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

In re:)	Chapter 11
WINDSTREAM HOLDINGS, INC., <i>et al.</i> ,)	Case No. 19-22312 (RDD)
Debtors. ¹)	(Jointly Administered)
)	
)	
)	

**EX PARTE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS FOR AN ORDER PURSUANT TO SECTIONS 105(a) AND 107(b) OF
THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9018 AUTHORIZING
THE FILING UNDER SEAL OF CERTAIN CONFIDENTIAL INFORMATION**

The Official Committee of Unsecured Creditors (the “Committee”) of Windstream Holdings, Inc. and its debtor affiliates, as debtors and debtors-in-possession (collectively, the “Debtors”), respectfully states the following in support of this motion (the “Motion”):

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of debtor entities 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 Debtors’ claims and noticing agent at <http://www.kccllc.net/windstream>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.



RELIEF REQUESTED

1. The Committee seeks entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”), authorizing the Committee to file under seal the (a) *Declaration of Lorenzo Marinuzzi in Support of Objection of the Official Committee of Unsecured Creditors to Confirmation of the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc., et al., Pursuant to Chapter 11 of the Bankruptcy Code* (the “Marinuzzi Declaration”), and (b) certain portions of the *Objection of the Official Committee of Unsecured Creditors to Confirmation of the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc., et al., Pursuant to Chapter 11 of the Bankruptcy Code* (the “Plan Objection”).

2. The Proposed Order provides that unredacted versions of the Marinuzzi Declaration and the Plan Objection shall remain under seal and shall not be made available to anyone other than the Court, the United States Trustee, counsel to the Debtors, and any other party as may be ordered by the Court or agreed to by the Committee, under appropriate confidentiality agreements satisfactory to the Committee.

3. In accordance with Rule 9018-1(b) of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), redacted copies of the Marinuzzi Declaration and the Plan Objection have been filed on the Court’s docket.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 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.

5. Venue in this District is proper before the Court under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding as defined in 28 U.S.C. § 157(b).

6. The statutory predicates for the relief requested herein are sections 105(a) and 107(b) of title 11 of the United States Code (as amended, the “Bankruptcy Code”), rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 9077-1(b).

BACKGROUND

7. On February 25, 2019, the Debtors each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the Court. The Debtors are authorized to continue operating their businesses and managing their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases.

8. These chapter 11 cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the *Order Directing Joint Administration of Chapter 11 Cases* [Docket No. 56], entered on February 28, 2019.

9. On March 12, 2019, the United States Trustee for Region 2 appointed the Committee [Docket No. 136].²

BASIS FOR RELIEF

10. The Bankruptcy Code provides strong support for redacting certain portions of the Marinuzzi Declaration and the Plan Objection. 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 relevant 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 ...

² The members of the Committee are: (a) Pension Benefit Guaranty Corporation; (b) Communication Workers of America, AFL-CIO, CLC; (c) AT&T Services, Inc.; (d) VeloCloud Networks, Inc.; (e) Crown Castle Fiber; (f) LEC Services, Inc.; and (g) UMB Bank.

11 U.S.C. § 107(b)(1).

11. Bankruptcy Rule 9018 further defines the procedures by which a party may move for relief under section 107(b) of the Bankruptcy Code, and provides, in relevant part:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires ... 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.

12. Once a court determines that a party in interest is seeking protection of information that falls within the ambit of section 107(b), “the court is required to protect a requesting interested party and has no discretion to deny the application.” *Video Software Dealers Ass’n v. Orion Pictures Corp.*, 21 F.3d 24, 27 (2d Cir. 1994).

13. Pursuant to the *Confidentiality Agreement and Stipulated Protective Order* [Docket No. 573] entered in these chapter 11 cases (the “Protective Order”), parties are entitled to designate discovery material as “Confidential Material” or “Highly Confidential” (any such discovery material, “Designated Material”), subject to the terms of the Protective Order. If a party wishes to file Designated Material with the Court, it must file such Designated Material under seal. *See* Protective Order, ¶¶ 8, 16.

14. For the foregoing reasons, the Committee submits that good cause exists to authorize the filing under seal of unredacted copies of the Marinuzzi Declaration and the Plan Objection. The Marinuzzi Declaration and the Plan Objection contain information that has been marked as Designated Material pursuant to the Protective Order.

MOTION PRACTICE

15. This Motion includes citations to the applicable rules and statutory authorities upon which the Motion is predicated and the legal authorities that support the relief requested herein. Accordingly, the Committee submits that this Motion satisfies Local Rule 9013-1(a).

NOTICE

16. The Committee will provide notice of the Motion to the following parties and/or their respective counsel, as applicable: (a) the Debtors, and (b) the entities on the Master Service List (as defined in the Case Management Order and available on the Debtors' case website at www.kcellc.net/windstream). The Committee submits that no other or further notice is necessary.

NO PRIOR REQUEST

17. No prior request for the specific relief sought in this Motion has been made to this or any other court.

[Remainder of page intentionally blank]

WHEREFORE, the Committee respectfully requests that the Court enter the Proposed Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: June 19, 2020
New York, New York

/s/ Lorenzo Marinuzzi
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Exhibit A

Proposed Order

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

In re:)	
)	Chapter 11
WINDSTREAM HOLDINGS, INC., <i>et al.</i> , ¹)	
)	Case No. 19-22312 (RDD)
Debtors.)	
)	(Jointly Administered)

**ORDER PURSUANT TO SECTIONS 105(a) AND 107(b) OF THE BANKRUPTCY
CODE AND BANKRUPTCY RULE 9018 AUTHORIZING
THE FILING UNDER SEAL OF CERTAIN CONFIDENTIAL INFORMATION**

Upon the [unopposed] motion (the “Motion”)² of the Official Committee of Unsecured Creditors (the “Committee”) of Windstream Holdings, Inc., *et al.* (the “Debtors”) for entry of an order (this “Order”) pursuant to sections 105(a) and 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018 authorizing the Committee to file under seal the *Declaration of Lorenzo Marinuzzi in Support of Objection of the Official Committee of Unsecured Creditors to Confirmation of the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc., et al., Pursuant to Chapter 11 of the Bankruptcy Code* (the “Marinuzzi Declaration”) as well as certain portions of the *Objection of the Official Committee of Unsecured Creditors to Confirmation of the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc., et al., Pursuant to Chapter 11 of the Bankruptcy Code* (the “Plan Objection”); and the Court having found that it has jurisdiction over this matter pursuant to

¹ The last four digits of Debtor Windstream Holdings, Inc.’s tax identification number are 7717. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, 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 Debtors’ proposed claims and noticing agent at <http://www.kcellc.net/windstream>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 4001 North Rodney Parham Road, Little Rock, Arkansas 72212.

² Capitalized terms used herein shall, unless otherwise defined, have the meanings ascribed to them in the Motion.

28 U.S.C. §§ 157(a)-(b) and 1334(b); and the Court having found that venue of the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the notice of the Motion was sufficient under the circumstances; and, after due deliberation, the Court having determined that the legal and factual bases set forth in the Motion establish sufficient cause for the relief granted herein, in that the proposed information that the Motion seeks to restrict from the public docket of these cases is properly protected under section 107(b)(1) of the Bankruptcy Code as confidential commercial information; now, therefore, it is hereby **ORDERED** that:

1. The Motion is GRANTED, as set forth herein.
2. The Committee is authorized to file under seal the Marinuzzi Declaration and certain portions of the Plan Objection by providing them to the Clerk's Office at 300 Quarropas Street, White Plains, New York along with a copy of this Order, and to file redacted versions thereof on the public docket of these cases; provided that the Committee 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 Rule 9018-1.
3. Except upon further order of the Court after notice to the Committee, the Marinuzzi Declaration and certain portions of the Plan Objection shall remain under seal and shall not be made available to anyone without the consent of the Committee, with the exception that unredacted copies of the Marinuzzi Declaration and the Objection shall be provided to (a) the Court, (b) the United States Trustee, (c) counsel to the Debtors, and (d) any other party as may be ordered by the Court or agreed to by the Committee, under appropriate confidentiality agreements satisfactory to the Committee. Each party to whom disclosure is made shall keep the unredacted Marinuzzi Declaration and the unredacted Plan Objection confidential.

4. The requirements set forth in Local Rule 9013-1 are satisfied by the contents of the Motion.

5. The Committee is authorized to take all actions necessary to effectuate the ruling set forth in this Order.

6. This Order is without prejudice to the rights of any party in interest, or the United States Trustee, to seek to unseal the unredacted Marinuzzi Declaration and the unredacted Plan Objection or any parts thereof.

7. Counsel for the Committee shall contact the Clerk's Office regarding the return or other disposition of the unredacted Marinuzzi Declaration and the unredacted Plan Objection within 10 days after resolution of the Plan Objection. If the Committee fails to do so, the Clerk of the Court is authorized to destroy the unredacted Marinuzzi Declaration and the unredacted Plan Objection.

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

Dated: _____, 2020
White Plains, New York

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE