

# **EXHIBIT H**

**Declaration of Brian Schall 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 The Schall Law Firm**

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.

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**DECLARATION OF BRIAN SCHALL 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 THE SCHALL LAW FIRM**

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

1. I am the founding partner of The Schall Law Firm, counsel for Plaintiffs in the above-captioned action (the “Action”).<sup>1</sup>

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. SCHALL’S WORK, RATES, AND LODESTAR**

3. Schall is highly experienced in securities class action litigation, having helped recover nearly half a billion dollars for investors since 2017, and is singularly committed to recovering shareholder money from publicly traded companies that commit fraud. Attached hereto as **Exhibit 1** is Schall’s firm resume, which includes biographical information about the attorneys and staff members and information about the firm’s philosophy, organization, and successes.

4. Attached hereto as **Exhibit 2** is a list of Schall attorneys 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.

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<sup>1</sup> 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. My firm actively participated in the prosecution of the claims on behalf of Plaintiffs and the Settlement Class. In particular, my firm performed work at the direction and under the supervision of Court-appointed Lead Counsel, Bleichmar Fonti & Auld LLP. My firm participated in, among other tasks, liaising with Lead Plaintiff Bard Betz and Named Plaintiff Jude Sweidan; assisting with briefing on the motion for appointment of lead plaintiff; consulting with Plaintiffs' Counsel regarding litigation strategy; and attending the mediation in this matter.

6. Table 1 below is a schedule summarizing the amount of time spent by attorneys of my firm from inception of the Action through and including April 19, 2024, the rates applicable to each individual, and the lodestar calculation for those individuals based on current billing rates.

7. Table 1 was prepared from contemporaneous daily time records regularly prepared and maintained by my firm. As the lead partner responsible for supervising Schall'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. Time expended on this application for fees has not been included in this request.

8. My firm's lodestar figures are based upon our current 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.

9. The total number of hours reflected in Table 1 from inception through and including April 19, 2024, is 35.50. The total lodestar reflected in Table 1 for that period is \$30,350.

**TABLE 1**

<b>Timekeeper Name</b>	<b>Position</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Lodestar</b>
Brian Schall	Partner	19.50	\$900	\$17,550
Rina Restaino	Partner	16.00	\$800	\$12,800
<b>TOTALS</b>		<b>35.50</b>		<b>\$30,350</b>

10. Schall’s rates are the usual and customary rates set by Schall for each individual. Different timekeepers within the same employment category 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 Schall or at peer firms. Schall’s rates are comparable to the rates set by peer firms for attorneys and staff of similar skill and experience.

Dated: April 26, 2024

DocuSigned by:  
*Brian Schall*  
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Brian Schall

**EXHIBIT 1**

*Bilinsky et al. v. Gatos Silver, Inc., et al.*  
Civil Action No. 1:22-cv-00453-PAB-KAS

**SCHALL FIRM RESUME**



SCHALL LAW

# *FIRM RESUMÉ*

*The Schall Law Firm  
2049 Century Park East, Suite 2460  
Los Angeles, CA 90067  
Telephone: (310) 301-3335  
Fax: (877) 590-0482*

## ABOUT THE FIRM

Since 2017, the Schall Law Firm (“SLF” or the “Firm”) has recovered nearly half a billion dollars for investors worldwide who have been harmed by securities fraud and corporate malfeasance. The Firm has been and is co-lead or co-counsel on some of the largest securities fraud class action cases in the U.S.

Notably, SLF was co-counsel and played an integral role in *Erickson, et al. v. Snap, Inc., et al.*, No. 17-CV-03679 (C.D. Cal.), securing the second largest securities class action settlement recovery in the U.S. in 2021. In every case in which the Firm is involved, its attorneys actively work to ensure that investors obtain the maximum possible recovery and that all its clients’ questions and concerns are addressed promptly and fully.

## CLASS ACTION EXPERIENCE

SLF’s attorneys have represented both plaintiffs and defendants in class action and complex civil cases in federal and state courts nationwide. That broad experience encompasses securities fraud, common law fraud, employment, and consumer claims across multiple industries.

In addition, the Firm’s attorneys have previously worked for judges in federal court as well as national class action and complex civil litigation firms on cases involving hundreds of millions, if not billions, of dollars in damages. Drawing on that experience, the Firm’s clients receive the gold standard in client development and legal representation. This gold standard encompasses SLF added value in its participation in mediations for all matters that have reached that significant phase. SLF is active in all phases of securities litigation, with special emphases and expertise in the deposition and mediation stages.

## SECURITIES FRAUD EXPERIENCE

SLF has the expertise and experience to zealously litigate securities fraud cases of any size, scope, or level of complexity. The Firm's attorneys have prosecuted securities fraud class actions on behalf of all types of investors and amassed the expertise necessary to navigate every challenge that may be raised in litigating cases under the Securities Act of 1933 and the Securities Exchange Act of 1934.

Currently, SLF is co-lead counsel in:

- *In re The Hain Celestial Group Inc. Securities Litigation*, No. 16-cv-04581 (E.D.N.Y.);
- *Bergman v. Caribou Biosciences, Inc.*, No. 23-cv-0174 (N.D. Cal.);
- *In re SentinelOne, Inc. Securities Litigation*, No. 23-cv-02786-HSG (N.D. Cal.);
- *O'Meara v. Shift4 Payments, Inc. et al*, No. 23-CV-03206 (E.D. Pa.);
- *Frouws, et al. v. Edgio, Inc., et al.*, NO. 23-CV-00691 (D. Ariz);
- *Moreno, et al. v. Marathon Digital Holdings, Inc., et al.* (D. Nev.)
- SLF is also on the executive committee in *Tan v. Goldman Sachs Group Inc et al*, No. 21-CV-08413 (S.D.N.Y).

## RECENT SECURITIES FRAUD RECOVERIES

### **By SLF as Co-Counsel:**

*Erickson, et al. v. Snap, Inc., et al.*, No. 17-CV-03679 (C.D. Cal.) (alleging 1934 Act claims based on Snap's growth statements).

- \$187.5M settlement in 2021

*Klein, et al. v. Altria Group., et al.*, No. 20-cv-00075-DJN (E.D. V.A.) (alleging claims based on Altria and Juul Labs Inc. failure to disclose).

- \$90M settlement in 2022

*St. Clair County Employees' Retirement System, et al. v. Resideo Technologies, Inc., et al.*, No. 19-CV-02863 (D. Minn.) (alleging 1934 Act claims based on Resideo's statements about competing with former parent Honeywell International Inc.)

- \$55M settlement in 2022



*He et al v. Uniti Group Inc et al.*, No. 19-cv-00756 (E.D. Ark.) (alleging 1934 Act claims based on Uniti's concealment of a prohibited sale-leaseback transaction with its parent company relating to a 2015 spinoff).

- \$39M settlement in 2022

*Perdomo v. ADT Inc., et al.*, No. 18-cv-80668 (S.D. Fla.) (alleging 1933 Act claims based on ADT's IPO Registration Statement).

- \$30M settlement in 2020

*Bilinsky v. Gatos Silver, Inc., et al.*, No. 22-CV-00453 (D. Col.) (alleging 1934 Act claims based statements about Gatos' silver mine located in Mexico).

- \$21M settlement in 2023

*Bond v. Clover Health Investments Corp. et al.*, No. 21-cv-00096 (M.D. Tenn.) (alleging 1934 Act claims based statements about Clover's de-SPAC transaction).

- \$20M settlement in 2023 (preliminary approval)

*Turocy, et al. v. El Pollo Loco Holdings, Inc., et al.*, No. 15-CV-01343 (C.D. Cal.) (alleging 1934 Act claims based on El Pollo Loco's sales growth statements).

- \$20M settlement in 2020

*Zwick Partners, LP, et al. v. Quorum Health, et al.*, No. 16-CV-02475 (M.D. Tenn.) (alleging 1934 Act claims based on impairment indicators that existed when Quorum spun off from CHS).

- \$18M settlement in 2020

*In re Douyu*, No. 0651703/2020 (Supreme Court, New York County) (alleging 1934 Act claims based on Douyu's concealment of major shareholder Tencent Holdings funding a competitor at the time of Douyu's U.S. IPO).

- \$15M settlement in 2022

*In re Avon Products, Inc. Securities Litigation*, No. 19-CV-01420 (S.D.N.Y) (alleging 1934 Act claims based on Avon's disclosure of credit terms).

- \$14.5M settlement in 2020

*In re Toronto-Dominion Bank Securities Litigation*, No. 17-CV-01665 (D.N.J.) (alleging 1934 Act claims based on Toronto-Dominion's policies which led its employees to break the law at customers' expense in order to meet sales targets).

- \$13.2M settlement in 2019



*Ortiz v. Canopy Growth Corp. et al.*, No. 19-cv-20543 (D.N.J.) (alleging 1934 Act claims based on Canopy's concealment of an inventory oversupply problem).

- \$13M settlement in 2022

*Abadilla v. Precigen Inc. et al.*, No. 20-cv-06936, (N.D. Cal.) (alleging 1934 Act claims based on statements about the progress or viability about Precigen's methane bioconversion platform program)

- \$13M settlement in 2023 (preliminary approval)

*Sonny St. John v. Cloopen Group Holding Limited et al.*, No. 652617/2021 (N.Y. Sup. Ct., N.Y. Cnty.) (alleging Section 11 claims based on omissions in Cloopen's registration documents).

- \$12M settlement in 2023

*In re CPI Card Group Inc. Securities Litigation*, No. 16-CV-04531 (S.D.N.Y.) (alleging 1933 Act claims based on omissions in CPI's Registration Statement).

- \$11M settlement in 2019

*Lowry et al. v. RTI Surgical Holdings, Inc. et al.*, No. 20 C 01939 (N.D. Ill.) (alleging 1934 Act claims based on alleged manipulative accounting practices)

- \$10.5M settlement in 2021

*Machniewicz v. Uxin Limited., et al.*, No. 19-CV-00822 (E.D.N.Y.) (alleging 1933 Act claims based on Uxin's IPO).

- \$9.5M settlement in 2021

*Lea v. TAL Education Group et al.*, No. 18-cv-05480 (S.D.N.Y.) (alleging 1934 Act claims based on improper \$50 million pretax gain and overstatement of net income by failing to disclose a variable interest entity).

- \$7.5M settlement in 2021

*Zaller v. Fred's Inc. et al.*, No. 19-cv-02415 (W.D. Tenn.) (alleging 1934 Act claims based on increased regulatory risks resulting from the acquisition of The Rite Aid Corporation by Walgreens Boots Alliance, Inc.)

- \$7.25M settlement in 2022



## OUR TEAM



**BRIAN J. SCHALL**  
***Founding Partner***

Brian founded SLF with the vision of a client-centered approach to achieving the maximum recovery possible for all class members. To that end, SLF has helped recover nearly half a billion dollars for investors since 2017, including some of the largest recoveries of all time in securities fraud cases. Committed to his vision, Brian looks forward to continuing to empower investors to take a more active role in the litigation than they traditionally have, thereby shaping the securities class action sector to better represent the interests of clients.

Brian began his legal career at a multi-billion-dollar fund manager where he focused on Dodd-Frank compliance, with a special emphasis on complex derivatives. He then worked at a prominent securities fraud class action firm, and subsequently co-founded Goldberg Law PC where he vigorously fought for shareholder rights in some of the largest class action cases in recent years.

**Education**

- University of the Pacific, McGeorge School of Law, J.D.
- University of California, Riverside, B.A.

**Admissions**

- California
- U.S. District Court: Northern District of California



## **RINA RESTAINO**

### ***Partner***

Rina started with SLF in 2019 and shares Brian's vision of a client-centric approach. She is committed to understanding clients' needs and providing them clear and fulsome counsel from the inception of a class action through final approval of any settlement.

On behalf of the Firm's clients, Rina has participated in over 20 mediations, resulting in millions of dollars recovered for shareholders. She also has extensive experience in all phases of litigation, particularly in securities fraud and employment class actions involving over 1,000 plaintiffs. Her expertise arises from cases involving multifaceted data management and damage analysis.

Rina has made significant contributions to SLF, namely securing the client and ensuring an optimal recovery for the shareholders in the \$90 million settlement in *Klein, et al. v. Altria Group., et al.*

In addition, Rina has worked for Fortune 500 companies in different legal and business capacities. She has handled single plaintiff and class action litigation for employees and employers, including cases alleging wrongful termination, discrimination, wage claims, and unfair labor practices.

### **Education**

- Loyola Law School, Los Angeles, J.D. (2012)
- New York University, B.A. (2009), Dean's List

### **Admissions**

- California
- U.S. District Court: Northern District of California, Central District of California



## DAVID J. SCHWARTZ *Of Counsel*

David focuses on event-driven and special situation litigation using legal strategies to enhance clients' investment returns. Over the last several years, he has helped secure leadership roles on behalf of his clients in some of the largest securities and Delaware class actions in the country, including cases against Lordstown, Nikola, Alta Mesa, and Paypal.

David's extensive experience includes prosecuting, as well as defending against, securities and corporate governance actions for an array of domestic and international clients, including hedge funds, merger arbitrageurs, retail investors, pension funds, mutual funds, and asset management companies. He has played a pivotal role in numerous large securities class action and corporate governance cases in recent years, achieving over \$170 million in settlements in 2022 alone:

- *In re CannTrust, Inc. Securities Litigation* (CA\$129.5M settlement)
- *In re Resideo Securities Litigation* (\$55M settlement, one of the three largest in the Eighth Circuit)
- *Makris, et al. v. Ionis Pharmaceuticals, Inc., et al.* (\$12.5M settlement)

David has also done substantial work in mergers and acquisitions appraisal litigation and direct action/opt-out litigation, including over a dozen appraisals in domestic and foreign jurisdictions. He is currently prosecuting *In re Lordstown Securities Litigation* and several international appraisal actions.

In recognition of David as one of the nation's most accomplished attorneys, Benchmark Litigation named him a "Future Star" and selected him, three years in a row, to its "40 & Under Hot List." In addition, Lawdragon has recognized him as one of the country's "500 Leading Plaintiff Financial Lawyers" and featured him in its Lawyer Limelight series.

### Education

- Fordham University School of Law, J.D.
  - Urban Law Journal
- University of Chicago, B.A., *cum laude* (Economics)

### Admissions

- New York
- U.S. District Court: Southern District of New York



## **BRIAN ENGLAND** *Of Counsel*

Brian began his legal career in the Los Angeles office of Robins, Kaplan, Miller & Ciresi LLP. He then joined the leading international law firm Sullivan & Cromwell LLP as an associate and was later promoted to special counsel. During that time, Brian represented large, publicly-traded companies in high-stakes, complex litigation and regulatory matters.

Brian is admitted to practice before the U.S. Court of Appeals for the Eighth, Ninth and Federal Circuits, the U.S. District Courts for the Central, Eastern, Northern and Southern Districts of California, and the District Courts of Arizona and the District of Columbia.

Brian has in the past worked extensively with Public Counsel's Adoptions Project, finalizing numerous adoptions. He also represented a family in an administrative hearing against Los Angeles County regarding the County's failure to properly pay adoption assistance, resulting in a substantial increase in the monthly payments and significant lump sum payment for past deficiencies. Brian was honored as the Adoptions Project's Advocate of the Year for 2003. He has also participated, on a pro bono basis, in other family law and parental rights issues. Finally, Brian was part of a team that litigated a significant prisoner's rights litigation that resulted in a favorable outcome for deaf prisoners in the federal prison system.

He also represented major investment banks in the Enron Securities class actions and University of California Regents, et al. v. AOL Time Warner Inc., et al, participating in all aspects of the defense of these actions.

### **Education**

- University of California, Los Angeles, J.D. (2000)
- University of Rochester, B.A. (1997)

### **Admissions**

- California
- U.S. Court of Appeals: Eighth Circuit, Ninth Circuit.
- U.S. District Courts: Central Cal., Southern Cal., Eastern Cal., Northern Cal., Arizona, District of Columbia.



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**CHRIS MOONEY**  
***Senior Counsel***

Prior to joining the Schall Law Firm, Chris concentrated on plaintiff representation in complex litigation matters, including securities fraud, commodity manipulation, price-fixing, and exchange-related antitrust claims. Chris has also worked as a financial associate at one of the world's largest banks, where he helped manage an \$8B portfolio of private equity investments and is a licensed C.P.A. (currently unregistered) with experience in the audit and review of S.E.C. registered entities.

Chris earned his J.D. in 2013 from Fordham University School of Law, where he served as a member of the Dispute Resolution Society and interned for the Honorable George B. Daniels (S.D.N.Y.) as well as the S.D.N.Y. U.S. Attorney's Office. He received his B.B.A., cum laude, in accounting and finance from Baruch College.

**Education**

- Fordham University, School of Law, J.D.
- Baruch College, B.B.A.

**Admissions**

- New York
- U.S. District Court, S.D.N.Y.
- U.S. District Court, E.D.N.Y.
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Ninth Circuit

## IVY T. NGO *Of Counsel*

Ivy, an experienced class action attorney focusing on prosecuting securities fraud, is a creative and collaborative problem-solver with a proven track record of recovering hundreds of millions of dollars on behalf of clients. Most recently, along with SLF, she successfully obtained a \$10.5M recovery in *Lowry et al. v. RTI Surgical Holdings, Inc. et al.*, a case arising out of manipulative accounting practices. That recovery represents approximately 30% of plaintiffs' estimated damages, which is over 3x the typical amount recovered in securities fraud class actions of that size.

Before joining SLF, Ivy successfully prosecuted numerous securities fraud class actions resulting in hundreds of millions of dollars in recoveries for injured investors at a national class action firm. Those cases include *In re Cardinal Health, Inc. Sec. Litig.* (\$600M settlement); *Jones v. Pfizer Inc.* (\$400M settlement); *Fort Worth Employees' Retirement Fund v. J.P. Morgan Chase & Co., et al.* (\$388M settlement); *Silverman v. Motorola, Inc.* (\$200M settlement); *In re HealthSouth Corp. Sec. Litig.* (\$109M auditor settlement); *In re MGM Mirage Securities Litigation* (\$75M settlement); *Massachusetts Bricklayers and Masons Trust Funds et al. v. Deutsche Alt-A Securities Inc et al.* (\$32.5M settlement); *City of Ann Arbor Employees' Retirement System et al. v. Citigroup Mortgage Loan Trust Inc. et al.* (\$25M settlement); *In re Genworth Financial, Inc. Sec. Litig.* (\$20M settlement); and *Shankar v. Imperva, Inc.* (\$19M settlement). She was a member of the team that certified classes in the cases against *Motorola, Inc.*, *Pfizer Inc.*, *Genworth Financial, Inc.*, and *J.P. Morgan Chase & Co.*

Recognizing her work in securities fraud and class action litigation, *Super Lawyers Magazine* named Ivy a Rising Star for 2015-2018 and a Super Lawyer for 2019.

### Education

- Rutgers University School of Law, Camden, J.D. (2006)
- University of California, Los Angeles, B.A. (2003) (English, Neuroscience Minor)

### Admissions

- California, District of Columbia
- U.S. Court of Appeals: Ninth Circuit
- U.S. District Courts: Northern District of California, Central District of California, Eastern District of California, Southern District of California, Northern District of Illinois, Colorado, Maryland
- U.S. Patent and Trademark Office

## **ANGUS NI** ***Of Counsel***

Angus is one of a handful of U.S. attorneys practicing complex commercial litigation who is also fluent in Mandarin. He advises individuals and companies in numerous complex disputes, with particular expertise in securities litigation and risk management for listed companies.

Angus was a litigator at the top shareholder rights law firm in the U.S., where he prosecuted numerous securities class actions against U.S. listed corporations on behalf of hedge fund and pension fund investors. These actions ranged across a multitude of industries, were before diverse jurisdictions throughout the U.S., and involved both domestic and international discovery.

Earlier in his career, Angus also practiced as an associate in the litigation department of a major transnational law firm, where he participated in complex arbitrations before the International Chamber of Commerce (ICC) and World Bank Investment Treaty (ICSID) Tribunals, and in large-scale corporate investigations in several jurisdictions.

### **Education**

- University of Chicago, J.D. (Honors)
- University of Toronto, B.A. (High Distinction, College Scholar)

### **Admissions**

- New York; Washington
- U.S. Court of Appeals: Second Circuit, Ninth Circuit.
- U.S. District Courts: Southern District of New York, Eastern District of New York, Western District of Washington, Northern District of Illinois.



## **SHERIN MAHDAVIAN**

### ***Associate***

Sherin, a transactional and litigation attorney with experience in business and regulatory law, focuses her practice at SLF on client services and case development.

While in law school, Sherin worked as a federal agency liaison for Congressman Brad Sherman's office at one of the top lobbying firms in Los Angeles. After graduating, she worked at a mid-sized law firm in Downtown LA, where she specialized in regulatory, business, and environmental law and focused her efforts on transactional work and client relations.

### **Education**

- University of California, Los Angeles – School of Law, J.D. with specialization in business law (2014)
- University of California, Los Angeles, B.S. (2011)

### **Admissions**

- California
- U.S. District Court: Central District of California

## EXHIBIT 2

*Bilinsky et al. v. Gatos Silver, Inc., et al.*  
Civil Action No. 1:22-cv-00453-PAB-KAS

### **SUMMARY OF SCHALL TIMEKEEPER QUALIFICATIONS, EXPERIENCE, AND ROLE IN THE ACTION**

#### **PARTNERS**

**Brian Schall** (19.5 hours): Mr. Schall is a Partner at Schall and graduated from University of the Pacific, McGeorge School of Law in 2011. Mr. Schall was primarily involved in the lead plaintiff motion process, liaising with Plaintiffs, and attending the mediation in this action.

**Rina Restaino** (16 hours): Ms. Restaino is a Partner at Schall and graduated from Loyola Law School in 2012. Ms. Restaino was primarily involved in liaising with Plaintiffs and attending the mediation in this action.