

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:19-cv-00124-WJM-SKC

Consolidated with Civil Action No. 1:19-cv-00758-WJM-SKC

OREGON LABORERS EMPLOYERS PENSION TRUST FUND, Individually and On Behalf
of All Others Similarly Situated,

Plaintiff,

v.

MAXAR TECHNOLOGIES INC.,
HOWARD L. LANCE, and
ANIL WIRASEKARA,

Defendants.

**LEAD PLAINTIFF'S REPLY MEMORANDUM OF LAW IN FURTHER
SUPPORT OF LEAD PLAINTIFF'S MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION,
AND LEAD COUNSEL'S MOTION FOR AN AWARD OF ATTORNEYS'
FEES AND EXPENSES AND AWARD TO LEAD PLAINTIFF PURSUANT
TO 15 U.S.C. §78u-4(a)(4)**

I. INTRODUCTION

Pursuant to the Court’s June 5, 2023 Order preliminarily approving the proposed Settlement (ECF 193) (“Preliminary Approval Order”), Lead Plaintiff Oregon Laborers Employers Pension Trust Fund (“Lead Plaintiff”) respectfully submits this reply in further support of Lead Plaintiff’s Motion for Final Approval of Class Action Settlement and Approval of Plan of Allocation, and Lead Counsel’s Motion for an Award of Attorneys’ Fees and Expenses and Award to Lead Plaintiff Pursuant to 15 U.S.C. §78u-4(a)(4).¹

Following the Preliminary Approval Order, the Court-appointed Claims Administrator widely published notice of the Settlement and mailed 34,075 copies of the Notice of (I) Proposed Settlement and Plan of Allocation; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys’ Fees and Litigation Expenses (“Notice”) and Proof of Claim and Release Form (“Proof of Claim”) (collectively, “Notice Packet”) to potential Class Members as well as to brokers and nominees. In response, *not a single Class Member has objected to the Settlement, the Plan of Allocation, or the requested attorneys’ fees, expenses, or the Lead Plaintiff’s award.* Moreover, only three Class Members have opted out of the Class.

Based on this overwhelmingly positive reaction, and for the reasons set forth in Lead Plaintiff’s opening papers (ECFs 196-201), Lead Plaintiff respectfully requests that the Court approve the Settlement and Plan of Allocation, the award of attorneys’ fees and expenses, and the Lead Plaintiff’s award.

¹ Unless otherwise noted, all capitalized terms used herein are defined in the September 12, 2022 Stipulation of Settlement (the “Stipulation”). ECF 178.

II. THE NOTICE PROGRAM

Pursuant to the Preliminary Approval Order, a total of 34,075 Notice Packets were sent to potential Class Members and nominees. See Supplemental Declaration of Ross D. Murray Regarding Notice Dissemination and Requests for Exclusion Received to Date (ECF 200), ¶4. In addition to the mailed notice, the Summary Notice was published in *The Wall Street Journal* and transmitted over *Business Wire* on July 24, 2023. See Declaration of Ross D. Murray Regarding Notice Dissemination, Publication, and Requests for Exclusion Received to Date (ECF 194), ¶12. The Notice, Proof of Claim, Stipulation, Preliminary Approval Order, and other documents in support of the Settlement were also posted on the Claims Administrator’s website. *Id.*, ¶14. As a result, Class Members have been made fully aware of the terms of the Settlement, the Plan of Allocation, and the request for an award of attorneys’ fees and expenses and Lead Plaintiff’s award.

III. THE POSITIVE REACTION OF THE CLASS

The reaction of the Class has been overwhelmingly positive. In response to the Notice, not a single Class Member has objected to the Settlement, the Plan of Allocation, the requested award of attorneys’ fees and expenses, or the requested award to Lead Plaintiff. See *Jackson v. Ash*, 2015 WL 751835, at *3 n.15 (D. Kan. Feb. 23, 2015) (“Though not controlling, a relatively small number of objectors can be taken as some indication that the class members as a group did not think the settlement was unfair.”) (internal quotation marks omitted); *In re Crocs, Inc. Sec. Litig.*, 2014 WL 4670886, at *5 (D. Colo. Sept. 18, 2014) (lack of objections to attorneys’ fee request “is significant and weighs in favor of the requested award”); *Cox v. Sprint Commc’ns Co. L.P.*, 2012 WL 5512381, at *4 (D. Kan. Nov. 14, 2012) (“The absence of objections or disapproval by class members to Settlement Class Counsel’s fee-and-expense request further supports finding it reasonable.”); *Make a*

Difference Found., Inc. v. Hopkins, 2012 WL 917283, at *3 (D. Colo. Mar. 19, 2012) (finding that only three objections out of 47,000 notices “weighs heavily in favor of approval of the . . . litigation settlement” and requested fee). Particularly given the scope of the notice program here, with more than 34,000 Notice Packets mailed to potential Class Members and nominees, the fact that no Class Member has objected to any aspect of the Settlement strongly supports the final approval of the Settlement and Plan of Allocation and the award of attorneys’ fees and expenses and Lead Plaintiff’s award.

IV. CONCLUSION

For the foregoing reasons, and as set forth in the opening papers, Lead Plaintiff respectfully requests that the Court approve the Settlement and Plan of Allocation and the award of attorneys’ fees and expenses and Lead Plaintiff award. Proposed orders are submitted herewith.

DATED: October 25, 2023

Respectfully submitted,

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Lead Counsel for Lead Plaintiff

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on October 25, 2023, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Ellen Gusikoff Stewart

ELLEN GUSIKOFF STEWART

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Mailing Information for a Case 1:19-cv-00124-WJM-SKC Oregon Laborers Employers Pension Trust Fund et al v. Maxar Technologies Inc. et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Phillup G Newhope

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Logan Durant

,

Michael W Slaunwhite

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