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January 6, 2022

Via ECF and Electronic Mail

Honorable Cathy Seibel
United States District Judge
United States District Court for the Southern District of New York
300 Quarropas St.
White Plains, NY 10601-4150

Re: Response to Notice of Supplemental Authority, *Windstream Holdings, Inc., et al. v. Charter Communications, Inc. and Charter Communications Operating, LLC*, Civil Action No. 21-cv-04552 (CS)

Dear Judge Seibel:

We represent Windstream Holdings, Inc. and its affiliates (“Windstream”) in the above-referenced appeal. Windstream submits this response to Charter’s Notice of Supplemental Authority, dated December 30, 2021, which references *In re Purdue Pharma, L.P.*, No. 21-cv-7532, 2021 WL 5979108 (S.D.N.Y. Dec. 16, 2021) (“*Purdue*”).

Bankruptcy Rule 8014(f) permits a party to advise courts of “pertinent and significant authorities.” *Purdue*, however, is not pertinent, let alone significant to, the issues on appeal here. *Purdue* concerns whether the Bankruptcy Code authorizes the non-consensual release of third-party claims against non-debtors.

Charter suggests that *Purdue* bolsters one of its principal arguments on appeal—that Bankruptcy Courts are *powerless* to sanction violations of the automatic stay in cases involving corporate debtors. *Purdue*, however, offers no support for that radical proposition. *Purdue* does not even involve sanctions or the automatic stay. Rather, it concerns “an involuntary release of third-party claims against non-debtors”—“an extraordinary thing.” *Purdue*, 2021 WL 5979108, at *66. In contrast to such “extraordinary” relief, courts routinely impose sanctions for violations of the automatic stay in corporate debtor cases.

Purdue’s discussion of Section 105(a) of the Bankruptcy Code is also irrelevant here. It merely confirms that Section 105(a) authority must be exercised in service of a specific Code provision. As Windstream’s brief on appeal explains, however, a contempt sanction meets this requirement because it enforces Section 362(a)’s automatic stay—a fundamental debtor protection. (Dkt. 25 at 17-18.)



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Purdue's discussion of congressional silence is equally irrelevant to this appeal. *Purdue* merely discusses whether, *absent* any underlying Code provision, authority for involuntary releases may be inferred because nothing forbids them. *Id.* at *66. That discussion is irrelevant here because authority to sanction is implicit in the text and purpose of Section 362(a).

Moreover, *Purdue* is irrelevant to the applicable standard of review here. Windstream's Lanham Act claim is not on appeal. Only Charter's violation of the automatic stay is at issue in this appeal. The Bankruptcy Court's decision to impose sanctions for violation of the automatic stay is reviewed by this Court for abuse of discretion. *In re Gravel*, 6 F.4th 503, 511 (2d Cir. 2021).

Respectfully submitted,

/s/ Terence P. Ross

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