

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.

**SUPPLEMENTAL DECLARATION OF MORGAN KIMBALL REGARDING
DISTRIBUTION PLAN**

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

1. I am a Project Manager for Epiq Class Action and Claims Solutions, Inc. (“Epiq”). I am providing this declaration at the request of Class Counsel Bleichmar Fonti & Auld LLP (“Class Counsel”), on behalf of Plaintiffs, in connection with Plaintiffs’ Motion for Distribution of the Net Settlement Fund.¹ This declaration supplements my prior declarations (ECF No. 82-9; ECF No. 91-4; ECF No. 93-2; ECF No. 100-2). I make this declaration based on personal knowledge, and if called to testify, I could and would do so competently.

2. Pursuant to the Court’s February 29, 2024 Preliminary Approval Order (ECF No. 87), Epiq is authorized to act as the Claims Administrator in connection with the Settlement of the above-captioned action (the “Action”). This declaration provides supplemental information regarding the distribution plan.

ADDITIONAL CLAIM REVIEW

3. As described in the Declaration of Morgan Kimball Regarding Distribution Plan (ECF No. 100-2) (“Distribution Declaration”), as of June 27, 2025, Epiq had completed the processing of the 10,323 claims that were received, and had determined that 2,414 claims should be accepted (with 2,271 acceptable in whole and 143 acceptable in part), and that 7,909 should be wholly rejected because they are either ineligible, wholly deficient, have no Recognized Loss when calculated in accordance with the Court-approved Plan of Allocation, or were withdrawn at the claimant’s request.

4. Additionally, as stated in the Distribution Declaration, Epiq and Class Counsel recommended that no Proof of Claim forms postmarked after June 27, 2025, be deemed eligible

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 (ECF No. 91).

for payment, and no new adjustments to previously filed Proof of Claim forms be accepted after June 27, 2025, if it would result in an increased Recognized Loss.

5. After the Distribution Declaration was filed, in consultation with Class Counsel, Epiq had additional communications with two Claimants regarding their two claims previously recommended for rejection: Claim Numbers 120 and 121. Epiq provided the Claimants with an opportunity to submit additional documentation to cure the deficiencies, and the Claimants did so. As a result, Epiq now recommends accepting these two claims in whole. An updated disposition of Proof of Claim Forms, reflecting these claims’ updated determinations, is below.

UPDATED DISPOSITION OF PROOF OF CLAIM FORMS

3. For the 10,323 claims that were received, since the two claims described above are now acceptable in whole, 2,273 claims should be accepted in whole, 143 claims should be accepted in part, and 7,907 claims should be wholly rejected.

4. The 7,907 wholly rejected claims are recommended for rejection by the Court for the following reasons:

Summary of Rejected Claims	
Reason for Rejection	Number of Claims
Excluded from the Settlement Class	1
No Eligible Purchases During the Class Period	195
Proof of Claim Did Not Result in a Recognized Loss	7,494
Deficient Claim with Condition of Ineligibility Never Cured	57
Duplicate Claim	26
Withdrawn Claim/Voided by Request	134
TOTAL	7,907

5. The 2,416 claims recommended for acceptance represent a total Recognized Loss of \$171,093,813.40 (an increase of \$13,400,833.24 compared to \$157,692,980.16 in the Distribution Declaration) under the Court-approved Plan of Allocation. Of that total, Timely Eligible Claims remain at \$157,104,205.56, and Late But Otherwise Eligible Claims represent


\$13,989,607.84 (an increase of \$13,400,833.24 compared to \$588,774.60 in the Distribution Declaration).

6. Updated versions of Exhibit B-2 and B-3 are attached hereto and reflect the updated claim determinations for Claim Numbers 120 and 121 recommended in Paragraph 5, *supra*. Specifically, the updated version of Exhibit B-2 includes the two claims as late but otherwise eligible, and the updated version of Exhibit B-3 does not include these two claims in the list of claims recommended for rejection. Exhibit B-1 of the Distribution Declaration remains unchanged.

CONCLUSION

7. Epiq respectfully requests that the Court approve its updated administrative determinations accepting and rejecting the Claims submitted herein and approving the proposed Distribution Plan. Epiq further submits that its unpaid fees and expenses should be approved for payment from the Settlement Fund.

Dated: July 18, 2025



Morgan Kimball