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Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Chapter 11
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 19-22312 (RDD)
)	
Debtors.)	(Jointly Administered)
)	
Windstream Holdings, Inc. and Earthlink Holdings Corp.,)	
)	
Plaintiffs.)	Adversary Proceeding No. 19-08247 (RDD)
)	
v.)	
)	
Charlos Yadegarian, Robert Murray, Cindy Graham, and Larry Graham)	
)	
Defendants.)	
)	

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <http://www.kcellc.net/windstream>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.



**STIPULATION AND AGREED ORDER REGARDING COMPLAINT
TO EXTEND THE AUTOMATIC STAY OR, IN THE ALTERNATIVE, TO
OBTAIN AN INJUNCTION OR OTHER EQUITABLE RELIEF [DOCKET NO. 1]**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”), Cindy Graham, and Larry Graham (together, the “Plaintiffs,” and collectively with the Debtors, the “Parties”), through their undersigned counsel, hereby enter into this stipulation and agreed order (this “Stipulation and Order”).

WHEREAS, the Debtor Defendants² and several of their respective directors and officers are named defendants in two shareholder derivative suits pending in the Eastern District of Arkansas. These cases are styled as: (a) *Cindy Graham, Derivatively on Behalf of Nominal Defendant Windstream Holdings, Inc., vs. Alan L. Wells, Tony Thomas, Samuel E. Beall, III, Jeannie H. Diefenderfer, Jeffrey T. Hinson, William G. LaPerch, Julia A. Shimer, Michael G. Stoltz, Walter L. Turek, Carol B. Armitage, Larry Laque, Marc F. Stoll, Bob Gunderman, and Windstream Holdings, Inc.*; and (b) *Larry Graham, Derivatively on Behalf of Windstream Holdings, Inc., vs. Anthony W. Thomas, Kristi Moody, Robert E. Gunderman, Alan L. Wells, Jeffrey T. Hinson, Samuel E. Beall, III, William G. LaPerch, Michael G. Stoltz, Jeannie Diefenderfer, Julie A. Shimer, Walter L. Turek, Carol B. Armitage, Larry Laque, Marc F. Stoll, and Windstream Holdings, Inc.* (together, the “AR Derivative Litigation”).

WHEREAS, on February 25, 2019 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On March 12, 2019, the Office of the United States

² Capitalized terms used but not defined herein have the meanings ascribed to them in the *Complaint to Extend the Automatic Stay or, in the Alternative, to Obtain an Injunction or Other Equitable Relief* [Case No. 19-08247 (RDD); Docket No. 1] (the “Complaint”).

Trustee for the Southern District of New York appointed an official committee of unsecured creditors in these chapter 11 cases [Case No. 19-22312 (RDD); Docket No. 136].

WHEREAS, on the Petition Date, the automatic stay arising under section 362 of the Bankruptcy Code (the “Stay”) came into effect and stayed the AR Derivative Litigation with respect to the Debtor Defendants.

WHEREAS, on April 5, 2019, the Debtors filed the Complaint to extend the Stay to the Non-Debtor Defendants in the AR Derivative Litigation (as well as in the AR Class Action Matter and the GA Class Acton Matter).

WHEREAS, the Non-Debtor Defendants in the AR Derivative Litigation (the “AR Derivative Litigation Non-Debtor Defendants”) are:

- Carol B. Armitage (former Windstream Holdings director);
- Samuel E. Beall III (current Windstream Holdings director);
- Jeannie H. Diefenderfer (current Windstream Holdings director);
- Joseph F. Eazor (former Earthlink director and Earthlink Chief Executive Officer);
- Jeffrey T. Hinson (current Windstream Holdings director);
- William G. LaPerch (current Windstream Holdings director);
- Larry Laque (former Windstream Holdings director);
- Julie A. Shimer (former Earthlink director and current Windstream Holdings director);
- Marc F. Stoll (former Earthlink director and former Windstream Holdings director);
- Michael G. Stoltz (current Windstream Holdings director);
- Tony Thomas (current Windstream Holdings director and Chief Executive Officer);
- Walter L. Turek (former Earthlink director and current Windstream Holdings director);
- Kristi Moody (current Windstream Holdings General Counsel); and
- Alan L. Wells (current Windstream Holdings director)

WHEREAS, Plaintiff has accepted service of the Complaint, and the Parties have agreed to a resolution of the Complaint, solely with respect to the AR Derivative Litigation, as set forth in this Stipulation and Order, and the Parties hereby seek the Court’s approval and entry of this

Stipulation and Order to resolve the Complaint, as it concerns the AR Derivative Litigation, as set forth below.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Parties, which agreement, when “so-ordered” by the Court, shall constitute an order of the Court, as follows:

1. The Stay shall stay the AR Derivative Litigation with respect to the AR Derivative Litigation Non-Debtor Defendants.

2. The Plaintiffs shall file this Stipulation and Order in the court in which the AR Derivative Litigation is pending within ten business days after the Court’s approval and entry of this Stipulation and Order.

3. The Parties each acknowledge and agree that this Stipulation and Order does not constitute an admission or concession of liability by any Party.

4. This Stipulation and Order shall be binding on and inure to the benefit of the Parties hereto and their respective successors and assigns.

5. This Stipulation and Order shall not be modified, altered, amended, or vacated without written consent of all Parties hereto. Any such modification, alteration, amendment, or vacation, in whole or in part, shall be subject to the approval of the Court.

6. Each of the undersigned counsel represents that she or he is authorized to execute this Stipulation and Order on behalf of her or his respective client.

7. This Stipulation and Order may be executed in multiple counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original, but all of which together shall constitute one instrument.

8. The Debtors are authorized to take all actions necessary to effectuate the relief provided by this Stipulation and Order.

9. The terms and conditions of this Stipulation and Order shall be immediately effective and enforceable upon its approval and entry by the Court.

10. The Court retains jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Stipulation and Order.

11. The Adversary Proceeding is hereby dismissed without prejudice with respect to the AR Derivative Plaintiffs, Cindy Graham, and Larry Graham.

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AGREED AND SUBMITTED BY:

/s/ Stephen E. Hessler

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Counsel to the Plaintiffs

SO ORDERED this 21st day of

August, 2019

/s/Robert D. Drain

THE HONORABLE ROBERT D. DRAIN

UNITED STATES BANKRUPTCY JUDGE