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Charter Communications, Inc. and
Charter Communications Operating, LLC*

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

In re:

WINDSTREAM FINANCE, CORP., *et al.*,
Debtors.

WINDSTREAM HOLDINGS, INC., *et al.*,
Plaintiffs,

vs.

CHARTER COMMUNICATIONS, INC.
and CHARTER COMMUNICATIONS
OPERATING, LLC,
Defendants.

Chapter 11

Case No. 19-22397 (RDD)

(Formerly Jointly Administered
under Lead Case Windstream
Holdings, Inc., 19-22312)

Adv. Pro. No. 19-08246

Related Case No.
19-cv-09354



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**DEFENDANTS-APPELLANTS' DESIGNATION OF THE RECORD
AND STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8009, Defendants Charter Communications, Inc. and Charter Communications Operating, LLC ("Defendants-Appellants") respectfully designate the following items to be included in the Record on Appeal.

Defendants-Appellants reserve their right to designate additional items for inclusion in the record and/or restate issues presented on appeal. For items designated, the designation includes all documents referenced with the particular document number including, without limitation, all statements, appendices, exhibits, attachments, declarations, and/or related affidavits.

Designation of Items to be Included in the Record on Appeal

Item No.	Date	Docket No.	Document Title	Trial Exhibit
1	04/05/2019	1	Adversary Complaint	
2	04/16/2019	25	Temporary Restraining Order (TRO)	
3	05/16/2019	61	Preliminary Injunction	
4	06/11/2019	76	Joint Rule 26(f) Report	
5	06/13/2019	77	Scheduling and Pre-Trial Order	
6	07/24/2019	84	April 15, 2019 TRO Transcript	
7	10/14/2019	109	Defendants' Motion for Judgment on the Pleadings on Count VI and Motion to Dismiss Count VII for Lack of Subject Matter Jurisdiction	
8	10/22/2019	112	Plaintiffs' Request for Telephonic Discovery Dispute Conference	
9	10/23/2019	113	Defendants' Response to Plaintiffs' October 22, 2019 Request for Teleconference	
10	11/15/2019	115	Defendants' Motion to Exclude the Testimony of John C. Jarosz	
11	11/15/2019	116	Defendants' Memorandum of Law in Support of Motion to Exclude the Testimony of John C. Jarosz	
12	11/15/2019	117	Declaration of Brian Hockett in Support of Defendants' Motion to Exclude the Testimony of John C. Jarosz	

13	11/15/2019	121	Defendants' Memorandum in Opposition to Motion to Strike the Rebuttal Expert Reports of Robert Borders and Dr. Henry Ostberg	
14	11/15/2019	122	Plaintiffs' Motion for Summary Judgment as to Liability on All Counts	
15	11/15/2019	123	Plaintiffs' Memorandum of Law in Support of Motion for Summary Judgment	
16	11/15/2019	124	Plaintiffs' Statement of Undisputed Material Facts	
17	11/15/2019	125	Declaration of Jeffrey H. Auman in Support of Plaintiffs' Motion for Summary Judgment	
18	11/15/2019	126	Declaration of Paul Strickland, Jr. in Support of Plaintiffs' Motion for Summary Judgment	
19	11/15/2019	127	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion for Summary Judgment	
20	11/15/2019	129	Defendants' Motion for Summary Judgment	
21	11/15/2019	130	Defendants' Memorandum of Law in Support of Motion for Summary Judgment	
22	11/15/2019	131	Defendants' Statement of Undisputed Material Facts	
23	11/15/2019	132	Declaration of Brian Hockett in Support of Defendants' Motion for Summary Judgment	
24	12/06/2019	140	Defendants' Response to Plaintiffs' Statement of Facts	
25	12/06/2019	141	Declaration of Brian Hockett in Support of Defendants' Response to Plaintiffs' Statement of Facts	
26	12/06/2019	144	Plaintiffs' Memorandum in Opposition to Defendants' Motion for Summary Judgment	
27	12/06/2019	145	Plaintiffs' Response to Defendants' Statement of Facts	
28	12/06/2019	146	Declaration of Grace A. Thompson in Support of Plaintiffs' Opposition to Defendants' Summary Judgment	
29	12/06/2019	147	Declaration of Jeffrey H. Auman in Support of Plaintiffs' Opposition to Defendants' Summary Judgment	

30	12/06/2019	148	Declaration of John C. Jarosz in Support of Plaintiffs' Opposition to Defendants' Summary Judgment	
31	12/06/2019	150	Plaintiffs' Motion for Leave to File Rebuttal Expert Report	
32	12/06/2019	152	Plaintiffs' Memorandum of Law in support of their Motion for Leave to File a Rebuttal Expert Report	
33	12/06/2019	153	Declaration of Brian Hockett in Support of Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment	
34	12/06/2019	154	Expert Declaration of Sarah Butler	
35	12/06/2019	155	Plaintiffs' Motion to Exclude the Rebuttal Expert Report of Henry D. Ostberg	
36	12/06/2019	156	Plaintiffs' Memorandum of Law in Support of their Motion to Exclude the Rebuttal Expert Report of Henry D. Ostberg	
37	12/06/2019	157	Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Partial Summary Judgment	
38	12/06/2019	158	Defendants' Statement of Additional Facts	
39	12/11/2019	161	Plaintiffs' Opposition to Defendants' Motion for Judgment on the Pleadings and Motion to Dismiss	
40	12/11/2019	162	Declaration of Grace E. Thompson in Support of Plaintiffs' Opposition of Defendants' Motion for Judgment on the Pleadings and Motion to Dismiss	
41	12/11/2019	164	Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Testimony of John C. Jarosz	
42	12/11/2019	165	Declaration of John C. Jarosz in Support of Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Expert Testimony of John C. Jarosz	
43	12/11/2019	166	Declaration of Grace A. Thompson in Support of Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Exclude the Expert Testimony of John C. Jarosz	
44	12/13/2019	169	Plaintiffs' Reply Memorandum in Support of their Motion for Summary Judgment	

45	12/13/2019	170	Plaintiffs' Reply Statement of Facts in Support of their Motion for Summary Judgment	
46	12/13/2019	171	Plaintiffs' Response to Defendants' Statement of Additional Facts [Dkt. No. 158]	
47	12/13/2019	172	Declaration of Jeffrey H. Auman in Further Support of Plaintiffs' Motion for Summary Judgment	
48	12/13/2019	175	Defendants' Response to Plaintiffs' Statement of Additional Material Facts [Dkt. No. 145]	
49	12/13/2019	176	Defendants' Reply Memorandum in Support of Motion for Summary Judgment	
50	12/17/2019	179	Defendants' Reply in Support of Motion for Judgment on the Pleadings and Motion to Dismiss [Dkt. No. 109]	
51	12/17/2019	181	Defendants' Reply Memorandum in Support of Motion to Exclude the Testimony of John C. Jarosz [Dkt. No. 116]	
52	12/23/2019	185	Plaintiffs' Motion to Exclude the Expert Testimony of Robert Borders	
53	12/23/2019	186	Plaintiffs' Memorandum of Law in support of their Motion to Exclude the Expert Testimony of Robert Borders	
54	12/23/2019	187	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion to Exclude the Expert Testimony of Robert Borders	
55	12/23/2019	188	Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
56	12/23/2019	189	Plaintiffs' Memorandum of Law in Support of their Motion to Exclude the Expert Testimony of Matthew Kardos	
57	12/23/2019	190	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
58	12/23/2019	191	Plaintiffs' Motion to Exclude the Expert Testimony of Jules Kamin	
59	12/23/2019	192	Plaintiffs' Memorandum of Law in Support of their Motion to Exclude the Expert Testimony of Jules Kamin	
60	12/23/2019	193	Declaration of Grace A. Thompson in Support of Plaintiffs' Motion to Exclude the Expert Testimony of Jules Kamin	

61	01/02/2020	204	Defendants' Objections to Report and Recommendation [Dkt. No. 200]	
62	01/09/2020	213	Defendants' Response in Opposition to Plaintiffs' Motion to Exclude the Expert Testimony of Robert Borders	
63	01/09/2020	214	Declaration of Justin Mulligan in support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Robert Borders	
64	01/09/2020	216	Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Expert Testimony of Dr. Jules Kamin	
65	01/09/2020	217	Declaration of Justin Mulligan in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Jules Kamin	
66	01/09/2020	220	Defendants' Opposition to Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
67	01/09/2020	221	Declaration of Justin Mulligan in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Matthew Kardos	
68	01/09/2020	223	Defendants' Response in Opposition to Plaintiffs' Motion to Exclude the Expert Report of Dr. Henry Ostberg	
69	01/09/2020	224	Declaration of Justin Mulligan in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Exclude Testimony of Dr. Henry Ostberg	
70	01/13/2020	229	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Henry D. Ostberg	
71	01/13/2020	231	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Robert Borders	
72	01/13/2020	232	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Matthew Kardos	
73	01/13/2020	233	Plaintiffs' Reply Memorandum in Support of their Motion to Exclude the Rebuttal Expert Report of Jules Kamin	
74	01/15/2020	237	Revised Bench Ruling and Hearing Transcript	

75	01/15/2020	238	Plaintiffs' Response to Notice of Defendants' Objections to Bankruptcy Court's Report and Recommendation and Suggestions in Support of Defendants' Objections to Bankruptcy Court's Report and Recommendation	
76	01/16/2020	242	Defendants' Designation of the Record in Support of Defendants' Objections to Bankruptcy Court's Report and Recommendation	
77	01/23/2020	247	Defendants' Motion to Continue the March 30, 2020 Trial Setting for Counts VI and VII Pending a Jury Trial on Predicate Claims (Counts I-V)	
78	01/28/2020	250	Order Denying in Part and Continuing in Part Plaintiffs' Motion to Exclude the Expert Testimony of Matthew Kardos	
79	01/28/2020	251	Order Granting Plaintiffs' Motion to Exclude the Rebuttal Expert Report and Testimony of Henry D. Ostberg	
80	01/28/2020	252	Order Granting in Part and Denying in Part Plaintiffs' Motion the Expert Testimony of Robert Borders	
81	01/28/2020	253	Order Granting in Party and Denying in Part Plaintiffs' Motion to exclude the Expert Testimony of Matthew Kardos	
82	01/28/2020	254	Order Denying Defendants' Motion to Exclude the Testimony of John C. Jarosz	
83	01/30/2020	259	Order on Defendants' Motion for Judgment on the Pleadings on Count VI and Motion to Dismiss Count VII for Lack of Subject Matter Jurisdiction	
84	02/06/2020	263	Plaintiffs' Objection to Defendants' Motion to Continue the March 30, 2020 Trial Setting for Counts VI and VIII Pending a Jury Trial on the Predicate Claims (Counts I-V)	
85	02/10/2020	264	Defendants' Reply in Support of Motion to Continue the Bench Trial on Counts VI and VII Pending a Jury Trial on Plaintiffs' Predicate Claim	
86	02/19/2020	269	Opinion re Defendants' Objections to Bankruptcy Court's Report and Recommendation	
87	02/18/2020	270	Transcript re Defendants' Motion to Continue March 30, 2020 Trial Setting	

88	02/21/2020	271	Order re Defendants' February 11, 2020 Objections to Bankruptcy Court's Report and Recommendations	
89	03/03/2020	274	Order Denying in Part Plaintiffs' Motion for Partial Summary Judgment of Liability	
90	03/03/2020	275	Order Denying Defendants' Motion for Summary Judgment	
91	03/17/2020	281	Memorandum of Decision on Defendants' Motion to Continue Bench Trial in Light of Jury-Trial Demand	
92	03/23/2020	286	Letter to the Court in connection with the recently issued decision on Defendants' Motion to Continue Trial	
93	03/30/2020	287	Order Denying Defendants' Motion to Continue March 30, 2020 trial Setting for Counts VI & VII	
94	04/13/2020	289	Defendants' Motion for Relief from March 30, 2020 Order	
95	04/21/2020	294	Plaintiffs' Objection to Defendants' Motion for Relief from March 30, 2020 Order	
96	04/21/2020	295	Declaration of Grace A. Thompson in Support of Plaintiffs' Objection to Defendants' Motion for Relief from March 30, 2020 Order	
97	04/21/2020	296	Plaintiffs' Objections to Defendants' Trial Exhibits	
98	05/11/2020	315	Defendants' Letter to Bankruptcy Court re Defendants' Exhibit 383	
99	05/14/2020	316	Designation of Exhibits Admitted at Trial	
100	06/09/2020	317	Plaintiffs' Post-Trial Memorandum	
101	06/09/2020	319	Defendants' Post-Trial Brief on Counts VI and VII	
102	08/03/2020	321	Plaintiffs' Request for Judicial Notice of Fee Applications to Supplement Sanctions Request against Defendants	
103	09/09/2020	323	Plaintiffs' Request for Judicial Notice of Fee Applications to Supplement Sanctions Request Against Defendants	
104	09/28/2020	326	Transcript re 01/16/2020 Hearing re Expert Motions	
105	09/30/2020	325	Transcript re Final Pre-Trial Conference	
106	10/02/2020	327	Transcript re 04/20/2020 Hearing re Trial	
107	10/01/2020	328	Transcript re 05/06/2020 Hearing re Trial	

108	10/01/2020	330	Transcript re 004/27/2020 Hearing re Trial	
109	30/23/2021	331	Amended Transcript re 04/28/20 Hearing re Trial	
110	04/08/2021	332	Memorandum of Decision on Count VI and Count VII	
111	04/15/2021	334	Judgment against Defendants in favor of Debtors	
112	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 1 – Spectrum Business Value Added Reseller Agreement, dated April 11, 2018	J. Ex. 1
113	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 2 - Charter_046353	J. Ex. 2
114	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 3 - Defendants' Form 10-K for the period ending 12/31/18	J. Ex. 3
115	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 4 - Defendants' Form 10-Q for the period ending 6/30/19	J. Ex. 4
116	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 5 - Charter_006319-Charter_006325	J. Ex. 5
117	Admitted 04/27/2020	Attached	Joint Trial Ex. 6 - Charter_007830-Charter_007831	J. Ex. 6
118	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 7 - Ex. 28 to Rule 30(b)(6) Deposition of Keith Dardis	J. Ex. 7
119	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 8 - Charter_047110; Charter_047065-Charter_047109; Charter_047111-Charter_047113	J. Ex. 8
120	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 9 - <i>Proof of Claim No. 5739, Bankr. Case No. 19-22345; Proof of Claim No. 5740, Bankr. Case No. 19-22349; Proof of Claim No. 5738, Bankr. Case No. 19-22440; Proof of Claim No. 5786, Bankr. Case No. 19-22456; Proof of Claim No. 5768, Bankr. Case No. 19-22469; Proof of Claim No. 5731, Bankr. Case No. 19-22366; Proof of Claim No. 5792, Bankr. Case No. 19-22366; Proof of Claim No. 5791, Bankr. Case No. 19-22369; Proof of Claim No. 5760, Bankr. Case No. 19-22372; Proof of Claim No. 5759, Bankr. Case No. 19-22375; Proof of Claim No. 5758, Bankr. Case No. 19-22378; Proof of Claim No. 5755, Bankr. Case No. 19-22380; Proof of Claim No. 5767, Bankr. Case No. 19-22380; Proof</i>	J. Ex. 9

			<i>of Claim No. 5761, Bankr. Case No. 19-22384; Proof of Claim No. 5748, Bankr. Case No. 19-22386; Proof of Claim No. 5762, Bankr. Case No. 19-22388; Proof of Claim No. 5790, Bankr. Case No. 19-22391; Proof of Claim No. 5780, Bankr. Case No. 19-22394; Proof of Claim No. 5736, Bankr. Case No. 19-22399; Proof of Claim No. 5749, Bankr. Case No. 19-22423; Proof of Claim No. 5750, Bankr. Case No. 19-22427; Proof of Claim No. 5734, Bankr. Case No. 19-22447; Proof of Claim No. 5766, Bankr. Case No. 19-22325; Proof of Claim No. 5751, Bankr. Case No. 19-22347; Proof of Claim No. 5752, Bankr. Case No. 19-22311; Proof of Claim No. 5735, Bankr. Case No. 19-22393; Proof of Claim No. 5765, Bankr. Case No. 19-22409; Proof of Claim No. 5753, Bankr. Case No. 19-22340; Proof of Claim No. 5732, Bankr. Case No. 19-22460; Proof of Claim No. 5764, Bankr. Case No. 19-22478; Proof of Claim No. 5754, Bankr. Case No. 19-22433; Proof of Claim No. 5830, Bankr. Case No. 19-22434; Proof of Claim No. 5763, Bankr. Case No. 19-22458; Proof of Claim No. 5737, Bankr. Case No. 19-22486; Proof of Claim No. 5733, Bankr. Case No. 19-22476; Proof of Claim No. 5747, Bankr. Case No. 19-22492; Proof of Claim No. 5793, Bankr. Case No. 19-22496; Proof of Claim No. 5769, Bankr. Case No. 19-22400</i>	
121	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 10 - Charter Direct Mail Marketing Mailers	J. Ex. 10
122	Admitted 04/27/2020	In possession of counsel	Joint Trial Ex. No. 11 - 5/16/19 Invoice and Letter from Kurtzman Carson Consultants to Windstream Holdings, Inc.	J. Ex. 11
123	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 12 - Charter Direct Mailer Sample Envelope	J. Ex. 12
124	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 13 - Ex. 44 to Rule 30(b)(6) Deposition of Frederick Gunzel	J. Ex. 13
125	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 14 - Ex. 46 to Rule 30(b)(6) Deposition of Frederick Gunzel	J. Ex. 14

126	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 15 - Ex. 47 to Rule 30(b)(6) Deposition of Frederick Gunzel	J. Ex. 15
127	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 16 - Robert Borders Curriculum Vitae	J. Ex. 16
128	Admitted 04/27/2020	Attached	Joint Trial Ex. No. 17 - Revised Segment Results from Direct Mailer	J. Ex. 17
129	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 1 - <i>Windstream Holdings, Inc., et. al. v. Charter Communications, Inc., et. al.</i> , Adv. Pro. No. 19-08246, Adv. Dkt. No. 1	P. Ex. 1
130	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 3 - <i>Charter Communications Holding Co., et. al. v. DirecTV, Inc.</i> , No. 4:09-cv-00730, Dkt. No. 1 (E.D. Mo. May 11, 2009)	P. Ex. 3
131	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 5 - Tab 5 to Expert Report of John C. Jarosz	P. Ex. 5
132	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 6 - Windstream Holdings, Inc. 2Q18 Earnings Presentation	P. Ex. 6
133	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 7 - Windstream Holdings, Inc. 2Q19 Earnings Presentation	P. Ex. 7
134	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 8 - Charter 000652-000654	P. Ex. 8
135	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 9 - Charter 000998-000999	P. Ex. 9
136	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 10 - Charter 001005	P. Ex. 10
137	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 11 - Charter 001005	P. Ex. 11
138	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 12 - Charter 009885-009886	P. Ex. 12
139	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 14 - WIN002467	P. Ex. 14
140	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 15 - Ex. 6 to 11/15/19 Thompson Dec.	P. Ex. 15
141	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 17 - WIN002058-WIN002063	P. Ex. 17
142	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 18 - WIN000381-WIN000467; WIN000675-WIN001770; WIN001780-WIN002057; WIN002072-WIN002094	P. Ex. 18
143	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 19 - WIN002772-WIN002814	P. Ex. 19

144	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 20 – <i>Charter Communications Holding Co., et. al. v. DirecTV, Inc.</i> , No. 4:09-cv- 00730, Dkt. No. 9-2 (E.D. Mo. May 11, 2009)	P. Ex. 20
145	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 25 - Charter 045452	P. Ex. 25
146	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 26 - Charter 000540- Charter 000543	P. Ex. 26
147	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 27 - Charter 000677- Charter 000678	P. Ex. 27
148	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 28 - Charter 001217- Charter 001220	P. Ex. 28
149	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 29 - Charter 006088	P. Ex. 29
150	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 30 - Ex. 3 from 9/19/19 Atkinson Dep. II	P. Ex. 30
151	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 33 - Charter 000514	P. Ex. 33
152	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 34 - Ex. 1 to 12/6/19 Auman Dec.	P. Ex. 34
153	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 35 - Third Supplemental Initial Disclosures of Plaintiff Windstream Holdings, Inc. and Affiliated Debtors	P. Ex. 35
154	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 39 - Ex. 4 from 9/12/19 RAPP Dep.	P. Ex. 39
155	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 40 - Charter 000936-000941	P. Ex. 40
156	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 41 - Charter 006254-006255	P. Ex. 41
157	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 42 - Charter 006103-006109	P. Ex. 42
158	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 43 - Charter 010013-010021	P. Ex. 43
159	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 44 - Ex. 9 from 9/12/19 RAPP Dep.	P. Ex. 44
160	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 45 - Ex. 10 from 9/12/19 RAPP Dep.	P. Ex. 45
161	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 46 - Ex. 1 to 4/11/19 Langston Supp. Dec.	P. Ex. 46
162	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 47 - Charter 020211-020218	P. Ex. 47

163	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 48 – <i>Windstream Holdings, Inc., et. al. v. Charter Communications, Inc., et. al.</i> , Adv. Pro. No. 19-08246, Adv. Dkt. No. 84	P. Ex. 48
164	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 50 - Charter 000583-Charter 000585	P. Ex. 50
165	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 51 - Charter 001458-Charter 001461	P. Ex. 51
166	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 52 - Charter 001492-Charter 001496	P. Ex. 52
167	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 53 - Charter 009191-Charter 009192	P. Ex. 53
168	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 55 - Charter 020026-Charter 020027	P. Ex. 54
169	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 58 - Charter 020032	P. Ex. 58
170	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 59 - Charter's Responses and Objections to Windstream's Interrogatories (9/23/19)	P. Ex. 59
171	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 60 - "190917 Charter Litigation Information – damages.xlsx"	P. Ex. 60
172	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 61 - "Consumer ARPU_GM.pdf"	P. Ex. 61
173	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 62 - Email – "Charter Corrective Mailings," July 31, 2019	P. Ex. 62
174	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 64 - WIN002771	P. Ex. 64
175	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 65 - WIN000069-WIN000070	P. Ex. 65
176	Admitted 04/27/2020	In possession of counsel	Plaintiffs Trial Ex. No. 66 - WIN000381; WIN000389-WIN000391; WIN000414-WIN000467; WIN001203; WIN001207-WIN001209; WIN001223-WIN001227; WIN001248; WIN001394; WIN001398; WIN001401-WIN001404; WIN001419-WIN001425; WIN001442; WIN001909; WIN001926-WIN001931; WIN001944; WIN001948-WIN001950; WIN001867-WIN001877; WIN001882; WIN000727-WIN000728; WIN000735-WIN000736; WIN000746-WIN000757; WIN000762; WIN000766-WIN000772; WIN000781-WIN000783; WIN000797-WIN000800; WIN000819; WIN000862; WIN000876-	P. Ex. 66

			WIN000891; WIN000898-WIN000906; WIN000948-WIN000951; WIN000969-WIN000971; WIN000984-WIN000986; WIN000992; WIN001156; WIN001196-WIN001202; WIN000993-WIN000994; WIN000997-WIN000998; WIN001010-WIN001013; WIN001041; WIN001299; WIN001329-WIN001330; WIN001341-1342; WIN001345; WIN001443-WIN001445; WIN001449; WIN001479-WIN001484; WIN001490; WIN001042-WIN001045; WIN001049-WIN001052; WIN001055-WIN001058; WIN001095; WIN001249-WIN001250; WIN001252-WIN001258; WIN001286; WIN001291-WIN001292; WIN01298; WIN001571; WIN001581-WIN001582; WIN001610; WIN001614-WIN001615; WIN001620; WIN002002-WIN002011; WIN002041-WIN002045; WIN002048; WIN001096; WIN001100-WIN001104; WIN001110; WIN001133-WIN001145; WIN001155; WIN001529; WIN001554; WIN001557-WIN001558; WIN001570; WIN001621-WIN001625; WIN001657-WIN001663; WIN001669; WIN001951-WIN001975; WIN001993-WIN001994; WIN002001; WIN001883; WIN001896-WIN001903; WIN001908; WIN001346-WIN001347; WIN001352- WIN001360-WIN001371; WIN001383-WIN001385; WIN001393; WIN001670; WIN001677-WIN001679; WIN001724; WIN001809; WIN001842-WIN001846; WIN001855-WIN001859; WIN001862-WIN001866; WIN001725-WIN00732; WIN001766-WIN00767; WIN001770	
177	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 67 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 504	P. Ex. 67
178	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 68 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 551	P. Ex. 68
179	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 69 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 693	P. Ex. 69

180	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 70 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 822	P. Ex. 70
181	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 71 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 932	P. Ex. 71
182	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 72 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 970	P. Ex. 72
183	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 73 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1079	P. Ex. 73
184	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 74 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1157	P. Ex. 74
185	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 75 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1238	P. Ex. 75
186	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 76 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1319	P. Ex. 76
187	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 77 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1360	P. Ex. 77
188	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 78 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1449	P. Ex. 78
189	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 79 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1522	P. Ex. 79
190	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 80 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 612	P. Ex. 80
191	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 81 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 812	P. Ex. 81
192	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 82 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 878	P. Ex. 82
193	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 83 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 936	P. Ex. 83
194	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 84 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 982	P. Ex. 84

195	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 85 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1114	P. Ex. 85
196	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. .86 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1163	P. Ex. 86
197	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 87 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1239	P. Ex. 87
198	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 88 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1322	P. Ex. 88
199	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 89 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1375	P. Ex. 89
200	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 90 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1454	P. Ex. 90
201	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 91 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1548	P. Ex. 91
202	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 92 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1188	P. Ex. 92
203	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 93 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1507	P. Ex. 93
204	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 94 - Analysis Group invoices, September 2019 through December 2019 (not included on Fee Applications)	P. Ex. 94
205	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 95 - NERA invoices, December 2019 (not included on Fee Applications)	P. Ex. 95
206	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 99 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1598	P. Ex. 99
207	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 100 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1642	P. Ex. 100
208	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 101 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1631	P. Ex. 101
209	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 102 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1632	P. Ex. 102

210	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 103 - John Jarosz CV (as of March 2020)	P. Ex. 103
211	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 104 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1679	P. Ex. 104
212	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 105 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1682	P. Ex. 105
213	Admitted 04/27/2020	Attached	Plaintiffs Trial Ex. No. 106 - <i>In re Windstream Holdings, Inc., et. al.</i> , Case No. 19-22312, Dkt. No. 1701	P. Ex. 106
214	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 313 - WIN003249 - WIN003249	P. Ex. 313
215	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 315 - Internal Windstream Legal Time	P. Ex. 315
216	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 316 – Customer Credits	P. Ex. 316
217	Admitted 5/6/2020	Attached	Plaintiffs Trial Ex. No. 350 - Debtors Objections and Responses to Charters Written Discovery Related to Alleged Legal and Promotional Costs	P. Ex. 350
218	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 3 - Windstream Holdings, Inc. Form 10-K	D. Ex. 3
219	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 15 - 6/19/19 Initial Disclosures	D. Ex. 15
220	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 16 - 8/29/19 Supplemental Initial Disclosures	D. Ex. 16
221	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 17 - 9/6/19 Second Supplemental Initial Disclosures	D. Ex. 17
222	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 26 - 2/16/19 - 2/28/19 One Touch Intelligence LLC Report	D. Ex. 26
223	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 27 - 2/25/19 One Touch Intelligence LLC Competitive Alert	D. Ex. 27
224	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 77 - S. Gunzel Dep. Ex. 48	D. Ex. 77
225	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 78 - S. Gunzel Dep. Ex. 49	D. Ex. 78
226	Admitted 04/28/2020	In possession of counsel	Charter Trial Ex. No. 84 - M. Kardos Dep. Ex. 10	D. Ex. 84
227	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 87 - M. Kardos Dep. Ex. 13	D. Ex. 87

228	Admitted 5/6/2020	In possession of counsel	Charter Trial Ex. No. 110 - March 2019 Mailing List Produced to Plaintiffs on May 13, 2019	D. Ex. 110
229	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 127 - Understanding Your Residential Bill	D. Ex. 127
230	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 128 – Understanding Your Business Bill	D. Ex. 128
231	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 130 - April 2019 Windstream Holdings, Inc. Corporate Monthly Operating Report	D. Ex. 130
232	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 146 - Windstream's Responses and Objections to Second Interrogatories	D. Ex. 146
233	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 185 - Chapter 11 Petition, Case No. 19-22324	D. Ex. 185
234	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 252 - Chapter 11 Petition, Case No. 19-22311	D. Ex. 252
235	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 309 - Chapter 11 Petition, Case No. 19-22418	D. Ex. 309
236	Admitted 04/28/2020	Attached	Charter Trial Ex. No. 383 - May 13, 2019 email containing the box link providing the Charter mailing list (i.e., Defendants' Ex. No. 110)	D. Ex. 383
237	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 1 - FCC Fixed Broadband Deployment – Fabens, Texas; 2020-03-16	D. Imp. 1
238	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 2 - FCC Fixed Broadband Deployment – Fabens, Texas; 2020-03-16	D. Imp. 2
239	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 4 - FCC View Service Provider Details; Dec. 2018	D. Imp. 4
240	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 5 - FCC View Service Provider Details; Provider coverage overlap and population coverage; Dec. 2018	D. Imp. 5
241	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 23 - FCC Fixed Broadband Deployment – Odenville, Alabama; Dec. 2018	D. Imp. 23
242	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 25 - FCC Fixed Broadband Deployment – Census Block 011504052214; Dec. 2019	D. Imp. 25
243	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 30 - FCC Fixed Broadband Deployment – Catlettsburg, Kentucky; Dec. 2018	D. Imp. 30

244	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 31 - FCC Fixed Broadband Deployment – Dover, Kentucky; Dec. 2018	D. Imp. 31
245	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 38 - FCC Fixed Broadband Deployment – Madison, Missouri; Dec. 2018	D. Imp. 38
246	Admitted 04/28/2020	Attached	Charter Impeachment Ex. No. 39 - FCC Fixed Broadband Deployment – Murdock, Nebraska; Dec. 2018	D. Imp. 39
247	04/04/2020	Attached	Declaration of Jeffrey H. Auman in Lieu of Direct Testimony at Trial	
248	04/04/2020	Attached	Declaration of John C. Jarosz in Lieu of Direct Testimony at Trial	
249	05/01/2019	Attached	Lewis Langston 30(b)(6) Deposition Excerpts	
250	05/01/2019	Attached	Kelly Atkinson Deposition Excerpts	
251	05/01/2019	Attached	Keith Dardis Deposition Excerpts	
252	09/10/2019	Attached	Andrew Sites Deposition Excerpts	
253	09/11/2019	Attached	Emmitt Walker Deposition Excerpts	
254	09/12/2019	Attached	Peter Maguire Deposition Excerpts	
255	09/19/2019	Attached	Kelly Atkinson Deposition Excerpts	
256	09/19/2019	Attached	Latisha Truong Deposition Excerpts	
257	09/19/2019	Attached	Shonne Bandy Deposition Excerpts	
258	09/19/2019	Attached	Frederick Gunzel Deposition Excerpts	
259	09/19/2019	Attached	Matthew Kardos Deposition Excerpts	
260	09/20/2019	Attached	Paul Strickland Jr. Deposition Excerpts	
261	09/24/2019	Attached	Jeffrey Auman Deposition Excerpts	
262	2/25/2019	Attached	Debtors' Motion for Entry of an Order (I) Authorizing Debtors to (A) Prepare a List of Creditors in Lieu of Submitted a Formatted Mailing Matrix and (B) File a Consolidated List of the 50 Largest Unsecured Creditors, (II) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors, and (III) Approving the Form and Manner of Notifying Creditors of Commencement of these Chapter 11 Cases (Case No. 19-22312-rdd, Dkt. No. 15)	

263	03/05/2019	Attached	Order Granting Motion (I) Authorizing Debtors to (A) Prepare a List of Creditors in Lieu of Submitting a Formatted Mailing Matrix and (B) File a Consolidated List of the 50 Largest Unsecured Creditors, (II) Authorizing Debtors to Redact Certain Personal Identification Information for Individual Creditors, and (III) Approving the Form and Manner of Notifying Creditors of Commencement of these Chapter 11 Cases (Case No. 19-22312-rdd, Dkt. No. 90)	
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Defendants-Appellants' Statement of Issues on Appeal

Defendants-Appellants respectfully state the following issues for the appeal:

1) Did the Bankruptcy Court err in holding that (a) Defendants-Appellants violated the automatic stay by committing an “an act to exercise control over property of the estate” within the meaning of section 362(a)(3), based not on creditor activity, but rather on competitive activity designed to encourage customers to switch telecommunications service away from a company facing the risk and uncertainty of Chapter 11 bankruptcy; and (b) there was no fair ground of doubt, and it was clear and unambiguous, that Defendants-Appellants’ advertising campaign violated the automatic stay and that application of contempt sanctions to Defendants-Appellants’ advertising did not violate the First Amendment?

2) Did the Bankruptcy Court err in holding that (a) “improper” advertising “exercise[s] control” over property in violation of the automatic stay, but “legitimate” advertising does not; and (b) the advertising here was “improper” based on the Bankruptcy Court’s summary judgment ruling that Defendants-Appellants’ advertising violated the Lanham Act and state laws regulating competition?

3) Did the Bankruptcy Court err in holding that “no reasonable person would believe that Defendants[-Appellants’] advertising campaign . . . protected a legitimate interest of Charter’s and did not harm property interests of the Debtors”?

4) Did the Bankruptcy Court err in holding that (a) Defendants-Appellants should face contempt sanctions, including attorneys’ fees and expenses, for violating the automatic stay regardless of whether (i) the standard Form 309F “Notice of Chapter 11 Bankruptcy Case” (*see* Case No. 19-22312, ECF No. 90) transmitted by Plaintiffs-Appellees to creditors, which stated that creditors may not take “action to collect debts from the debtor or the debtor’s property,” apprised competitors that attempting to lure customers away from the Plaintiffs-Appellees could be an act to exercise control of estate property, (ii) Defendants-Appellants violated any provision of any order issued by the Bankruptcy Court, including the temporary restraining order (*see* Case

No. 19-08246, ECF No. 25), which explicitly stated that the automatic stay applied to discontinuation of service to customers but made so such finding with respect to any competitive activity (e.g., advertising), or (iii) Defendants-Appellants acted willfully or in good faith; and (b) Defendants-Appellants willfully violated the automatic stay?

5) Did the Bankruptcy Court err (a) in holding that it had the authority to hold Defendants-Appellants in contempt, and impose compensatory damages and attorneys' fees, for a supposed violation of the automatic stay, and (b) in taking away from a jury the question of whether Defendants-Appellants' advertising was "literally false" or otherwise improper and what money damages resulted from any supposed unlawful advertising? And to the extent the Bankruptcy Court's decisions on summary judgment (as to liability) and at trial (as to money damages) were permissible at all, should its findings and conclusions be treated merely as proposed findings and conclusions subject to de novo review?

6) Did the Bankruptcy Court err in holding that Defendants-Appellants should be required to pay and that the evidence supported as properly compensatory for a violation of the automatic stay (a) damages in the amount of \$9,996,200 based on the Plaintiffs-Appellees' supposed lost profits from the claimed loss of 1,386 customers out of potentially overlapping customers (in geographies where Charter engaged in the challenged ad campaign) of 360,865 (or 0.38% of potentially overlapping customers), the cost of the Plaintiffs-Appellees' purportedly corrective advertising, and the cost of the Plaintiffs-Appellees' promotional campaign that included customer upgrades, discounts, and other pricing promotions; and (b) Plaintiffs-Appellees' attorney's fees and expenses in the amount of \$9,183,179.45?

Dated: May 13, 2021

Respectfully submitted,

THOMPSON COBURN LLP

By /s/ Brian Hockett

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Operating, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 2021, I served a copy of the foregoing ***Defendants-Appellants' Designation of the Record and Statement of Issues to be Presented on Appeal*** via operation of the Court's Electronic Filing System upon all counsel of record in the adversary proceeding.

/s/ Brian Hockett