

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

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IN RE HERALD, PRIMEO AND THEMA : **Case No. 09 Civ. 289 (RMB)**
FUNDS SECURITIES LITIGATION : **ECF Case**

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This Document Relates to: :
:
NEVILLE SEYMOUR DAVIS, : **Case No. 09 Civ. 2558 (RMB)**
:
Plaintiff, : **Class Action**
:
vs. :
:
ALBERTO BENBASSAT et al., :
:
Defendants. :
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**DECLARATION OF MICHAEL E. WILES IN SUPPORT OF
OBJECTION BY CERTAIN DEFENDANTS TO MOTION FOR
PRELIMINARY APPROVAL OF PARTIAL SETTLEMENT**

I, Michael E. Wiles, under penalty of perjury, declare as follows:

1. Attached hereto as Exhibit A is a true and correct copy of a letter sent by Dillon Eustace to Matheson Ormsby Prentice, with copies to the Registrar of the Commercial Court in Dublin, Arthur Cox, William Fry, Mason Hayes & Curran and McCann Fitzgerald, dated Jun 22, 2011.

2. Attached hereto as Exhibit B is a true and correct copy of the Custodian Agreement between Thema International Fund plc (“Thema”) and Bermuda Trust (Dublin) Limited, dated May 30, 1996, and a true and correct copy of the Supplemental Custodian Agreement between Thema and HSBC Institutional Trust Services (Ireland) Limited (formerly known as Bermuda Trust (Dublin) Limited), dated August 21, 2006, that were attached as

Exhibit 4 to the Amended Class Action Complaint filed by Neville Seymour Davis, dated February 10, 2009.

3. Attached hereto as Exhibit C is a true and correct copy of the series of Undertakings for Collective Investment in Transferable Securities (“UCITS”) Notices produced by the Central Bank of Ireland pursuant to European Communities (UCITS) Regulations 2003, dated October 2010.

4. Attached hereto as Exhibit D is a true and correct copy of S.I. No. 211/2003 – European Communities (UCITS) Regulations 2003, available at <http://www.irishstatutebook.ie/2003/en/si/0211.html>.

5. Attached hereto as Exhibit E is a true and correct copy of the October 16, 2009 decision by the Irish High Court in *Kalix Fund Ltd. v. HSBC Institutional Trust Servs. (Ir.) Ltd.*, [2009] IEHC 457 (H.Ct.) (Ir.).

6. Attached hereto as Exhibit F is a true and correct copy of a Prospectus for Thema dated December 31, 2006, and a true and correct copy of a Prospectus Supplement for Thema dated December 31, 2006.

7. Attached hereto as Exhibit G is a true and correct copy of the Articles of Association (as amended by Special Resolution on December 20, 2006) for Thema.

8. Attached hereto as Exhibit H is a true and correct copy of a Thema Application Form and Payment Instructions, with Rubicon International Limited listed as the Applicant, signed by John O’Kelly-Lynch, dated November 12, 2008.

9. Attached hereto as Exhibit I is a true and correct copy of an email sent by Max Lewinsohn to Stephane Benbassat, dated June 27, 2011, and forwarded by Stephane Benbassat to Michael E. Wiles and Joseph P. Moodhe, with a copy to Alberto Benbassat, on June 27, 2011.

10. Attached hereto as Exhibit J is a true and correct copy of a Notice of Assignment of Rights of Legal Action, Notices of Transfer of Shares, and Share Transfer Forms, all signed by John O’Kelly-Lynch on behalf of Rubicon International Limited, dated July 21, 2009, and date-stamped August 24, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30, 2011, at New York, NY.

DEBEVOISE & PLIMPTON LLP

/s/ Michael E. Wiles

Michael E. Wiles

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Attorney for Defendants

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Genevalor, Benbassat & Cie, Gerald J.P.

Brady, Daniel Morrissey, David T. Smith,

Thema Asset Management Limited and Thema

*International Fund plc (for purposes of this
motion and other preliminary proceedings)*