

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

In re:	)	Chapter 11
	)	
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 19-22312 (RDD)
	)	
Debtors.	)	(Jointly Administered)
	)	
WINDSTREAM HOLDINGS, INC. et al.,	)	
	)	
Plaintiffs,	)	Adv. Pro. No. 19-08279
v.	)	
	)	
UNITI GROUP INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

**STIPULATION AND ORDER CLOSING THE ADVERSARY PROCEEDING**

Subject to the approval of this Court, this stipulation and order (this “Stipulation and Order”) is made pursuant to the Federal Rule of Civil Procedure 41(a)(2), incorporated by reference in the Federal Rule of Bankruptcy Procedure 7041, and entered into by and among (a) Windstream<sup>2</sup>; (b) Uniti<sup>3</sup>; (c) the ad hoc group of certain first lien lenders (the “First Lien Ad Hoc Group”) (as that party is referenced in the Stipulation and Agreed Order Authorizing

<sup>1</sup> The last four digits of Reorganized 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 Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Reorganized Debtors’ service address for purposes of these chapter 11 cases is 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

<sup>2</sup> “Windstream” shall refer to all plaintiffs, counterclaim defendants, and third-party defendants in the above-captioned adversary proceeding, including Windstream Holdings, Inc. (“Holdings”) and Windstream Services, LLC (“Services”).

<sup>3</sup> “Uniti” shall refer to all defendants, counterclaim plaintiffs, and third-party plaintiffs in the Adversary Proceeding, including: Uniti Group, Inc. (“Uniti Group”); CSL National, LP; CSL Alabama System, LLC; CSL Arkansas System, LLC; CSL Florida System, LLC; CSL Georgia System, LLC; CSL Iowa System, LLC; CSL Kentucky System, LLC; CSL Mississippi System, LLC; CSL Missouri System, LLC; CSL New Mexico System, LLC; CSL Ohio System, LLC; CSL Oklahoma System, LLC; CSL Texas System, LLC; CSL Realty, LLC; CSL Georgia Realty, LLC; CSL North Carolina System, LP; CSL North Carolina Realty, LP; and CSL Tennessee Realty, LLC.



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Intervention [Adv. Pro. Docket No. 20] (the “Intervention Order”), and (d) the Official Committee of Unsecured Creditors (as that party is referenced in the Intervention Order). Each of the persons or entities identified in the foregoing clauses (a) through (d) shall be referred to herein individually as a “Party,” and, collectively, as the “Parties.”

**WHEREAS**, on February 25, 2019, Windstream filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in this Court.

**WHEREAS**, on July 25, 2019, Windstream filed the *Complaint* [Adv. Pro. Docket No. 1], thereby commencing the above-captioned adversary proceeding (this “Adversary Proceeding”).

**WHEREAS**, on January 22, 2020, Windstream filed the *Amended Complaint* [Adv. Pro. Docket No. 71].

**WHEREAS**, on February 3, 2020, Uniti filed the *Answer to Plaintiffs’ Amended Complaint, Affirmative Defenses, Counterclaims, and Third Party Complaint* [Adv. Pro. Docket No. 80].

**WHEREAS**, on April 20, 2020, Holdings, Services, and certain of their direct and indirect subsidiaries on the one hand and Uniti and certain of its direct and indirect subsidiaries on the other hand entered into the Settlement Agreement [Docket No. 1697].

**WHEREAS**, Section 7(a) of the Settlement Agreement states in its entirety: “Within two business days of the Settlement Effective Date, the Parties agree to file all motions and other papers, including under Federal Rule of Bankruptcy Procedure 7041, and take any other steps reasonably necessary or desirable to cause the Adversary Proceeding (including, for the avoidance of doubt, all claims and counterclaims raised therein) to be dismissed with prejudice and without fees or costs to any Party; *provided* that the foregoing dismissal shall have no further force and effect (i) if this Agreement is terminated in accordance with Section 16 or (ii) if the releases set

forth in Section 11 of this Agreement are reversed, stayed, modified, amended, or otherwise impacted, in each case in a manner that renders such releases ineffective in whole or in material part, for any reason and without the written consent of the Uniti Entities, and if the requirements of Section 17(x) and (y) are otherwise satisfied.”

**WHEREAS**, on May 12, 2020, the Court entered the *Order Approving the Settlement Between the Debtors and Uniti, Including (I) the Sale of Certain of the Debtors’ Assets, Pursuant to Sections 363(b) and (f) of the Bankruptcy Code and (II) the Assignment of the Lease, as Modified, and the Assumption and Assignment of Certain Contracts, Pursuant to Section 365 of the Bankruptcy Code* [Docket No. 1807] (the “Settlement Order”) approving the settlement among the Debtors, Uniti, members of the First Lien Ad Hoc Group, and Elliott Management Corp., which resolved all issues raised or contemplated in the Adversary Proceedings.

**WHEREAS**, on May 26, 2020, UMB Bank, National Association (“UMB Bank”) and U.S. Bank National Association (“U.S. Bank”), in their capacities as successor indenture trustees under certain of the Debtors’ unsecured notes, filed a *Notice of Appeal* of the Settlement Order [Docket No. 1920] (the “Settlement Appeal”).

**WHEREAS**, on June 26, 2020, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc. et al., Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 2243] (the “Confirmation Order”), confirming the Debtors’ chapter 11 plan.

**WHEREAS**, on July 3, 2020, U.S. Bank filed a *Notice of Appeal* of the Confirmation Order [Docket No. 2268] (the “Confirmation Appeal,” and together with the Settlement Appeal, the “Appeals”).

**WHEREAS**, the Appeals have been consolidated and are pending before the U.S. District Court for the Southern District of New York in Nos. 20-cv-04276 (VB) (lead) and 20-cv-5440 (VB).

**WHEREAS**, on July 7, 2020, the Court entered the *Stipulation of Settlement*, which resolved the Settlement Appeal as to UMB Bank and the objections of the Official Committee of Unsecured Creditors and UMB Bank to the Confirmation Order [Docket No. 2279].

**WHEREAS**, on September 21, 2020, the Debtors' chapter 11 plan and the Settlement Agreement became effective.

**WHEREAS**, on October 23, 2020, the Court entered the *Final Decree Closing the Chapter 11 Cases* [Docket No. 2627].

**IT IS HEREBY STIPULATED AND AGREED, AND UPON COURT APPROVAL, IT SHALL BE ORDERED, AS FOLLOWS:**

1. The Adversary Proceeding, including all claims, counterclaims, and third-party claims raised therein, is dismissed with prejudice; provided, however, that the foregoing dismissal shall have no further force and effect if (a) the Settlement Agreement is terminated in accordance with Section 16 thereof or (b) the releases set forth in Section 11 of the Settlement Agreement are reversed, stayed, modified, amended, or otherwise impacted, in each case in a manner that renders such releases ineffective in whole or in material part, for any reason and without the written consent of the Uniti Entities (as defined in the Settlement Agreement), and if the requirements of Section 17(x) and (y) of the Settlement Agreement are otherwise satisfied.

2. The Adversary Proceeding is dismissed without fees or costs to any Party.

3. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Order.

4. This Court retains the authority to relieve the Parties of this Stipulation and Order, including pursuant to Federal Rule of Bankruptcy Procedure 9024, which in turn incorporates Federal Rule of Civil Procedure 60(b)(5).

5. The terms and conditions of this Stipulation and Order shall be immediately effective and enforceable upon its entry.

WE ASK FOR THIS:

/s/ Stephen E. Hessler

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**SO ORDERED** this 25<sup>th</sup> day of January, 2021.

No further notice of or a hearing on this Stipulation and Order is required, there having been no objections, after due notice and service, of the Reorganized Debtors' motion for approval hereof.

/s/Robert D. Drain

THE HONORABLE ROBERT D. DRAIN

UNITED STATES BANKRUPTCY JUDGE