

# **EXHIBIT E**

**Declaration of Kyle S. Bingham on Implementation of CAFA Notice**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

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

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 KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE**

I, KYLE S. BINGHAM, hereby declare and state as follows:

1. My name is KYLE S. BINGHAM. I am over the age of 25 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am the Director of Legal Noticing for Epiq Class Action & Claims Solutions, Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans. I have overseen and handled Class Action Fairness Act (“CAFA”) notice mailings for more than 400 class action settlements.

3. Epiq is a firm with more than 25 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination

of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service (“USPS”), claims database management, claim adjudication, funds management and distribution services.

4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

#### **CAFA NOTICE IMPLEMENTATION**

5. At the direction of counsel for Defendant(s) Gatos Silver, Inc., Stephen Orr, Roger Johnson, Philip Pyle, Janice Stairs, Ali Erfan, Igor Gonzales, Karl Hanneman, David Peat, Charles Hansard, Daniel Muñoz Quintanilla, BMO Capital Markets Corp., Goldman Sachs & Co. LLC, RBC Capital Markets, LLC, Canaccord Genuity Corp., and CIBC World Markets Corp., 57 federal and state officials (the Attorney General of the United States and the Attorneys General of each of the 50 states, the District of Columbia, and the United States Territories) were identified to receive CAFA notice.

6. Epiq maintains a list of these federal and state officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq’s list were verified, then run through the Coding Accuracy Support System (“CASS”) maintained by the United States Postal Service (“USPS”).<sup>1</sup>

7. On July 19, 2023, Epiq sent 57 CAFA Notice Packages (“Notice”). The Notice was mailed via USPS Certified Mail to 55 officials (the Attorneys General of 49 states, the District of Columbia, and the United States Territories). As per the direction of the Office of the Nevada Attorney General, the Notice was sent to the Nevada Attorney General electronically via

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<sup>1</sup> CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

email. The Notice was also sent via United Parcel Service (“UPS”) to the Attorney General of the United States. The CAFA Notice Service List (USPS Certified Mail, Email, and UPS) is included as **Attachment 1**.

8. The materials sent to the federal and state officials included a Cover Letter, which provided notice of the proposed Settlement of the above-captioned case. The Cover Letter is included as **Attachment 2**.

9. The cover letter was accompanied by a CD, which included the following:

a. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**

- Class Action Complaint for Violations of the Federal Securities Laws (filed February 22, 2022); and
- Amended Class Action Complaint for Violations of the Securities Laws (filed August 15, 2022).

b. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**

- Settlement Notice (*Exhibit A-1 to the Stipulation and Agreement of Settlement*);
- Long Form Notice of Pendency and Proposed Settlement of Class Action (*Exhibit A-2 to the Stipulation and Agreement of Settlement*);
- Proof of Claim and Release (*Exhibit A-3 to the Stipulation and Agreement of Settlement*); and
- Summary Notice (*Exhibit A-4 to the Stipulation and Agreement of Settlement*).

c. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents were included:

- Stipulation of Settlement;
  - [Proposed] Order Preliminarily Approving Settlement and Providing For Class Notice (*Exhibit A to the Stipulation and Agreement of Settlement*);

- [Proposed] Final Judgment Approving Settlement (*Exhibit B to the Stipulation and Agreement of Settlement*);
- Plaintiffs' Unopposed Motion for Preliminary Approval of Class Settlement and Authorization to Disseminate Notice of Settlement; and
- Declaration of Morgan Kimball in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Settlement and Authorization to Disseminate Notice of Settlement.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 19, 2023.

  
\_\_\_\_\_  
KYLE S. BINGHAM

# Attachment 1

CAFA Notice Service List  
USPS Certified Mail

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Treg Taylor	1031 W 4th Ave	Suite 200	Anchorage	AK	99501
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Tim Griffin	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Kris Mayes	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Protection Section	455 Golden Gate Ave Suite 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway Fl 10	Denver	CO	80203
Office of the Attorney General	William Tong	165 Capitol Ave		Hartford	CT	06106
Office of the Attorney General	Brian Schwalb	400 6th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Anne E Lopez	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Brenna Bird	Hoover State Office Building	1305 E Walnut St	Des Moines	IA	50319
Office of the Attorney General	Raul Labrador	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Office of the Indiana Attorney General	Todd Rokita	Indiana Government Center South	302 W Washington St Rm 5	Indianapolis	IN	46204
Office of the Attorney General	Kris Kobach	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Daniel Cameron	700 Capitol Ave Suite 118		Frankfort	KY	40601
Office of the Attorney General	Jeff Landry	PO Box 94005		Baton Rouge	LA	70804
Office of the Attorney General	Andrea Campbell	1 Ashburton Pl 20th Fl		Boston	MA	02108
Office of the Attorney General	Anthony G Brown	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Station		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO BOX 30212		Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St Ste 1400		St Paul	MN	55101
Missouri Attorney General's Office	Andrew Bailey	207 West High Street	PO Box 899	Jefferson City	MO	65102
Mississippi Attorney General	Lynn Fitch	PO Box 220		Jackson	MS	39205
Office of the Attorney General	Austin Knudsen	215 N Sanders 3rd Fl	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Drew H Wrigley	600 E Boulevard Ave Dept 125		Bismarck	ND	58505
Nebraska Attorney General	Mike Hilgers	2115 State Capitol	PO Box 98920	Lincoln	NE	68509
Office of the Attorney General	John Formella	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Matthew J Platkin	25 Market Street	PO Box 080	Trenton	NJ	08625
Office of the Attorney General	Raul Torrez	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	CAFA Coordinator	28 Liberty Street 15th Floor		New York	NY	10005
Office of the Attorney General	Dave Yost	30 E Broad St Fl 14		Columbus	OH	43215
Office of the Attorney General	Genther Drummond	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Michelle A. Henry	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	PO Box 11549		Columbia	SC	29211
Office of the Attorney General	Marty Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Jonathan Skrmetti	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	PO Box 12548		Austin	TX	78711
Office of the Attorney General	Sean D Reyes	PO Box 142320		Salt Lake City	UT	84114
Office of the Attorney General	Jason S Miyares	202 N 9th St		Richmond	VA	23219
Office of the Attorney General	Charity R Clark	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 5th Ave Ste 2000		Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrissey	State Capitol Complex Bldg 1 Room E 26	1900 Kanawha Blvd E	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	109 State Capital		Cheyenne	WY	82002
Department of Legal Affairs	Fainu'ulei Falefatu Ala'ilima-Utu	American Samoa Gov't Exec Ofc Bldg Utulei	Territory of American Samoa	Pago Pago	AS	96799
Attorney General Office of Guam	Douglas Moylan	Administrative Division	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	Administration Bldg	PO Box 10007	Saipan	MP	96950
PR Department of Justice	Domingo Emanuelli Hernández	PO Box 9020192		San Juan	PR	00902
Department of Justice	Ariel K Smith	3438 Kronprindsens Gade Ste 2	GERS BLDG	St Thomas	VI	00802

**CAFA Notice Service List**  
**Email**

<b>Company</b>	<b>Contact Format</b>	<b>State</b>
Office of the Attorney General for Nevada	All documents sent to NV AG at their dedicated CAFA email inbox.	NV



CAFA Notice Service List

UPS

Company	FullName	Address1	Address2	City	State	Zip
US Department of Justice	Merrick B. Garland	950 Pennsylvania Ave NW		Washington	DC	20530

# Attachment 2

**CAFA NOTICE ADMINISTRATOR**

HILSOFT NOTIFICATIONS  
10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

July 19, 2023

**VIA UPS OR USPS CERTIFIED MAIL**

**Class Action Fairness Act – Notice to Federal and State Officials**

Dear Federal and State Officials:

Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1715, please find enclosed information from Defendants Gatos Silver, Inc., Stephen Orr, Roger Johnson, Philip Pyle, Janice Stairs, Ali Erfan, Igor Gonzales, Karl Hanneman, David Peat, Charles Hansard, Daniel Muñoz Quintanilla, BMO Capital Markets Corp., Goldman Sachs & Co. LLC, RBC Capital Markets, LLC, Canaccord Genuity Corp., and CIBC World Markets Corp. relating to the proposed settlement of a class action lawsuit.

- **Case:** *Bilinsky v. Gatos Silver Inc., et al*, Case No. 1:22-cv-00453-PAB-KLM.
- **Court:** United States District Court for the District of Colorado.
- **Defendants:** Gatos Silver, Inc., Stephen Orr, Roger Johnson, Philip Pyle, Janice Stairs, Ali Erfan, Igor Gonzales, Karl Hanneman, David Peat, Charles Hansard, and Daniel Muñoz Quintanilla, BMO Capital Markets Corp., Goldman Sachs & Co. LLC, RBC Capital Markets, LLC, Canaccord Genuity Corp., and CIBC World Markets Corp.
- **Documents Enclosed:** In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD:
  1. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**
    - a. Class Action Complaint for Violations of the Federal Securities Laws (filed February 22, 2022); and
    - b. Amended Class Action Complaint for Violations of the Securities Laws (filed August 15, 2022).
  2. **Per 28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The Court has not scheduled a preliminary approval hearing or a final approval hearing or any other judicial hearing concerning the settlement agreement at this time.
  3. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:** Forms of Notice.
    - a. Settlement Notice (*Exhibit A-1 to the Stipulation and Agreement of Settlement*);
    - b. Long Form Notice of Pendency and Proposed Settlement of Class Action (*Exhibit A-2 to the Stipulation and Agreement of Settlement*);

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- c. Proof of Claim and Release (*Exhibit A-3 to the Stipulation and Agreement of Settlement*); and
  - d. Summary Notice (*Exhibit A-4 to the Stipulation and Agreement of Settlement*).
4. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents are included:
  - Stipulation of Settlement;
    - [Proposed] Order Preliminarily Approving Settlement and Providing For Class Notice (*Exhibit A to the Stipulation and Agreement of Settlement*);
    - [Proposed] Final Judgment Approving Settlement (*Exhibit B to the Stipulation and Agreement of Settlement*);
  - Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Settlement and Authorization to Disseminate Notice of Settlement; and
  - Declaration of Morgan Kimball in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Settlement and Authorization to Disseminate Notice of Settlement.
5. **Per 28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreements:** Pursuant to Paragraph 8.4 of the Stipulation and Agreement of Settlement, a separate Opt-Out Agreement has been entered into between Lead Counsel and Gatos’s Counsel and was not filed with the Court. As is customary in class action settlements, the purpose of the Opt-Out Agreement is to provide Defendants with the option to terminate the Settlement Agreement if timely requests for exclusion from the settlement class are submitted by eligible settlement class members who meet the conditions set forth in the Opt-Out Agreement exceed a confidential threshold. It is typical for agreements of this nature to remain confidential because, as explained by a leading treatise dealing with complex litigation, “[k]nowledge of the specific number of opt outs that will vitiate a settlement might encourage third parties to solicit class members to opt out.” David F. Herr, *MANUAL FOR COMPLEX LITIGATION* § 21.631 (4th ed.). There are no other Settlements or Agreements between the parties.
6. **Per 28 U.S.C. § 1715(b)(6) – Final Judgment or Notice of Dismissal:** To date, the Court has not issued a final order, judgment, or dismissal in the above-referenced action.
7. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** CAFA requires Defendants to provide, “if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that state’s appropriate State official.” 28 U.S.C. § 1715(b)(7)(A). If it is not feasible to provide that information, CAFA requires a “reasonable estimate” from the Defendants. 28 U.S.C. § 1715(b)(7)(B).

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As is typical with a securities settlement, Defendants do not have access to information sufficient to identify the names of all settlement class members who reside in each state or to estimate proportionate shares of their claims to the entire settlement. It is also not feasible for Defendants to provide an estimate of the number of class members residing in each state or the estimated proportionate share of each class member's claims to the entire settlement.

8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** To date, the Court has not issued a final order or judgment in the above-referenced action.

If you have questions or concerns about this notice or the enclosed materials, please contact this office.

Sincerely,

CAFA Notice Administrator

Enclosures