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UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

BARBARA STROUGO, Individually
and on Behalf of All Others Similarly
Situated,

Plaintiff,

vs.

MALLINCKRODT PUBLIC LIMITED
COMPANY, et al.,

Defendants.

) No. 3:20-cv-10100-RK (TJB)

) CLASS ACTION

) PLAINTIFFS' NOTICE OF NON-
) OPPOSITION AND REPLY IN

) FURTHER SUPPORT OF: (I)

) MOTION FOR FINAL APPROVAL
) OF CLASS ACTION SETTLEMENT

) AND APPROVAL OF PLAN OF

) ALLOCATION; AND (II) MOTION

) FOR AN AWARD OF ATTORNEYS'
) FEES, EXPENSES, AND AWARDS

) TO PLAINTIFFS PURSUANT TO 15
) U.S.C. §78u-4(a)(4)

Motion Return Date: April 15, 2025

Lead Plaintiff Canadian Elevator Industry Pension Trust Fund and named plaintiff City of Sunrise Police Officers' Retirement Plan ("Plaintiffs"), individually and on behalf of the Class, respectfully submit this reply in further support of their motion for final approval of the \$46 million Settlement, approval of the proposed Plan of Allocation, and Lead Counsel's application for an award of attorneys' fees and payment of expenses, including awards to Plaintiffs pursuant to 15 U.S.C. §78u-4(a)(4).¹

I. The Settlement, Plan of Allocation, and Fee and Expense Awards Warrant the Court's Approval

In their opening briefs, Plaintiffs and Lead Counsel provided ample legal support and factual bases to establish that the Settlement, Plan of Allocation ("POA"), and Fee and Expense Application satisfy all relevant factors and warrant final approval. Final Approval Memorandum (ECF 157-1), §§IV; V. A-E; VI; Fee Memorandum (ECF 158-1), §III. Plaintiffs are pleased to report that, after an extensive notice process, the Class has overwhelmingly supported the applications that are before this Court. Each should be approved.

¹ Unless otherwise stated or defined, all capitalized terms used herein have the meanings provided in the Stipulation of Settlement, dated September 18, 2024 (ECF 148-4) (the "Stipulation") or in the Declaration of Michael G. Capeci in Support of: (I) Plaintiffs' Motion for Final Approval of Class Action Settlement and Approval of Plan of Allocation; and (II) Lead Counsel's Motion for an Award of Attorneys' Fees, Expenses, and Awards to Plaintiffs Pursuant to 15 U.S.C. §78u-4(a)(4) (ECF 157-2). Citations are omitted and emphasis is added unless otherwise indicated.

A. The Overwhelmingly Positive Reaction of the Class Supports Final Approval of the Settlement and POA

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) (citation omitted). The question is not merely whether any class members object, as courts recognize that objections are filed in “nearly every class action settlement today.” *In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 2016 WL 5338012, at *21 (N.D. Ohio Sept. 23, 2016). Rather, under this second *Girsh* factor, courts consider whether “the number of objectors, in proportion to the total class, indicates that the reaction of the class to the settlement is favorable.” *In re Schering-Plough Corp. Enhance Sec. Litig.*, 2013 WL 5505744, at *2 (D.N.J. Oct. 1, 2013). The Class’s response to the Court-approved notice program here unquestionably supports approval of the Settlement and POA.

As detailed in the Supplemental Declaration of Ross D. Murray Regarding Continued Notice Dissemination and Requests for Exclusion Received (“Supp. Murray Decl.”), submitted herewith, over 123,450 Postcard Notices and 89 Claim Packages were mailed or emailed to potential Class Members and nominees. In addition, the Summary Notice was transmitted over *Business Wire* and published in *The Wall Street Journal*. See ECF 157-5 at ¶12. The Notice, Proof of Claim, Stipulation, Preliminary Approval Order, and other relevant documents were also

posted to the website dedicated to the Litigation and Settlement. *Id.* at ¶14; Supp. Murray Decl., ¶6.

The March 25, 2025 deadline for objections has now passed, and there have been *zero* objections to the Settlement or POA. Given the size of the Settlement and of the Class, that there were no objections is noteworthy. When the number of objections is this low (zero here), the “vast disparity between the number of potential class members who received notice of the Settlement and the number of objectors creates a strong presumption . . . in favor of the Settlement.” *In re Cendant Corp. Litig.*, 264 F.3d 201, 235 (3d Cir. 2001) (affirming final approval where there were only three objections to the settlement and one to the plan of allocation). *See In re Humanigen, Inc. Sec. Litig.*, 2024 WL 4182634, at *5 (D.N.J. Sept. 13, 2024) (“The absence of any objections by Class Members and the small number of requests for exclusion relative to the apparent size of the Class strongly weigh in favor of approval of the Settlement.”).²

Because all of the factors under Rule 23, *Girsh*, and *Prudential* have been met, including the universal support of the Class, the Settlement and POA should be approved.

² Only one request for exclusion from the Class was received. *See* Supp. Murray Decl., ¶¶7-8.

B. Lead Counsel’s Fees and Expenses and Plaintiffs’ Awards Should Also Be Approved

Lead Counsel’s requested fees and expenses also have the overwhelming support of the Class. *See In re Lucent Techs., Inc., Sec. Litig.*, 327 F. Supp. 2d 426, 435 (D.N.J. 2004) (approving fee over nine objections and stating that “the lack of a significant number of objections is strong evidence that the fees request is reasonable”). For the reasons stated herein and in the Fee Memorandum, these requests should also be approved.

Lead Counsel’s request for attorneys’ fees and expenses, approved by the Plaintiffs, is entitled to a presumption of reasonableness. *See* Fee Memorandum at 8-9. As explained in the Fee Memorandum, the fee request is supported by each of the Third Circuit *Gunter* factors.³ Fee Memorandum at 9-21. Lead Counsel’s representation of Plaintiffs and the Class was wholly contingent and subject to considerable risk; the result achieved was excellent; the result was obtained through hard-fought litigation by skilled and experienced counsel; and the requested fee is within the range of percentage awards in numerous comparable cases cited therein. *See id.* Should the Court determine to conduct one, the requested fee is also reasonable under a lodestar cross-check. *Id.* at 21-24.

³ *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190 (3d Cir. 2000).

In addition, in assessing attorneys' fees, courts consider "the presence or absence of substantial objections by members of the class to the settlement terms and/or fees requested by counsel." *Gunter*, 223 F.3d at 195 n.1. In particular, courts look to whether there are objections by "'sophisticated' institutional investors," which have "considerable financial incentive to object [if] they believed the requested fees were excessive." *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 305 (3d Cir. 2005), as amended (Feb. 25, 2005).

Here, the Class overwhelmingly supports the fee request. Not a single investor (institution or individual) objects to the fee request. Rather, after over 123,450 Postcard Notices were sent out, not a single investor objected to the fee request. This overwhelmingly positive reaction confirms that the fee should be approved. *See id.* (noting lack of objection by institutional investors and stating that two objections out of 300,000 receiving notice was a "'rare phenomenon'").

As discussed in the Fee Memorandum, the fee request is supported by all of the factors applied by Third Circuit courts and should be granted. Fee Memorandum, §§III.A.-III.D.

II. Conclusion

The Settlement reached by Lead Counsel is an excellent one. For the reasons set forth herein and in the previously submitted memoranda and declarations, Plaintiffs and Lead Counsel respectfully request that this Court approve the

Settlement, POA, and Lead Counsel's requested fees and expenses, including awards to Plaintiffs pursuant to 15 U.S.C. §78u-4(a)(4). Proposed Orders are being submitted herewith.

DATED: April 8, 2025

Respectfully submitted,

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