

EXHIBIT A

Declaration of Lead Plaintiff Bard Betz in Support of:
(I) Plaintiffs' Motion for Final Approval of the Settlement and Approval of the Plan of Allocation and
(II) Lead Counsel and WTO's Motion for Awards of Attorneys' Fees, Litigation Expenses, and Reasonable Costs and Expenses to Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:22-cv-00453-PAB-KAS

MICHAEL BILINSKY, Individually and on Behalf of All Others
Similarly Situated,

Plaintiff,

v.

GATOS SILVER, INC.,
STEPHEN ORR,
ROGER JOHNSON,
PHILIP PYLE,
JANICE STAIRS,
ALI ERFAN,
IGOR GONZALES,
KARL HANNEMAN,
DAVID PEAT,
CHARLES HANSARD, and
DANIEL MUÑIZ QUINTANILLA,

Defendants.

**DECLARATION OF LEAD PLAINTIFF BARD BETZ IN SUPPORT OF:
(I) PLAINTIFFS' MOTION FOR FINAL APPROVAL OF THE SETTLEMENT AND
APPROVAL OF THE PLAN OF ALLOCATION AND (II) LEAD COUNSEL
AND WTO'S MOTION FOR AWARDS OF ATTORNEYS' FEES, LITIGATION
EXPENSES, AND REASONABLE COSTS AND EXPENSES TO PLAINTIFFS**

BARD BETZ declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true:

1. I am the Court-appointed Lead Plaintiff in the above-captioned action (the “Action”).¹

2. I submit this Declaration in support of (I) Plaintiffs’ Motion for Final Approval of the Settlement and Approval of the Plan of Allocation and (II) Lead Counsel and WTO’s Motion for Awards of Attorneys’ Fees, Litigation Expenses, and Reasonable Costs and Expenses to Class Representatives.

3. The matters set forth herein are based on my personal knowledge and/or discussion with Plaintiffs’ Counsel.

4. I purchased Gatos Securities during the Class Period and suffered substantial losses as a result of the alleged violations of the federal securities laws alleged in the Action. (*See* ECF No. 16-3, 16-6.)

5. Beyond seeking to recover the significant losses that I suffered as a result of my investment in Gatos Securities, I sought to serve as Lead Plaintiff in this Action because the allegations of wrongdoing—including that Defendants engaged in accounting fraud by overstating CLG mine’s mineral reserves and resources—affect the integrity of the securities markets.

¹ Capitalized terms not defined herein have the meanings stated in the Amended Class Action Complaint for Violations of the Securities Laws (ECF No. 54), the Stipulation and Agreement of Settlement dated September 12, 2023 (ECF No. 85-1), and the Joint Declaration of Joseph A. Fonti and Kathryn A. Reilly in Support of: (I) Plaintiffs’ Motion for Final Approval of the Settlement and Approval of the Plan of Allocation and (II) Lead Counsel and WTO’s Motion for Awards of Attorneys’ Fees, Litigation Expenses, and Reasonable Costs and Expenses to Plaintiffs (the “Joint Declaration” or “Joint Decl.”).

6. In seeking appointment as Lead Plaintiff and Class Representative in this Action, I understood my responsibility to serve the best interests of the Class by supervising the effective prosecution of this Action, and have done so at all times.

I. APPROVAL OF THE SETTLEMENT

7. I support approval of the proposed Settlement. I believe that the Settlement is the product of Plaintiffs’ hard-fought negotiation and careful consideration on behalf of the Settlement Class.

8. I attended the parties’ June 13, 2023, full-day mediation session in Los Angeles, California with Robert A. Meyer, Mr. Betz, Bleichmar Fonti & Auld LLP (“BFA”), The Schall Law Firm (“Schall”), Defendants’ Counsel, and representatives of Gatos and various insurance carriers, leading to Mr. Meyer issuing a mediator’s proposal that the case settle for \$21 million.

9. I carefully considered Mr. Meyer’s recommendation in consultation with Plaintiffs’ Counsel, including consideration of (among other things) the strength of the merits, Gatos’s financial condition, the amount of realistically recoverable damages, and the risks of further litigation.

10. Based on my active involvement in the Action, my participation in the mediation session, and my understanding of the factors outlined above, I determined that the proposed Settlement was fair, reasonable, and adequate to the Settlement Class. I believe the Settlement represents an outstanding result that is fair, reasonable, and adequate to the Settlement Class.

II. LEAD COUNSEL AND WTO’S MOTION FOR AWARDS OF ATTORNEYS’ FEES AND LITIGATION EXPENSES

11. I support Lead Counsel and WTO’s motion for awards of attorneys’ fees and litigation expenses.

12. As Lead Plaintiff, in retaining BFA and Schall for this matter, I determined that BFA and Schall were particularly well qualified based on their experience successfully litigating securities class actions on behalf of investors. I understood that Lead Counsel would devote the resources necessary to fully prepare the Class's claims for trial, if necessary, including by investing heavily in time and expenses to litigate the Action. In addition to BFA and Schall, Plaintiffs relied on valuable counsel from Wheeler Trigg O'Donnell LLP and The Law Offices of Susan R. Podolsky.

13. I recognize that the Court must approve any fee award. Prior to seeking appointment as Lead Plaintiff, I negotiated and entered into a retention agreement whereby I authorized counsel to request a fee of 28% of the amount recovered in the Action. The requested fee is consistent with my *ex ante* agreement with counsel.

14. In light of the result achieved, the work performed, and the risks faced in the Action, I support Lead Counsel and WTO's request for a fee award of 28% of the Settlement Fund and believe the requested amount represents a reasonable attorneys' fee award in the Action.

15. I further believe that the litigation expenses for which Lead Counsel and WTO are seeking reimbursement are reasonable, and represent costs and expenses necessary for the effective prosecution and resolution of this complex action, including consulting expert analysis regarding financial accounting and estimation of mineral reserves and resources.

III. LEAD PLANTIFF'S REQUEST FOR AN AWARD OF REASONABLE COSTS AND EXPENSES

16. I understand that the PSLRA authorizes the award of class representatives' reasonable costs and expenses, including lost wages. *See* 15 U.S.C. § 78u-4(a)(4). Accordingly,

I seek an award of my reasonable costs and expenses incurred in connection with my representation of the Settlement Class.

17. My costs and expenses in the Action total \$10,000, consisting of the estimated cost of 64 hours of time that I devoted to the Action based on a review of records. This time was primarily spent: consulting with Plaintiffs’ Counsel on a regular basis; reviewing pleadings, motion papers, and other filings; and attending the mediation session on June 13, 2023, as described above.

18. Using a reasonable hourly rate of \$160, I request an award of \$10,000 in respect of the 64 hours of time that I devoted to the Action.

IV. CONCLUSION

19. As the Court-appointed Lead Plaintiff and proposed class representative, I strongly endorse the proposed Settlement as fair, reasonable, and adequate, and believe it represents an outstanding result for the Settlement Class.

20. I further support Lead Counsel and WTO’s request for awards of attorneys’ fees and litigation expenses and believe that it represents fair and reasonable compensation in light of the result achieved and the quality and amount of work that Plaintiffs’ Counsel performed on a fully contingent basis, in the face of significant risks and uncertainties.

21. I also request an award of my reasonable costs and expenses in the Action, as set forth above.

Dated: 4/25/2024

DocuSigned by:
Bard Betz
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Bard Betz