Docket #0219 Date Filed: 1/9/2020

John Kingston (*pro hac vice*)
Michael Nepple (*pro hac vice*)
Brian Hockett (*pro hac vice*)
THOMPSON COBURN LLP
One US Bank Plaza
St. Louis, MO 63101
Telephone: (314) 552-6000
Facsimile: (314) 552-7000

Counsel for Defendants Charter Communications, Inc. and Charter Communications Operating, LLC

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
WINDSTREAM HOLDINGS, INC., et al.,	Case No. 19-22312 (RDD)
Debtors.	(Jointly Administered)
WINDSTREAM HOLDINGS, INC., et al.,	
Plaintiffs,	Adv. Pro. No. 19-08246
vs.	
CHARTER COMMUNICATIONS, INC. and CHARTER COMMUNICATIONS OPERATING, LLC,	
Defendants.	

1922312200109000000000015

NOTICE OF HEARING ON DEFENDANTS CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS OPERATING, LLC'S EX-PARTE MOTION TO SEAL PORTIONS OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE TESTIMONY OF DR. JULES KAMIN

PLEASE TAKE NOTICE that on January 9, 2020, Charter Communications, Inc. and Charter Communications Operating, LLC filed their Ex-Parte Motion to Seal Portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin.

PLEASE TAKE FURTHER NOTICE that a hearing shall be held on **January 16, 2020 at 10:00 a.m. (Eastern time)** (the "Hearing"), or as soon thereafter as counsel may be heard, before the Honorable Robert D. Drain, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, NY 10601, to consider *Defendants Ex-Parte Motion to Seal Portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin* (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief sought in the Motion must be filed through the Bankruptcy Court's electronic filing system as to be **received** on or before **January 15, 2020** at **12:00 p.m. (Eastern Time)** by counsel to Charter Communications, Inc. and Charter Communications Operating, LLC, Brian Hockett and John Kingston, Thompson Coburn LLP, One US Bank Plaza, Suite 2700, St. Louis, MO 63101.

PLEASE TAKE FURTHER NOTICE, that if no objections are timely filed and served with respect to the Motion, the Court may deem any opposition waived,

treat the Motion as conceded, and enter an order granting the relief requested in the Motion without further notice or hearing.

PLEASE TAKE FURTHER NOTICE, that the Hearing may be continued or adjourned from time to time without further notice.

Dated: January 9, 2020

Respectfully submitted,

THOMPSON COBURN LLP

By */s/ John Kingston*

John Kingston (pro hac vice)
Michael Nepple (pro hac vice)
Brian Hockett (pro hac vice)
THOMPSON COBURN LLP
One U.S. Bank Plaza, Suite 2700
St. Louis, MO 63101
314-552-6000
314-552-7000 (fax)
jkingston@thompsoncoburn.com
mnepple@thompsoncoburn.com
bhockett@thompsoncoburn.com

Attorney for Defendants Charter Communications, Inc. and Charter Communications Operating, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2020, I served a true and correct copy of the foregoing ***Notice of Hearing on Defendants Charter Communications, Inc. and Charter Communications Operating, LLC's Ex-Parte Motion to Seal Portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin*** via operation of the Court's Electronic Filing System upon all counsel of record in the adversary proceeding.

Undersigned counsel ***Notice of Hearing on Defendants Charter Communications, Inc. and Charter Communications Operating, LLC's Ex-Parte Motion to Seal Portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin*** will be sent via electronic mail on this 9th day of January, 2020 to the following:

Terence P. Ross
Kristin Lockhart
Michael R. Justus
2900 K Street NW
North Tower – Suite 200
Washington, DC 20007-5118
terence.ross@kattenlaw.com
kristin.lockhart@kattenlaw.com
michael.justus@kattenlaw.com

Shaya Rochester
Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022-2585
shaya.rochester@kattenlaw.com

United States Trustee
Paul K. Schwartzburg
U.S. Department of Justice
Office of the United States Trustee
201 Varick Street, Rm. 1006
New York, NY 10014
Paul.schwartzberg@usdoj.gov

Official Committee of Unsecured Creditors
Steve Rappoport
Lorenzo Marinuzzi
Morrison & Foerster LLP
250 West 55th Street
New York, NY 10019-9601
srappoport@mofo.com
lmarinuzzi@mofo.com

/s/ John Kingston

John Kingston (*pro hac vice*)
Michael Nepple (*pro hac vice*)
Brian Hockett (*pro hac vice*)
THOMPSON COBURN LLP
One US Bank Plaza
St. Louis, MO 63101
Telephone: (314) 552-6000
Facsimile: (314) 552-7000

Counsel for Defendants Charter Communications, Inc. and Charter Communications Operating, LLC

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
WINDSTREAM HOLDINGS, INC., et al.,	Case No. 19-22312 (RDD)
Debtors.	(Jointly Administered)
WINDSTREAM HOLDINGS, INC., et al.,	
Plaintiffs,	Adv. Pro. No. 19-08246
vs.	
CHARTER COMMUNICATIONS, INC. and CHARTER COMMUNICATIONS OPERATING, LLC,	
Defendants.	

DEFENDANTS CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS OPERATING, LLC'S EX-PARTE MOTION TO SEAL PORTIONS OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE TESTIMONY OF DR. JULES KAMIN

Pursuant to 11 U.S.C. § 107(b), 11 U.S.C. §§ 101 *et seq.*, Rule 9018 of the Federal Rules of Bankruptcy Procedure, and Rule 9018-1 of the Local Rules of the United States Bankruptcy Court for the Southern District of New York, Charter Communications, Inc. and Charter Communications Operating, LLC (Charter) move to file under seal redacted portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin. In support, Charter states:

JURISDICTION AND VENUE

1. The Court currently has jurisdiction under 28 U.S.C. § 1334 and the Amended Standing Order of Reference from the United States District Court for the Southern District of New York, dated February 1, 2012.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1409.

3. The bases for the relief requested herein are sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9077-1(b).

GROUNDS FOR RELIEF

4. Charter moves to file Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin in redacted form. The portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin that are proposed to be redacted were previously filed under seal by Charter.

5. The information sought to be filed under seal have been designated as either CONFIDENTIAL or CONFIDENTIAL – ATTORNEYS' EYES ONLY pursuant to the parties' Confidentiality Agreement and Stipulated Protective Order (ECF 74) or involve confidential subject matter derived from such documents.

6. Section 107(b) of the Bankruptcy Code authorizes courts to issue orders that will protect entities from the potential harm that may result from the disclosure of certain confidential information. This section provides, in part:

> (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—
> (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information…

11 U.S.C. § 107(b)(1).

7. Bankruptcy Rule 9018 further provides, in part:

> On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . . .

Fed. R. Bankr. P. 9018.

8. Unless this motion to seal is withdrawn, the documents sought to be sealed by this motion should be sealed for the duration of this matter pursuant to the parties' protective order. Charter will retrieve the documents from the Court at the conclusion of this matter and dispose of the materials in compliance with all applicable protective orders.

9. Those with access to the sealed and unredacted documents are Charter, Windstream, the Court, the U.S. Trustee, counsel for the Official Committee of Unsecured Creditors and any other party as may be ordered by the Court or agreed to by Charter and a counterparty to any such document, in each case, under appropriate confidentiality agreements satisfactory to Charter.

10. Charter has made no prior request for the relief sought herein to this or any other court.

WHEREFORE, Charter respectfully requests that the Court enter an order, substantially in the form attached hereto and grant such other and further relief as is just and appropriate under the circumstances.

Dated: January 9, 2020

Respectfully submitted,

THOMPSON COBURN LLP

By: */s/ John Kingston*

John Kingston (pro hac vice)
Michael Nepple (pro hac vice)
Brian Hockett (pro hac vice)
THOMPSON COBURN LLP
One U.S. Bank Plaza, Suite 2700
St. Louis, MO 63101
314-552-6000
314-552-7000 (fax)
jkingston@thompsoncoburn.com
mnepple@thompsoncoburn.com
bhockett@thompsoncoburn.com

Attorneys for Defendants Charter Communications, Inc. and Charter Communications Operating, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2020, I served a true and correct copy of the foregoing ***DEFENDANTS CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS OPERATING, LLC'S EX-PARTE MOTION TO SEAL PORTIONS OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE TESTIMONY OF DR. JULES KAMIN*** via operation of the Court's Electronic Filing System upon all counsel of record in the adversary proceeding.

Undersigned counsel will send a true and correct copy of ***DEFENDANTS CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS OPERATING, LLC'S EX-PARTE MOTION TO SEAL PORTIONS OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE TESTIMONY OF DR. JULES KAMIN*** via email on this 9th day of January, 2020 to the following:

Terence P. Ross
Kristin Lockhart
Michael R. Justus
2900 K Street NW
North Tower – Suite 200
Washington, DC 20007-5118
terence.ross@kattenlaw.com
kristin.lockhart@kattenlaw.com
michael.justus@kattenlaw.com

Shaya Rochester
Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022-2585
shaya.rochester@kattenlaw.com

United States Trustee
Paul K. Schwartzburg
U.S. Department of Justice
Office of the United States Trustee
201 Varick Street, Rm. 1006
New York, NY 10014
Paul.schwartzberg@usdoj.gov

Official Committee of Unsecured Creditors
Steve Rappoport
Lorenzo Marinuzzi
Morrison & Foerster LLP
250 West 55th Street
New York, NY 10019-9601
srappoport@mofo.com
lmarinuzzi@mofo.com

/s/ John Kingston

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
WINDSTREAM HOLDINGS, INC., et al.,	Case No. 19-22312 (RDD)
Debtors.	(Jointly Administered)
WINDSTREAM HOLDINGS, INC., et al.,	
Plaintiffs,	Adv. Pro. No. 19-08246
vs.	
CHARTER COMMUNICATIONS, INC. and CHARTER COMMUNICATIONS OPERATING, LLC,	
Defendants.	

[PROPOSED] ORDER ON DEFENDANTS CHARTER COMMUNICATIONS, INC. AND CHARTER COMMUNICATIONS OPERATING, LLC'S EX-PARTE MOTION TO SEAL PORTIONS OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO EXCLUDE TESTIMONY OF DR. JULES KAMIN

Upon the [unopposed] motion (the "Motion") of Defendants Charter Communications, Inc. and Charter Communications Operating, LLC (collectively "Charter") for entry of an order (this "Order") under 11 U.S.C. § 107 authorizing Charter to file under seal certain portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin ("Sealed Documents"); and the Court having found that Charter provided due and sufficient notice of the Motion and that no other notice or hearing is required; and, after due deliberation, this Court having determined that the legal and factual bases set forth in the Motion establishes sufficient cause for the relief granted herein, in that the proposed information that the Motion seeks

to restrict from the public docket of this case is properly protected under 11 U.S.C. § 107(b)(1) as confidential commercial information; now, therefore, it is hereby ORDERED that:

1. The Motion is granted as set forth herein.

2. Charter is authorized to filed under seal portions of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin by providing them to the Clerk's Office at 300 Quarropas Street, White Plains, New York along with a copy of this Order, and (b) to file a redacted version thereof on the public docket of this case; provided, that Charter redacts only that information that is considered confidential and commercially sensitive pursuant to Sections 105(a) and 107(b)(1) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Bankruptcy Rule 9018-1.

3. Except upon further order of the Court after notice to the Charter, the Sealed Documents shall remain under seal, and shall not be made available to anyone without the consent of Charter, with the exception that unredacted copies of the Sealed Documents shall be provided to (a) the Court, (b) the United States Trustee, (c) counsel to Plaintiffs, (d) counsel to the Official Committee of Unsecured Creditors appointed in these Chapter 11 cases, and (e) any other party as may be ordered by the Court or agreed to by Charter and a counterparty to any such Sealed Document, in each case, under appropriate confidentiality agreements satisfactory to Charter. Each party to whom disclosure is made shall keep the Sealed Documents confidential.

4. Charter is authorized to take all actions necessary to effectuate the ruling set forth in this Order.

5. This Order is without prejudice to the rights of any party in interest, or the United States Trustee, to seek to unseal the Sealed Documents or any part thereof.

6. Counsel for Charter shall contact the Clerk's Office regarding the return or other disposition of the Sealed Documents within 10 days after resolution of the relief requested in the Complaint. If Charter fails to do so, the Clerk of the Court is authorized to destroy the Sealed Documents.

7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2020
New York, NY

_____
THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY COURT JUDGE