

CAFA NOTICE ADMINISTRATOR

HILSOFT NOTIFICATIONS
10300 SW Allen Blvd
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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

EXHIBIT F

**Declaration of Joseph A. Fonti in Support of Lead Counsel and
WTO's Motion for Awards of Attorneys' Fees, Litigation Expenses,
and Reasonable Costs and Expenses to Plaintiffs,
Filed on Behalf of Bleichmar Fonti & Auld LLP**

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 JOSEPH A. FONTI IN SUPPORT OF LEAD COUNSEL AND
WTO'S MOTION FOR AWARDS OF ATTORNEYS' FEES, LITIGATION EXPENSES,
AND REASONABLE COSTS AND EXPENSES TO PLAINTIFFS,
FILED ON BEHALF OF BLEICHMAR FONTI AULD LLP**

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

1. I am a partner at Bleichmar Fonti & Auld LLP (“BFA” or “Lead Counsel”), the Court-appointed Lead Counsel and Class Counsel in the above-captioned Action (the “Action”).¹

2. I submit this Declaration in support of Lead Counsel and WTO’s Motion for Awards of Attorneys’ Fees, Litigation Expenses, and Reasonable Costs and Expenses to Plaintiffs. I have personal knowledge of the matters set forth herein based on my active participation in the prosecution and settlement of the Action.

I. BFA’S WORK, RATES, AND LODESTAR

3. BFA is highly qualified and experienced in prosecuting securities class actions, as well as shareholder derivative actions and complex antitrust and consumer class actions. Attached hereto as **Exhibit 1** is BFA’s firm resume, which includes biographical information about attorneys and staff members and information about the firm’s philosophy, organization, and successes.

4. Attached hereto as **Exhibit 2** is a list of BFA attorneys and professional support staff for whom fees are sought in this Action. Exhibit 2 also provides further information about each individual’s qualifications, experience, and role in the litigation.

¹ Capitalized terms not defined herein have the meanings stated in the Amended Class Action Complaint for Violations of the Securities Laws (ECF 54), the Stipulation and Agreement of Settlement dated September 12, 2023 (ECF 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.”).

5. As Lead Counsel in this Action, BFA performed the majority of the work necessary to prosecute the Action. That work is further detailed in the Joint Declaration filed contemporaneously herewith, which also provides the amount of time and lodestar BFA devoted to the Action during each phase of the litigation.

6. Table 1 below is a schedule summarizing the amount of time spent by each of BFA's attorneys and professional support staff from the Action's inception through and including April 19, 2024, the rates applicable to each individual, and a lodestar calculation for each individual.

7. Table 1 is based on contemporaneous time records prepared and maintained by BFA in the ordinary course. As the lead partner responsible for supervising BFA's work on this case, I supervised the review of these time records to prepare this declaration. The purpose of this review was to confirm both the accuracy of the time entries and the necessity for, and reasonableness of, the time committed to the Action. Table 1 excludes all time concerning fee and expense award matters.

8. Following the review and the adjustments made, as set forth in Table 1, BFA attorneys and professional support staff devoted 1,981.95 hours to this Action from inception through April 19, 2024. The total lodestar reflected in Table 1 for that period is \$1,687,409. I believe that the time reflected in BFA's lodestar calculation, as set forth herein, is reasonable in amount and was necessary for the effective and efficient prosecution and resolution of the Action.

TABLE 1

Timekeeper Name	Position	Hours	Hourly Rate	Lodestar
George Bauer	Partner	10.25	\$950	\$9,738
Javier Bleichmar	Partner	18.70	\$1,250	\$23,375
Benjamin Burry	Partner	294.55	\$950	\$279,822
Christopher Capuozzo	Director, Client Data and Claims	22.80	\$475	\$10,830
Nicholas Dennany	Associate	41.85	\$695	\$29,086
Jeffrey Esperance	Data Analyst	10.50	\$375	\$3,937
Masiel Feliz	Paralegal	46.65	\$395	\$18,427
Joseph Fonti	Partner	212.50	\$1,250	\$265,625
William Green	Associate	62.70	\$650	\$40,755
Mathew Hough	Former Associate	180.75	\$665	\$120,198
Kayla Kershen	Former Law Clerk	27.00	\$365	\$9,855
Evan Kubota	Partner	522.20	\$950	\$496,090
Nancy Kulesa	Partner	2.00	\$995	\$1,990
Elaine Rivera	Senior Data Analyst	9.00	\$375	\$3,375
Michael Russo	Director of Operations	16.25	\$495	\$8,044
Ross Shikowitz	Partner	87.70	\$950	\$83,315
Sara Simnowitz	Special Counsel	2.75	\$895	\$2,461
Thayne Stoddard	Associate	195.05	\$795	\$155,065
Umang Suhalka	Data Analyst	2.00	\$395	\$790
Franklyn Williams	Senior Projects Associate	216.75	\$575	\$124,631
TOTALS		1, 1. 5		\$1,6 ,4

9. As reflected in Table 1, the hourly rates for BFA attorneys and professional support staff range from \$365 to \$1,250. Current rates are used for current personnel; for attorneys and professional support staff who are no longer employed by BFA, the hourly rate used is the hourly rate for such employee in his or her final year of employment by BFA.

10. BFA's rates are the usual and customary rates set by BFA for each individual. Different timekeepers within the same employment category (e.g., partner, associate) may have different rates depending on their respective years of experience, years at the firm, years in current position, relevant experience, relevant expertise, and/or rates of similarly situated individuals at

BFA or at peer firms. BFA's rates are comparable to the rates set by peer firms for attorneys and staff of similar skill and experience.

11. My firm's lodestar figures are based upon our billing rates, which rates do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in my firm's billing rates.

12. Courts across the country have consistently held that BFA's hourly rates are reasonable. *See e.g., In re Estate of St. Lawrence, n.d. Cal. No. C 19-04744 WHA, 2022 WL 816473, at *9 (N.D. Cal. Mar. 17, 2022)* ("This order accepts BFA's claimed rates as generally tracking the going rate for those with the same levels of skill and experience in our geographic region."); Settlement Approval Hearing Transcript, *In re Estate of St. Lawrence, n.d. Cal. No. 3:17-cv-00558 (SRU) (D. Conn.) (June 2, 2022)*, 28-29 (granting fee award requested and accepting BFA's rates as reasonable).

II. EXPENSES

13. BFA is seeking an award of \$226,314 in expenses incurred by all Plaintiffs' Counsel in the prosecution of the Action. In incurring these expenses, Plaintiffs' Counsel was motivated to proceed efficiently, as they might not recover any of these expenses if the litigation was unsuccessful, and in all events any recovery would only occur after a favorable resolution, which could (and did) take an extended period of time.

14. The expenses and charges incurred by BFA are summarized below in Table 2:²

² WTO separately incurred \$227 in computer research expenses. (*See* Ex. G ¶11.)

TABLE 2

CATEGORY	AMOUNT	
Computer Research		\$1,876
Expert Fees		\$87,078
Global Economics Group, LLC	\$48,212	
Hemming Morse, LLP	\$33,916	
IMS Consulting and Expert Services LLC	\$4,950	
Litigation Support Vendor Fees		\$30,926
Outside Counsel		\$91,899
Mediation Fees		\$9,475
Postage and Overnight Mail		\$24
Service and Filing Fees		\$1,127
Accommodations		\$1,076
Meals		\$150
Local Transportation		\$155
Out-of-Town Transportation		\$1,889
Miscellaneous		\$412
TOTAL		\$226,

15. The information provided in Table 2 is based on information maintained contemporaneously and in the ordinary course by BFA, including receipts, invoices, expense vouchers, check records, and similar documents. As the lead partner supervising Plaintiffs' Counsel's work in the Action, I supervised and participated in the review of this supporting documentation to confirm the accuracy of the expenses incurred, as well as the reasonableness of and necessity for those expenses.

16. The following provides additional information regarding the expenses set forth in Table 2:

a. Computer Research: \$1,876. This category includes vendors such as PACER and Thomson Reuters. These resources were used to obtain access to legal research, factual databases, and for cite-checking of briefs. This expense represents the expense incurred by BFA for use of these services in connection with the Action. The charges for these vendors

vary depending upon the type of services requested. For example, BFA has flat-rate contracts with some of these providers for use of their services. When BFA utilizes online services provided by a vendor with a flat-rate contract, access to the service is by a billing code entered for the specific case being litigated. At the end of each billing period in which such service is used, BFA's costs for such services are allocated to specific cases based on the percentage of use in connection with that specific case in the billing period.

b. Expert Fees: \$87,078. This category includes the fees incurred for the following services:

i. Global Economics Group, LLC: \$48,212. Global Economics Group, LLC provided consulting advice concerning damages.

ii. Hemming Morse, LLP: \$33,916. Hemming Morse LLP provided consulting advice regarding forensic accounting issues in connection with the Amended Complaint.

iii. IMS Consulting and Expert Services LLC: \$4,950. IMS Consulting and Expert Services LLC provided consulting advice regarding technical mining issues in connection with the Amended Complaint.

c. Litigation Support Vendor Fees: \$30,926. This category includes vendors who provided investigative services concerning former Gatos employees in connection with the Amended Complaint.

d. Outside Counsel: \$91,899. This category includes counsel retained to represent a former Gatos employee who provided information concerning the allegations in the Amended Complaint.

e. Mediation Fees: \$9,475. Plaintiffs' Counsel incurred fees for the services of JAMS and Robert A. Meyer in connection with the mediation of the Action.

f. Postage and Overnight Mail: \$24. This category includes postage and outside vendor fees for messenger services and overnight delivery.

g. Service and Filing Fees: \$1,127. This category includes Court filing fees.

h. Accommodations: \$1,076. This category includes case-related hotel expenses incurred to attend the mediation session in Los Angeles, California on June 13, 2023.

i. Meals: \$150. This category includes meals during travel for the June 13, 2023 mediation session.

j. Local Transportation: \$155. This category includes expenses incurred for car service when traveling for the June 13, 2023 mediation session.

k. Out-of-Town Transportation: \$1,889. This category includes travel expenses incurred to attend the mediation session in Los Angeles, California on June 13, 2023.

These expenses are limited to coach rates, in accordance with BFA firm policy.

l. Miscellaneous: \$412. This expense is a registration fee to attend a virtual mining industry conference at which Gatos personnel presented.

Dated: April 26, 2024

e nt

Joseph A. Fonti

EXHIBIT 1

n at S er n ,
No. 1:22-cv-00453-PAB-KAS

BFA FIRM RESUME



FIRM RESUME



OVERVIEW

Bleichmar Fonti & Auld LLP (“BFA” or the “Firm”) is a leading class action law firm founded in 2014 and based in New York City with additional offices in Oakland, California; Wilmington, Delaware; Toronto, Ontario; and Westchester, New York. The Firm focuses on securities fraud class actions and other investment and consumer-related matters on behalf of a wide range of domestic and international clients, including some of the largest institutional investors and asset managers in the world.

Since 2014, BFA has recovered nearly \$2 billion for investors. This track record reflects the long and extensive experience of the Firm’s partners in the last two decades prosecuting securities class actions. Indeed, BFA has repeatedly been in the top 10 and 15 in total monetary recoveries in securities class actions. In 2022, for example, BFA’s \$420 million settlement with Teva Pharmaceutical Industries, Ltd. was number two in a list of the Top U.S. Shareholder Class Actions of 2022 as reported by ISS Insights, and, with BFA’s \$129 settlement with Granite Construction, Inc., BFA was the only law firm to place twice on ISS’ top 10 list for 2022 as sole lead counsel. These results also placed BFA as a “Top 5” Plaintiff Law Firm based on 2022 securities settlements achieved, as reported by ISS.

BFA’s founding partners have worked together for nearly two decades, recovering billions of dollars for investors. In the last ten years, BFA’s partners have represented lead plaintiffs in more than a dozen securities class actions. Our partners are supported by a team recruited for their excellence and dedication to our practice, as they carefully built a talented team who have collaborated for years, ensuring a wealth of experience to draw on for our clients.

Our attorneys are nationally recognized as leading litigators in the field of securities litigation, and our achievements have been profiled in a variety of national publications, including *The Wall Street Journal*, *The New York Times*, *Law 360*, the *National Law Journal’s* Plaintiffs’ Hot List, *Lawdragon*, and *The Legal 500*. We are also frequently asked to comment on breaking developments in financial fraud, securities, and other investment-related issues.



SECURITIES LITIGATION HIGHLIGHTS

BFA partners have represented lead plaintiffs in dozens of securities class actions, as well as investors in direct actions, including the cases featured below.

Ontario Teachers' Pension Plan Board, et al. v. Teva Pharmaceutical Industries Ltd. et al.

District of Connecticut, No. 17-cv-00558

Clients: Ontario Teachers' Pension Plan Board and Anchorage Police and Fire Retirement System

Attorneys: Joseph A. Fonti, Javier Bleichmar, Evan A. Kubota, Benjamin F. Burry, Sara Pildis Simnowitz, Thayne Stoddard

Total Settlement:
\$420 Million

Background: Plaintiffs alleged that the company and its senior management made materially false and misleading statements that concealed that Teva had engaged in a multi-year scheme to exponentially increase generic drug prices across its portfolio, in some instances by more than 1000%. Often, these increases were in lock-step with so-called competitors.

BFA's Role: BFA was sole Lead Counsel for the Class and Court-appointed Lead Plaintiff Ontario Teachers' and named plaintiff Anchorage Police and Fire Retirement System.

Status: On June 2, 2022, BFA secured final approval of the \$420 million settlement after five years of hard-fought litigation, including the Court's certification of the class and the Second Circuit's denial of defendants' attempt to appeal class certification, completing intensive fact and expert discovery, and preparing a summary judgment motion. This represents the second largest class settlement in the history of the District of Connecticut (where the case was pending), the fourth-largest within the Second Circuit (excluding cases arising from restatements or the 2008-09 financial crisis), and among the five largest securities settlements against a pharmaceutical manufacturer. No objections were filed. BFA's effort required over 77,000 hours of work, investing nearly \$10 million in litigation and expert expenses, and navigating both Teva's financial distress and competing civil and criminal actions arising from the same alleged pricing conduct (including Teva USA's 2020 indictment by the U.S. Department of Justice). The resulting \$420 million settlement was the first meaningful recovery related to this conduct.

In approving the settlement, Judge Underhill described Teva as "the most complex securities case I've ever had" and a "remarkably complex" case that "required analysis of a very broad portfolio of drugs." Judge Underhill praised BFA's work,



stating, “The quality of the representation was excellent in the face of very quality defense . . . This was not a case that every law firm could handle, and I think it was done exceptionally well.”

The Police Retirement System of St. Louis v. Granite Construction Incorporated, et al.

Northern District of California, No. 19-cv-04744

Client: The Police Retirement System of St. Louis

Attorneys: George N. Bauer, Javier Bleichmar, Benjamin F. Burry, Evan A. Kubota, Ross Shikowitz, Sara Pildis Simnowitz, Thayne Stoddard

Total Settlement:
\$129 Million

Background: Plaintiffs alleged that Granite and its senior management fraudulently misrepresented the impact of several of the company’s largest joint venture construction projects on Granite’s business. Specifically, plaintiffs asserted that Granite and its senior management understated the significant cost overruns and schedule delays the Company was experiencing as well as their impact on Granite’s financial statements.

BFA’s Role: BFA was sole Lead Counsel for Court-appointed Lead Plaintiff the Police Retirement System of St. Louis.

Status: The Court appointed the Police Retirement System of St. Louis on November 26, 2019 and approved its choice of BFA as Lead Counsel on January 16, 2020. BFA filed an amended complaint on February 20, 2020. In May 2020, Judge Alsup denied defendants’ motion to dismiss. In January 2021, Judge Alsup certified the class, naming the Police Retirement System of St. Louis as class representative and BFA as class counsel. After beginning discovery and taking a number of depositions, the parties reached a \$129 million settlement.

On March 17, 2022, Judge Alsup granted final approval of the settlement. In approving the settlement, Judge Alsup noted that the “\$129 million settlement flowed from the hard work of class counsel, the discovery they took, the investigations they did, and their victories in court.” He further observed that “the \$129 million settlement is almost entirely the result of the hard work of class counsel,” that “[c]lass counsel investigated this case in great depth,” and that class counsel’s efforts “plausibly led to a restatement” whereby Granite admitted that its financial statements could no longer be relied upon.

At the time, the settlement was the third largest approved in the Northern District of California in the last decade. The settlement promises to compensate investors for 20-30% of their estimated damages, which exceeds by nearly 400% the average rate of recovery in cases alleging claims under Section 10(b) of the Securities Exchange Act of 1934.



In re Citigroup Securities Litigation

Southern District of New York, No. 20-CV-9132

Client: Public Sector Pension Investment Board ("PSP")

Attorneys: Javier Bleichmar, Joseph A. Fonti, Benjamin F. Burry, Erin H. Woods, Thayne Stoddard

Case Status:
Pending

Background: Plaintiffs allege that Citigroup and its senior management misrepresented and concealed that the company's internal controls and risk management systems suffered from serious and longstanding deficiencies that exposed the Company to massive regulatory penalties that will cost significantly more than \$1 billion to remediate.

BFA's Role: BFA is sole Lead Counsel for Court-appointed Lead Plaintiff PSP.

Status: The Court appointed PSP as Lead Plaintiff and approved its choice of BFA as Lead Counsel on February 4, 2021. BFA filed an Amended Complaint on April 20, 2021. The Court granted defendants' motion to dismiss on March 24, 2023. BFA filed a motion to amend the complaint and a proposed Amended Class Action Complaint on May 24, 2023.

MTA v. Allianz Global Investors U.S., L.L.C.

Southern District of New York, No. 20-CV-7842

Client: Metropolitan Transportation Authority

Attorneys: Javier Bleichmar, George Bauer

Settled

Background: Since 2008, the Metropolitan Transportation Authority ("MTA") invested nearly \$200 million in Allianz Global Investor's ("AllianzGI") Structured Alpha funds. Due to AllianzGI's negligent and imprudent trading strategies and its failure to implement adequate risk management procedures, despite its commitment to do so, the MTA lost over 90% of its investment. AllianzGI's failure cost the MTA and similar institutional investors hundreds of millions of dollars.

BFA's Role: BFA represented the MTA in their suit against AllianzGI.

Status: BFA filed a complaint against AllianzGI on behalf of the MTA in September 2020. On September 30, 2021, the Court denied defendants' motion to dismiss. The parties reached a confidential settlement on May 17, 2022.



Lozada v. TaskUs, Inc.

Southern District of New York, No. 22-CV-01479

Client: Oklahoma Firefighters Pension and Retirement System and Individual Investors

Attorneys: Joseph A. Fonti, Javier Bleichmar, Nancy A. Kulesa, Evan Kubota, Thayne Stoddard, Alessandra Slayton

Case Status:
Pending

Background: Plaintiffs allege that from June 11, 2021 to January 19, 2022, and in the offering documents for TaskUs’s June 2021 IPO and October 2021 secondary public offering, defendants made false and misleading statements touting TaskUs’s low employee attrition rate and its industry-leading Glassdoor rating. These statements were false and misleading because, in truth, TaskUs suffered from high employee attrition and its Glassdoor rating was the product of reviews that TaskUs required new hires to submit during training, before they experienced the disappointing reality of working at TaskUs. Plaintiffs allege violations of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

BFA’s Role: BFA is Lead Counsel representing Court-appointed Lead Plaintiff Humberto Lozada, Named Plaintiff Oklahoma Firefighters Pension and Retirement System, and the putative class.

Status: On January 5, 2024, the Court granted in part and denied in part defendants’ motion to dismiss the amended complaint, sustaining claims under Sections 11 and 15 of the Securities Act based on Lead Plaintiff’s allegations that: (i) statements that TaskUs experienced “low attrition” were false and misleading because TaskUs did not in fact have “low attrition”; and (ii) statements touting TaskUs’s Glassdoor rating were misleading in suggesting the rating was the product of a uniquely strong workplace culture rather than the result of a policy requiring new hires to submit Glassdoor reviews. The Court also sustained claims under Sections 10 and 20 of the Exchange Act arising from the statements regarding low attrition. The parties are moving forward with discovery.

Ciarciello v. Bioventus Inc.

Middle District of North Carolina, No. 23-CV-32

Client: Wayne County Employees’ Retirement System

Attorneys: Joseph A. Fonti, Javier Bleichmar, Evan A. Kubota, Nancy A. Kulesa, George Bauer, Benjamin Burry, Thayne Stoddard

Case Status:
Pending

Background: Plaintiff alleges that in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, from February 11, 2021 to March 30, 2023,



defendants misrepresented and concealed: (1) deficiencies in Bioventus’s internal controls over financial reporting and disclosure controls and procedures; (2) that Bioventus improperly accounted for rebates, in violation of Generally Accepted Accounting Principles, leading to materially inflated financial statements; and (3) that Bioventus had successfully offset the impact of a Medicare pricing shift on its key products.

BFA’s Role: BFA is sole Lead Counsel representing Court-appointed Lead Plaintiff Wayne County Employees’ Retirement System and the putative class.

Status: The Court appointed BFA as Lead Counsel to represent Lead Plaintiff Wayne County Employees’ Retirement System on April 12, 2023. BFA filed an amended complaint on June 12, 2023, which defendants moved to dismiss on July 17, 2023. In response, BFA filed a second amended complaint on July 31, 2023. On November 6, 2023, the Court denied defendants’ motion to dismiss the Exchange Act claims. The case is proceeding in discovery "

Colwell v. Exicure Inc.

Northern District of Illinois, No. 21-CV-6637
Client: Individual Investors
Attorneys: Joseph A. Fonti, Evan A. Kubota

Case Status:
Pending

Background: The amended complaint alleges that from January 7, 2021 to December 10, 2021, defendants misrepresented the results of Exicure’s XCUR-FXN preclinical program for the treatment of Friedreich’s ataxia (“FA”) in public presentations and SEC filings, concealing serious improprieties committed by a senior researcher in the preclinical program. The initial complaint alleges violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934.

BFA’s Role: BFA was appointed as Lead Counsel for the putative class on March 20, 2023.

Status: The Court appointed BFA client James Mathew as Lead Plaintiff on March 20, 2023. BFA filed a second amended complaint on May 26, 2023.



Peters v. Twist Bioscience Corp.

Northern District of California, No. 22-cv-08168
Client: Policemen’s Annuity and Benefit Fund of Chicago
Attorneys: Joseph A. Fonti, Nancy A. Kulesa, George Bauer, Benjamin Burry, Joseph Baier, Alessandra Slayton

Case Status:
Pending

Background: Plaintiffs allege that from December 13, 2019 through November 14, 2022, Twist and its senior management misrepresented that the company possessed innovative proprietary technology to produce synthetic DNA at a higher quality and lower cost than competitors, positioning Twist for significant future growth. Plaintiffs further allege that defendants engaged in accounting improprieties to conceal the scheme.

BFA’s Role: The Court appointed BFA as Lead Counsel to represent Lead Plaintiff Policemen’s Annuity and Benefit Fund of Chicago on July 28, 2023.

Status: BFA filed an amended complaint on October 11, 2023. defendants filed a motion to dismiss on December 6, 2023 and plaintiffs filed their opposition on January 26, 2024.

In re Talis Biomedical Securities Litigation.,

Northern District of California, No. 3:22-cv-00105
Client: Individual Investors
Attorneys: Joseph A. Fonti, Evan Kubota

Case Status:
Pending

Background: Plaintiffs allege that the company, its senior officers and directors, as well as the underwriters for Talis’s initial public offering (“IPO”) violated Sections 11 and 15 of the Securities Act of 1933 by misrepresenting the effectiveness, regulatory status, and ability to manufacture the company’s “Talis One” COVID-19 test in the offering documents for the IPO.

BFA’s Role: BFA was appointed co-Lead Counsel for the putative class on June 3, 2022.

Status: BFA filed a second amended class action complaint on January 13, 2023. On April 28, 2023, the Court denied defendants’ motion to dismiss. Plaintiffs’ motion for class certification was granted on February 9, 2024. Discovery is ongoing.



In re MF Global Holdings Ltd. Securities Litigation

Southern District of New York, No. 11-cv-07866

Client: Alberta Investment Management Corp.
("AIMCo")

Lead Attorneys: Javier Bleichmar, Dominic Auld

Total Settlements:
\$234.3 Million

Background: This litigation arose from MF Global's dramatic bankruptcy in October 2011. Plaintiffs alleged that defendants misrepresented the company's risk controls, liquidity position, and exposure to European sovereign debt, and failed to properly account for its deferred tax assets.

BFA's Role: BFA represented Court-appointed Co-Lead Plaintiff AIMCo. Partners Javier Bleichmar and Dominic Auld represented AIMCo in this case since its inception in November 2011, and served as Court-appointed Co-Lead Counsel for the putative class since January 2012. When BFA launched in August 2014, the Court approved AIMCo's selection of BFA to serve as Co-Lead Counsel for the putative class, continuing the core litigation team's representation.

Status: Lead Counsel achieved five partial settlements valued at a total of just over \$234 million on behalf of investors: (1) a \$74 million settlement with Goldman Sachs and certain other underwriters of the company's securities; (2) a \$64.5 million settlement with former officers and directors, including MF Global's former CEO Jon Corzine; (3) a \$65 million settlement with auditor PricewaterhouseCoopers; (4) a \$29.825 million settlement with Jefferies and other underwriters of the final bond offering issued during the Class Period; and (5) a separate \$932,828 settlement with another underwriter defendant associated with that last offering. These settlements represent a recovery of as much as 35% of the estimated recoverable damages available at trial - an excellent result, particularly in light of the issuer's bankruptcy.

These settlements were achieved after years of hard-fought litigation. Following the Court's decision sustaining the Complaint and denying defendants' six motions to dismiss in their entirety, Co-Lead Counsel reviewed millions of documents produced by defendants and third-parties, and conducted more than 50 depositions of former employees of MF Global and other key witnesses, including four days of testimony from former CEO Jon Corzine. The Court granted Plaintiffs' motion for class certification on October 14, 2015, which assisted in achieving the settlements.



In re Genworth Financial Inc. Securities Litigation

Eastern District of Virginia, No. 14-cv-00682

Client: Alberta Investment Management Corp.
("AIMCo")

Lead Attorney: Joseph A. Fonti

Total Settlement:
\$219 Million

Background: Plaintiffs alleged that defendants misrepresented the profitability of the company's core business and reported false financial results by grossly understating long-term care insurance reserves. When Genworth announced a \$531 million charge to its reserves, the company's stock price fell more than 55% - wiping out billions in market capitalization - and credit rating agencies downgraded the company and its corresponding debt to "junk" status.

BFA's Role: BFA represented Court-appointed Co-Lead Plaintiff AIMCo. In November 2014, the Court approved AIMCo's selection of BFA to serve as Co-Lead Counsel for the putative class.

Notably, BFA secured one of the most thoroughly reasoned, investor-oriented decisions after the then-recent decision in *Omnicare v. Laborers District Council Construction Industry Pension Fund*, 135 S. Ct. 1318 (2015). The District Court ruled that Lead Plaintiffs had sufficiently pled that defendants' statements were intended to mislead investors and to provide false assurances regarding the company's reserves. The District Court also largely sustained allegations that defendants falsely certified that the company's internal controls were adequate.

Status: On March 10, 2016, Genworth announced a proposed settlement of \$219 million, the largest securities class action recovery achieved in the Eastern District of Virginia, and as much as 44% of estimated recoverable damages available at trial. BFA and AIMCo sought and achieved a significant contribution from the company beyond available insurance; despite significant liquidity issues, the company paid \$69 million, and the remaining \$150 million was funded by insurance.

The settlement was reached after 15 months of intense and complex litigation. The Eastern District of Virginia is known as the "rocket docket" for its rapid disposition of cases and strict adherence to schedule deadlines. In December 2014, Lead Plaintiffs filed a consolidated complaint and, in February 2015, defendants filed a motion to dismiss. Partner Joseph A. Fonti successfully argued against the motion on April 28, 2015, and the securities fraud claims were sustained on May 1, 2015. Lead Plaintiffs filed their motion for class certification on December 3, 2015; fact discovery closed on January 15, 2016; and expert discovery closed on February 11, 2016. In effect, BFA conducted two to four years of litigation in just 15 months. This effort included more than 20 depositions, extensive trial preparation, and full briefing on motions for class certification and summary judgment. At the time of



settlement, BFA attorneys were preparing for trial, which was scheduled to begin on May 9, 2016.

In re Weatherford International Securities Litigation

Southern District of New York, No. 12-cv-02121

Client: Anchorage Police and Fire Retirement System

Lead Attorney: Javier Bleichmar

Total Settlement:
\$120 Million

Background: Plaintiffs alleged that Weatherford, one of the world’s largest oil and gas servicing companies, issued false financial statements that misled investors about its tax structure and internal controls. The company allegedly overstated its earnings by more than \$900 million and was forced to issue three restatements due to its failure to comply with Generally Accepted Accounting Principles.

BFA’s Role: BFA represented Court-appointed Co-Lead Plaintiff Anchorage Police and Fire Retirement System, and BFA partner Javier Bleichmar represented Anchorage continuously since the case was filed in March 2012.

Status: In June 2015, the company agreed to settle all claims for \$120 million of out-of-pocket cash, with no available insurance, or as much as 30% of recoverable damages available at trial. Achieving this settlement required more than three years of intense litigation, including defeating defendants’ motion to dismiss in its entirety; obtaining class certification; completing fact discovery, after more than 20 depositions and the review of more than eight million pages of documents; filing four expert reports; and preparing for expert discovery and summary judgment.

In re Computer Sciences Corp. Securities Litigation

Eastern District of Virginia, No. 11-cv-00610

Client: Ontario Teachers’ Pension Plan Board

Lead Attorney: Joseph A. Fonti

Total Settlement:
\$97.5 Million

Background: Plaintiffs alleged that the company and two of its executive officers misrepresented (i) a multi-billion-dollar contract with the United Kingdom’s National Health Service, and (ii) that the company’s internal controls were adequate.

BFA Role: BFA partners Javier Bleichmar, Joseph A. Fonti, and Dominic Auld represented Court-appointed Lead Plaintiff Ontario Teachers’ at all stages of this case. Upon the founding of the Firm, the Court approved Ontario Teachers’ Pension Plan Board’s selection of BFA as counsel, continuing the team’s representation.

Status: On September 2013, the Court granted final approval to the \$97.5 million settlement. At that time, the settlement was the second largest all cash recovery



achieved in the Eastern District of Virginia, and represented as much as 38% of recoverable damages at trial.

In re Celestica Inc. Securities Litigation

Southern District of New York, No. 07-cv-00312

Client: New Orleans Employees' Retirement System

Lead Attorney: Joseph A. Fonti

Total Settlement:
\$30 Million

Background: Plaintiffs alleged false and misleading statements relating to a significant corporate restructuring plan, earnings, profitability, and financial outlook. When Celestica ultimately disclosed the truth, its stock price dropped 50%, reducing market capitalization by \$1.3 billion.

BFA's Role: BFA partners Joseph A. Fonti and Erin Woods represented Lead Plaintiffs in this litigation. Notably, Joseph was successful in arguing before the Court of Appeals for the Second Circuit, securing an investor-oriented interpretation of the pleading standard for scienter. Joseph also successfully argued in favor of plaintiffs' class certification and summary judgment motions before the District Court, securing the first lower court decision after *Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S. Ct. 2398 (2014) in favor of investors on the issue of class-wide reliance.

Status: In April 2015, plaintiffs filed a motion for preliminary approval of a proposed \$30 million settlement resolving all claims against the company and officer defendants. The final approval hearing was held on July 28, 2015 and, later that day, the Court approved the \$30 million settlement.

* * *

BFA attorneys have also played key roles in some of the most significant investor protection litigation in recent history, helping shareholders recover significant losses caused by financial misconduct in various industries across the marketplace. Select cases include:

In re Broadcom Corp. Class Action Litigation, No. 06-cv-5036 (C.D. Cal.).

This class action against Broadcom was based on allegations that the company inflated its stock price by intentionally backdating its stock option grants for over five years. Ultimately, the company was forced to issue a \$2.2 billion restatement of its financial statements for the period spanning from 1998 through 2005, which became the largest restatement ever due to options backdating.

The company acknowledged the "substantial evidence" of backdating, and lead plaintiffs secured a \$173.5 million settlement, which, at the time, was the second



largest cash settlement ever involving a company accused of options backdating. This was also the only such case in which claims against the auditors were sustained.

In re HealthSouth Corp. Securities Litigation, No. 03-cv-1501-S (N.D. Ala.).

This case involved the largest securities fraud ever arising out of the healthcare industry, and ultimately resulted in a total settlement amount of \$804.5 million for the class. The class action involved claims against HealthSouth for falsifying its revenues and conducting a series of acquisition transactions in order to effectuate a massive fraud against the Medicare system.

False statements by the company and its officers led to the inflation of HealthSouth's stock price, while at the same time company executives were amassing significant personal wealth by selling their own shares of HealthSouth stock.

Significantly, the litigation also resulted in the recovery of \$109 million from HealthSouth's outside auditor Ernst & Young LLP, one of the largest recoveries to date against an auditing firm.

In re Schering-Plough Corp. / ENHANCE Securities Litigation, No. 08-397 (D.N.J.).

Lead Plaintiffs brought litigation in the District of New Jersey against Schering-Plough Corporation and Merck/Schering-Plough Pharmaceuticals, and certain company officers, in *In re Schering-Plough Corp. / ENHANCE Securities Litigation*, alleging that they failed to disclose material information about the prospects of cholesterol-lowering drugs.

After nearly six years of litigation, defendants agreed to pay \$473 million to settle the matter on the eve of trial. This marked the largest securities class action recovery in history obtained from a pharmaceutical company. Together with a related securities class action against Merck, the *ENHANCE* litigation settled for \$688 million.



CORPORATE GOVERNANCE HIGHLIGHTS

The Police and Fire Retirement System of the City of Detroit v. Elon Musk, et al.

Court of Chancery of the State of Delaware, No. 2020-0477

Client: Police and Fire Retirement System of the City of Detroit

Lead Attorneys: Javier Bleichmar, Joseph A. Fonti, George Bauer, Nancy A. Kulesa, Thayne Stoddard

Case Status:
Pending

Background: Plaintiffs allege that from 2017 to 2020, certain current and former members of Tesla’s Board of Directors (the “Director Defendants”) awarded themselves unfair and excessive compensation. This compensation was significantly above the compensation awarded to directors at Tesla’s peer companies. Through these awards, plaintiff alleges that the Director Defendants breached their fiduciary duties and unjustly enriched themselves at Tesla’s expense.

BFA’s Role: BFA is co-Counsel representing Plaintiff Police and Fire Retirement System of the City of Detroit.

Status: BFA filed a complaint on June 17, 2020. On September 17, 2020, the Director Defendants filed an answer to the complaint. Thereafter, the parties engaged in extensive discovery: Plaintiff served numerous written discovery requests on Defendants, served 23 third-party subpoenas, completed 22 fact witness depositions, and the parties exchanged opening and rebuttal expert reports. On July 14, 2023, the parties agreed to settle the action on terms that amount to the largest derivative settlement in the history of the Delaware Court of Chancery.

The settlement contemplates the following considerations:

The Director Defendants will return to Tesla the value of over 3.1 million options, which, by using an agreed-upon valuation methodology, are valued at over \$735 million.

Certain Director Defendants will permanently forego compensation for 2021, 2022, and 2023.

Tesla and its Board of Directors will implement certain governance reforms regarding director compensation effective for the next five years. These reforms include: (i) conducting an annual review and assessment of director compensation with the assistance of an independent compensation consultant; (ii) providing disclosures to Tesla stockholders regarding the



results of the annual review and assessment of director compensation, including any peer group or other comparative data; (iii) submitting proposed director compensation to an approval vote of the majority of Tesla stockholders who are unaffiliated with the Director Defendants and the other members of the current Tesla Board; and (iv) reviewing Tesla's internal controls specific to director compensation and implementing any changes necessary to ensure appropriate administration of director compensation.

The hearing for approval occurred on October 13, 2023. The proposed settlement is subject to Court approval.