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*Special Counsel to UMB Bank, N.A.
and U.S. Bank N.A.*

June 17, 2020

VIA E-MAIL/ECF

The Honorable Robert D. Drain
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY

Re: In re Windstream Holdings, Inc., et al. – Case No. 19-22312 (RDD)

Dear Judge Drain:

We represent the Official Committee of Unsecured Creditors (the “Committee”) and UMB Bank, National Association and U.S. Bank National Association, in their respective capacities as indenture trustees for the Debtors’ \$1.1 billion in senior unsecured notes (the “Trustees,” and collectively with the Committee, the “Objectors”). We write to correct the record with respect to four points in the June 16, 2020 Letter from the Debtors [Dkt. No. 2051] (the “Debtors’ Letter”).

First, the Debtors did not notify us “well in advance” who they would designate as their corporate representatives pursuant to the two Rule 30(b)(6) notices. (Debtors’ Letter at 2) We first learned that Messrs. Leone and Grossi would be put forth as fact witnesses during Mr. Thomas’ deposition.

Second, the Objectors take no issue with someone other than management being designated as a Rule 30(b)(6) witness. (Id.) Our issue is that the Debtors are offering fact witnesses for depositions



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Honorable Robert D. Drain
June 17, 2020

scheduled fewer than two days before our objections are due and after the Court-ordered cut-off for fact discovery. For example, though the Disclosure Statement notes that the allowance of \$225 billion in intercompany claims will have an impact on the determination of unencumbered value, the first time we hear about facts relating to the allowance or treatment of any prepetition intercompany claims is in a deposition scheduled for tomorrow, within hours of our objection being due.

Third, the Debtors' "approach" is not at all the same as that used by the Objectors in responding to the Debtors' Rule 30(b)(6) notices. (Id.) Rather, the Objectors told the Debtors they would not be offering any fact witnesses at trial and for that reason the Debtors agreed that the Objectors need not respond to their Rule 30(b)(6) notices. (See Email from Y. French dated June 10, 2020, attached hereto as Exhibit A)

Fourth, the Objectors are not seeking additional discovery (Debtors' Letter at 2) or to limit Mr. Thomas' trial testimony. (Id. at 3) The only relief the Objectors seek is to preclude the Debtors from offering fact testimony on the subjects set forth in the Objectors' Rule 30(b)(6) topics (as limited by the Debtors' responses and objections) from witnesses who were not presented for depositions during the fact discovery period. FED. R. CIV. P. 37(c)(1) (made applicable herein by Fed. R. Bankr. P. 7037 and 9014) ("If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless.").

We remain available for a telephonic conference to discuss these matters at the Court's convenience.

Sincerely,

/s/ Lorenzo Marinuzzi

/s/ J. Christopher Shore

Lorenzo Marinuzzi

J. Christopher Shore

cc: Stephen E. Hessler (shessler@kirkland.com)
Brian S. Hermann (bhermann@paulweiss.com)
William L. Roberts (william.roberts@ropesgray.com)

Exhibit A

Guido, Laura

From: French, Yates <yfrench@kirkland.com>
Sent: Wednesday, June 10, 2020 6:18 PM
To: Winters, Julia; Rappoport, Steven T.
Cc: Kolatch, Joseph; Hotz, Grace C; *slovett@paulweiss.com; *bhermann@paulweiss.com; Howell, Richard U. S.; Kieselstein, Marc; Luze, John R.; *keith.wofford@ropesgray.com; Shore, Christopher; Marinuzzi, Lorenzo; Greer, Jocelyn Edith; *Matthew.McGinnis@ropesgray.com; *William.Roberts@ropesgray.com; Synnott, Aidan; Millar, James H.; Goren, Todd M.; jgleit@sullivanlaw.com; Velocci, Frank F.; Morgan, Brian P.; Scott, Mary A.; Fanneron, Evelyn; Fenton, Cassandra E.; Chase, Ashley; Dike, Uzo; Collins, Adam
Subject: RE: In re Windstream Holdings, Inc., et al.

Following up on the conversation we just had, we do not expect you to serve objections or responses to these notices so long as:

1. You do not call any fact witnesses;
2. You disclose in advance and allow us to depose all other witnesses; and
3. You produce all expert reliance materials a reasonable amount of time in advance of the depositions.

From: French, Yates
Sent: Wednesday, June 10, 2020 1:28 PM
To: Winters, Julia <julia.winters@whitecase.com>; Rappoport, Steven T. <SRappoport@mofo.com>
Cc: Kolatch, Joseph <jkolatch@paulweiss.com>; Hotz, Grace C <ghotz@paulweiss.com>; *slovett@paulweiss.com <slovett@paulweiss.com>; *bhermann@paulweiss.com <bhermann@paulweiss.com>; Howell, Richard U. S. <rhowell@kirkland.com>; Kieselstein, Marc <mkieselstein@kirkland.com>; Luze, John R. <john.luze@kirkland.com>; *keith.wofford@ropesgray.com <keith.wofford@ropesgray.com>; *cshore@whitecase.com <cshore@whitecase.com>; *Imarinuzzi@mofo.com <Imarinuzzi@mofo.com>; Greer, Jocelyn Edith <JGreer@mofo.com>; *Matthew.McGinnis@ropesgray.com <Matthew.McGinnis@ropesgray.com>; *William.Roberts@ropesgray.com <William.Roberts@ropesgray.com>; Synnott, Aidan <asynnott@paulweiss.com>; Millar, James H. <james.millar@faegredrinker.com>; *tgoren@mofo.com <tgoren@mofo.com>; jgleit@sullivanlaw.com; Velocci, Frank F. <frank.velocci@faegredrinker.com>; Morgan, Brian P. <brian.morgan@faegredrinker.com>; Scott, Mary A. <mary.scott@faegredrinker.com>; Fanneron, Evelyn <evelyn.fanneron@whitecase.com>; Fenton, Cassandra E. <cassandra.fenton@kirkland.com>; Chase, Ashley <ashley.chase@whitecase.com>; Dike, Uzo <uzo.dike@kirkland.com>; Collins, Adam <adam.collins@kirkland.com>
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Steve, Julia,

The Debtors have not received any response to the Debtors' 30(b)(6) notices that were served on the committee and trustees on May 28, 2020. If you intend to object to the topics, please provide those objections by June 12, 2020. Please also let us know who will be designated as the corporate representative for each topic and their availability for a deposition.

In addition, the Debtors have not yet received any documents from the committee or trustees in response to the Debtors' document requests that were served on May 28, 2020. Please produce the requested documents (if any) no later than June 12, 2020.

From: Fenton, Cassandra E. <cassandra.fenton@kirkland.com>

Sent: Thursday, May 28, 2020 7:16 PM

To: *Imarinuzzi@mofo.com <Imarinuzzi@mofo.com>; *cshore@whitecase.com <cshore@whitecase.com>

Cc: Kolatch, Joseph <jkolatch@paulweiss.com>; Hotz, Grace C <ghotz@paulweiss.com>; *slovett@paulweiss.com <slovett@paulweiss.com>; *bhermann@paulweiss.com <bhermann@paulweiss.com>; Howell, Richard U. S. <rhowell@kirkland.com>; Kieselstein, Marc <mkieselstein@kirkland.com>; Luze, John R. <john.luze@kirkland.com>; French, Yates <yfrench@kirkland.com>; *keith.wofford@ropesgray.com <keith.wofford@ropesgray.com>; Greer, Jocelyn Edith <JGreer@mofo.com>; *Matthew.McGinnis@ropesgray.com <Matthew.McGinnis@ropesgray.com>; *William.Roberts@ropesgray.com <William.Roberts@ropesgray.com>; Synnott, Aidan <asynnott@paulweiss.com>; Millar, James H. <james.millar@faegredrinker.com>; *tgoren@mofo.com <tgoren@mofo.com>; Rappoport, Steven T. <SRappoport@mofo.com>; jgleit@sullivanlaw.com; Velocci, Frank F. <frank.velocci@faegredrinker.com>; Morgan, Brian P. <brian.morgan@faegredrinker.com>; Scott, Mary A. <mary.scott@faegredrinker.com>; Winters, Julia <julia.winters@whitecase.com>; Fanneron, Evelyn <evelyn.fanneron@whitecase.com>; Chase, Ashley <ashley.chase@whitecase.com>; Dike, Uzo <uzo.dike@kirkland.com>; Collins, Adam <adam.collins@kirkland.com>

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Counsel:

Please see attached.

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From: Fenton, Cassandra E.

Sent: Thursday, May 21, 2020 12:07 PM

To: *Imarinuzzi@mofo.com <Imarinuzzi@mofo.com>; *cshore@whitecase.com <cshore@whitecase.com>

Cc: Kolatch, Joseph <jkolatch@paulweiss.com>; Hotz, Grace C <ghotz@paulweiss.com>; *slovett@paulweiss.com <slovett@paulweiss.com>; *bhermann@paulweiss.com <bhermann@paulweiss.com>; Howell, Richard U. S. <rhowell@kirkland.com>; Kieselstein, Marc <mkieselstein@kirkland.com>; Luze, John R. <john.luze@kirkland.com>; French, Yates <yfrench@kirkland.com>; *keith.wofford@ropesgray.com <keith.wofford@ropesgray.com>; Greer, Jocelyn Edith <JGreer@mofo.com>; *Matthew.McGinnis@ropesgray.com <Matthew.McGinnis@ropesgray.com>; *William.Roberts@ropesgray.com <William.Roberts@ropesgray.com>; Synnott, Aidan <asynnott@paulweiss.com>; Millar, James H. <james.millar@faegredrinker.com>; *tgoren@mofo.com <tgoren@mofo.com>; Rappoport, Steven T. <SRappoport@mofo.com>; jgleit@sullivanlaw.com; Velocci, Frank F. <frank.velocci@faegredrinker.com>; Morgan, Brian P. <brian.morgan@faegredrinker.com>; Scott, Mary A. <mary.scott@faegredrinker.com>; Winters, Julia <julia.winters@whitecase.com>; Fanneron, Evelyn <evelyn.fanneron@whitecase.com>; Chase, Ashley <ashley.chase@whitecase.com>

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Counsel:

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From: French, Yates <yfrench@kirkland.com>
Sent: Monday, May 18, 2020 9:59 PM
To: *Imarinuzzi@mofo.com <Imarinuzzi@mofo.com>; *cshore@whitecase.com <cshore@whitecase.com>
Cc: Kolatch, Joseph <jkolatch@paulweiss.com>; Hotz, Grace C <ghotz@paulweiss.com>; *slovett@paulweiss.com <slovett@paulweiss.com>; *bhermann@paulweiss.com <bhermann@paulweiss.com>; Howell, Richard U. S. <rhowell@kirkland.com>; Kieselstein, Marc <mkieselstein@kirkland.com>; Luze, John R. <john.luze@kirkland.com>; *keith.wofford@ropesgray.com <keith.wofford@ropesgray.com>; Greer, Jocelyn Edith <JGreer@mofo.com>; *Matthew.McGinnis@ropesgray.com <Matthew.McGinnis@ropesgray.com>; *William.Roberts@ropesgray.com <William.Roberts@ropesgray.com>; Synnott, Aidan <asynnott@paulweiss.com>; Millar, James H. <james.millar@faegredrinker.com>; *tgoren@mofo.com <tgoren@mofo.com>; Rappoport, Steven T. <SRappoport@mofo.com>; jgleit@sullivanlaw.com; Velocci, Frank F. <frank.velocci@faegredrinker.com>; Fenton, Cassandra E. <cassandra.fenton@kirkland.com>; Morgan, Brian P. <brian.morgan@faegredrinker.com>; Scott, Mary A. <mary.scott@faegredrinker.com>; Winters, Julia <julia.winters@whitecase.com>; Fanneron, Evelyn <evelyn.fanneron@whitecase.com>; Chase, Ashley <ashley.chase@whitecase.com>
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Please see the attached correspondence.

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