federal class action lawsuits for more than twenty years, focusing his practice on shareholder class action litigation.

Mr. Berens has had primary responsibility for litigating class action lawsuits against BancorpSouth, Inc., Fidelity Management & Research Company, State Street Corporation, United Western Bancorp, Inc., FirstWorld Communications, Inc., Carrier Access Corporation, ICG Communications, Inc., One-Stop Wireless of America, Inc., Tuesday Morning, Inc., Transcrypt International, Inc., and Sport-Haley, Inc., among many others. In 2002, he successfully argued to the Colorado Court of Appeals that the district court had erred in failing to allow thousands of victims of a nationwide boiler room fraud to band together and prosecute their claims in a single class action. The Court of Appeals' opinion in *Toothman v. Freeborn & Peters*, 80 P.2d 804 (Colo. Ct. App. 2002) established new law, making it more difficult for dishonest promoters to evade the reach of the securities laws. Mr. Berens later won entry of a \$75.3 million summary judgment against the alleged ringleader of the scheme.

Mr. Berens attended Marquette University Law School, from which he graduated *cum laude* in 1996. While at Marquette, he served as a judicial extern to the Honorable John L. Coffey of the United States Court of Appeals for the Seventh Circuit, and was a member of the Marquette University Law Review. Mr. Berens received his undergraduate degree in business and accounting from the University of Wisconsin-Milwaukee in 1990. Thereafter, he was employed as a corporate accountant for two years, during which time he passed the Certified Public Accountant examination.

Mr. Berens was admitted to the state bar of Wisconsin in 1996 and the state bar of Colorado in 1997. He is also admitted to practice before the United States District Courts for Colorado and the Eastern District of Wisconsin, the Tenth Circuit Court of Appeals, and has been admitted to practice, on a case by case basis, in various state and federal jurisdictions throughout the country. Mr. Berens is the author of *Pleading Scienter Under The Private Securities Litigation Reform Act of 1995*, which was published in *The Colorado Lawyer*.

CLASS RECOVERIES

Over the past twenty years Mr. Berens has had exceptional success in prosecuting shareholder, consumer and employment class actions. Below is a sampling of some of his more notable cases.

- *Winslow v. BancorpSouth, Inc.*, Case No. 3:10-cv-00463 (M.D. Tenn.) (\$29.25 million recovered)
- *In re Tele-Communications, Inc. Sec. Litig.*, Case No. 97CV421 (Colo.) (\$26.5 million recovered)
- *Rasner v. FirstWorld Comm'ns Inc.*, Case No. 00-K-1376 (D. Colo.) (\$25.925 million recovered)
- *Muhr v. Transcrypt Int'l, Inc.*, Case No. CI98-333 (Neb.) (approximately \$25 million recovered)
- *In re ICG Comm'ns Sec. Litig.*, Case No. 00-cv-1864-REB-BNB (D. Colo.) (\$18 million recovered)
- *In re Rhythms Sec. Litig.*, Case No. 02-cv-35-JLK (D. Colo.) (\$17.5 million recovered)
- *Toothman v. One Stop Wireless of America, Inc.*, Case No. 98CV931 (Colo.) (approximately \$11 million recovered)
- *Angres v. Smallworldwide PLC*, Case No. 99-K-1254 (D. Colo.) (\$9.85 million recovered)
- *Zametkin v. Fidelity Management & Research Co.*, Case No. 1:08-cv-10960-MLW (D. Mass.) (\$7.5 million recovered)
- *Croker v. Carrier Access Corp.*, Case No. 05-cv-1011-LTB-OES (D. Colo.) (\$7.4 million recovered)
- *Yu v. State Street Corp.*, Case No. 1:08-cv-08235-PAC (S.D.N.Y.) (\$6.25 million recovered)