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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ANDREW J. KORNECKI, Individually) and on Behalf of All Others Similarly) Situated,) Plaintiff,) vs.) AIRBUS SE, et al.,) Defendants.) <hr style="width: 40%; margin-left: 0;"/>	No. 2:20-cv-10084-KM-JBC <u>CLASS ACTION</u> LEAD PLAINTIFF’S NOTICE OF NON-OPPOSITION AND REPLY IN FURTHER SUPPORT OF: (1) LEAD PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION; AND (2) LEAD COUNSEL’S APPLICATION FOR AN AWARD OF ATTORNEYS’ FEES AND EXPENSES AND AWARD TO LEAD PLAINTIFF PURSUANT TO 15 U.S.C. §78u- 4(a)(4)
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Lead Plaintiff Operating Engineers Construction Industry and Miscellaneous Pension Fund (“Lead Plaintiff”), by its undersigned attorneys, respectfully submits this reply in further support of its motion for final approval of the Settlement and approval of the proposed Plan of Allocation and Lead Counsel’s application for an award of attorneys’ fees and expenses, including an award to Lead Plaintiff in connection with its representation of the Class.¹

Not a single Class Member has objected to the proposed Settlement and only six requests for exclusion were submitted. The Third Circuit instructs district courts to consider the ““reaction of the class to the settlement.”” *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975). Here, more than 216,700 copies of the Notice and Proof of Claim were mailed to potential Class Members and nominees, and the Summary Notice was published in *The Wall Street Journal* and transmitted over *Business Wire*.² The September 9, 2022 deadline for filing objections and submitting requests for exclusion has now passed. To date, no objections to the proposed Settlement, Plan of

¹ Unless otherwise noted, all capitalized terms used herein have the same meaning as set forth in the Amended Stipulation and Agreement of Settlement, dated June 7, 2022 (the “Stipulation”). ECF 67-1.

² See Supplemental Declaration of Ross D. Murray Regarding Notice Dissemination and Requests for Exclusion Received to Date (“Suppl. Murray Decl.”), ¶¶3-4, filed herewith. See also Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion Received to Date, ¶¶10-11 (“Murray Decl.”) (ECF 72-4).

Allocation, or fee and expense request have been filed, and only six requests for exclusion have been submitted. *See* Suppl. Murray Decl., ¶¶5-6.

The absence of any objections to this motion after an extensive notice program strongly indicates that the Class supports the Settlement and the Plan of Allocation, and weighs in favor of approval. *See In re Cendant Corp. Litig.*, 264 F.3d 201, 235 (3d Cir. 2001) (“[t]he vast disparity between the number of potential class members who received notice of the Settlement and the number of objectors creates a strong presumption that this factor weighs in favor of the Settlement”); *Bell Atl. Corp. v. Bolger*, 2 F.3d 1304, 1313-14 (3d Cir. 1993) (finding that 30 objectors out of numerous shareholders was “an infinitesimal number”).

The absence of any objections also strongly supports the requested award of attorneys’ fees and expenses, along with the requested award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4), which are fully consistent with the Court-approved Notice. *See In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005) (finding that only two objections out of thousands of notified class members supported approval of the requested fees, particularly when the class included “‘sophisticated’ institutional investors that had considerable financial incentive to object had they believed the requested fees were excessive”); *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000) (when assessing fee requests, courts consider “the presence or absence of substantial objections by members of the

class to the settlement terms and/or [the] fees requested by counsel”); *In re Lucent Techs., Inc., Sec. Litig.*, 327 F. Supp. 2d 426, 435 (D.N.J. 2004) (approving fee over nine objections, stating that “the lack of a significant number of objections is strong evidence that the fees request is reasonable”).

Based on the entire record herein, Lead Plaintiff respectfully requests that the Court: (i) grant its motion for final approval of the Settlement and approval of the Plan of Allocation; (ii) award the requested attorneys’ fees of 30% of the Settlement Amount and payment of litigation expenses of \$67,215.79, plus interest on both amounts at the same rate and for the same period as earned by the Settlement Fund; and (iii) award Lead Plaintiff Operating Engineers Construction Industry and Miscellaneous Pension Fund \$2,500 in connection with its representation of the Class pursuant to 15 U.S.C. §78u-4(a)(4).

DATED: September 23, 2022

Respectfully submitted,

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