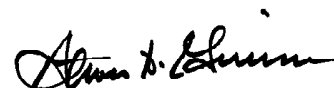


EXHIBIT A

EXHIBIT A

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21 NETWORK CORPORATION and DEFENDANTS
22 JOSEPH P. CLAYTON, JAMES DEFRANCO,
23 CANTEY M. ERGEN, DAVID K. MOSKOWOTZ, and
24 CARL E. VOGEL

25 **DISTRICT COURT**
26 **CLARK COUNTY, NEVADA**

27 IN RE DISH NETWORK CORPORATION
28 DERIVATIVE LITIGATION

Case No.: A-13-686775-B
Dept. No.: XI

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

29 Plaintiff JACKSONVILLE POLICE AND FIRE PENSION FUND ("Plaintiff"), by and
30 through its undersigned attorneys of record, Nominal Defendant DISH NETWORK
31 CORPORATION ("DISH"), by and through its undersigned attorneys of record, and Defendants
32 CHARLES W. ERGEN, JOSEPH P. CLAYTON, JAMES DEFRANCO, CANTEY M. ERGEN,
33 DAVID K. MOSKOWITZ, TOM A. ORTOLF and CARL E. VOGEL (together with DISH,
34 "Defendants"), by and through their undersigned attorneys of record, hereby stipulate and agree,

1 pursuant to N.R.C.P. 29 and EDCR 7.50, that the use and handling of Confidential Information (as
2 defined herein) and Discovery Material (as defined herein) in these proceedings shall be governed
3 by and subject to the provisions below;

4 Plaintiff and Defendants, separately and each of them, are each a "party" and are
5 collectively referred to as the "parties." Any reference to a party or a person or non-party means,
6 unless otherwise indicated, a natural person, firm, entity, corporation, partnership, proprietorship,
7 association, joint venture, subsidiary, division, affiliate, parent company, and any other form of
8 business organization or arrangement, and includes the party or person or non-party's officers,
9 directors, managers, members, employees, agents, representatives, shareholders, independent
10 contractors, attorneys, accountants, and all other person(s) over which the party or person or non-
11 party has control or which act or purport to act on their behalf. Any party or any person or non-
12 party producing or disclosing Confidential Information or Discovery Material pursuant to the terms
13 set forth below is referred to as the "Producing Party," and the party or any person or non-party
14 receiving or being given access to confidential information or material is referred to as the
15 "Receiving Party."

16 1. **Confidential Information.** "Confidential Information" means any and all
17 information, documents, materials, items and things produced, disclosed or otherwise revealed in
18 discovery in this case, regardless of the medium or manner generated, stored or maintained,
19 including but not limited to testimony adduced at depositions upon oral examination or upon
20 written questions, answers to interrogatories or requests for admission, or other forms of discovery
21 responses (collectively, "Discovery Material") that the Producing Party designates as
22 "CONFIDENTIAL—Authorized Eyes Only" pursuant to Section 2. The Producing Party shall, in
23 good faith, designate as "CONFIDENTIAL—Authorized Eyes Only" only such Discovery
24 Materials that consists of (i) previously non-disclosed financial information (including but not
25 limited to profitability reports or estimates, percentage fees, commercial rates, sales report and
26 sales margins), (ii) previously non-disclosed trade secrets, business plans or prospects, product
27 development information, or marketing information, (iii) any information of a personal or intimate
28 nature regarding any individual, (iv) attorney-client privileged information and work product, and

(v) any other category of information hereinafter giving confidential status by the Court. In designating information as "CONFIDENTIAL—Authorized Eyes Only," the Producing Party represents that he, she or it maintains the information in confidence and in good faith believes in fact that it is confidential and that its unprotected disclosure might result in economic or competitive injury.

2. Designation of Confidential Information by Receiving Party. All Discovery Material in this case that has not been designated as Confidential Information by the Producing Party shall be deemed Confidential Information for the first five (5) business days after production. During those five days, any Receiving Party may designate any Discovery Material received as Confidential Information under the same designation procedure and according to the same rules applicable to the Producing Party as set forth herein. If, at the expiration of the five-day period, no Party notifies the Producing Party of its intent to designate Discovery Material as Confidential Information, any non-designated Discovery Material shall be treated as not Confidential Information unless otherwise designated as Confidential Information as set forth herein.

When the Producing Party produces, discloses or otherwise reveals Confidential Information, it shall be clearly designated at the expense of the Producing Party as "CONFIDENTIAL—Authorized Eyes Only" and treated as Confidential Information by the Receiving Party. The legend "CONFIDENTIAL—Authorized Eyes Only" shall be stamped or affixed to the Discovery Material(s) in such a way as to not obliterate or obscure any written matter. With respect to a multi-page document that contains Confidential Information, the designation should be made, to the extent possible, on each page of the document. If designation in the manner set forth herein is impossible or impractical, the Producing Party may use such other method of designation as is reasonable under the circumstances. The Producing Party shall, in good faith, designate as "CONFIDENTIAL—Authorized Eyes Only" only such Discovery Materials, pursuant to and consistent with Section 1, that it reasonably believes constitutes Confidential Information, and the Producing Party shall use best efforts to designate Discovery Materials as containing Confidential Information prior to production or disclosure by the Producing Party. In the event any Discovery Materials that contain Confidential Information are

1 made available for inspection by a party, there will be no waiver of confidentiality by virtue of
2 such inspection before the material is copied and produced with a confidentiality designation by
3 the Producing Party.

4 If the Producing Party determines that any of its Discovery Material produced in the course
5 of discovery in this action should have been designated as provided herein, it shall advise the
6 Receiving Party of this fact in writing as soon as practicable, and all copies of such Discovery
7 Material deemed to be Confidential Information shall be marked "CONFIDENTIAL—Authorized
8 Eyes Only" at the expense of the Producing Party and treated as Confidential Information by all
9 parties. The Receiving Party shall promptly destroy or return the previously undesignated copies
10 of Confidential Information upon receiving substitute copies of the Discovery Materials properly
11 designated as "CONFIDENTIAL—Authorized Eyes Only." Nothing herein shall preclude a party
12 from disputing any designation of Discovery Materials by a party as Confidential Information
13 under Section 11. By designating Discovery Materials as containing Confidential Information, the
14 Producing Party is certifying to the Court that there is a good faith basis in law and in fact for the
15 designation within the meaning of N.R.C.P. 26(g).

16 **3. Use of Confidential Information Generally.** All Confidential Information
17 designated as provided herein in Section 2 shall be used by the Receiving Party solely for the
18 purposes of this lawsuit, shall not be disclosed to anyone other than those persons identified herein
19 in Section 5, and shall be handled in the manner set forth herein until such designation is removed
20 by the Producing Party or by order of the Court. Such Confidential Information shall not be used
21 by any Receiving Party or other person granted access thereto under this Stipulated Confidentiality
22 Agreement and Protective Order ("Stipulation and Order" or "Protective Order") for any purpose
23 outside of this lawsuit, including, but not limited to, a business or competitive purpose, publicity,
24 or in another legal dispute or proceeding, without prior written consent of the Producing Party or
25 approval from the Court. Nothing herein shall preclude the Producing Party from using its own
26 Confidential Information.

27 The Receiving Party, or any person or non-party receiving or being given access to
28 Confidential Information, must proceed as follows:

- a. Store and maintain such Confidential Information in a secure manner, within their exclusive possession and control;
- b. Take all measures reasonably necessary to maintain the confidentiality of such Confidential Information; and
- c. Not permit or participate in, directly or indirectly, the unauthorized production, disclosure, or use of such Confidential Information.

All Parties and persons or non-parties obtaining, receiving or being given access to Confidential Information in accordance with this Stipulation and Order consent to the continuing jurisdiction of the Court for the purpose of enforcing the terms of this Stipulation and Order and remedying any violation(s) thereof.

4. **Use of Confidential Information in Depositions.** Any party shall have the right to use Confidential Information during depositions taken in connection with this case unless otherwise agreed to by the Parties in writing or on the record at the deposition. However, to the extent a third party deponent (or a person or non-party not otherwise authorized to receive Confidential Information under Section 5 herein) is present, that third party deponent or person or non-party shall be required to confirm, in writing or orally on the record, that it accepts the words and substance of the form Attachment A affixed to this Stipulation and Order prior to dissemination or disclosure of Confidential Information. Counsel for the affected Party may also request that all individual(s) not qualified to obtain, receive or be given access to Confidential Information under this Stipulation and Order (other than the third-party deponent's legal counsel) leave the deposition session during any portion where Confidential Information is used, disclosed or referred to. At any deposition session, upon inquiry with regard to the content of a document, material, item or thing marked "CONFIDENTIAL—Authorized Eyes Only," or whenever counsel for a party deems that the answer to a question may result in the disclosure of Confidential Information, or whenever counsel for a party deems that the answer to any question has resulted in the disclosure of Confidential Information, the deposition (or portions thereof) may be designated by the affected party as containing Confidential Information subject to the provisions of this Stipulation and Order. When such designation has been made, the testimony or the transcript of

1 such testimony shall be disclosed only to those parties or persons or non-parties described herein in
 2 Section 5 and to the testifying third party deponent (including the third party deponent's legal
 3 counsel), and the Confidential Information contained therein shall be used only as specified in this
 4 Stipulation and Order. Moreover, all originals and copies of deposition transcripts that contain
 5 Confidential Information and/or exhibits containing Confidential Information shall be prominently
 6 marked "CONFIDENTIAL—Authorized Eyes Only" on the cover thereof and, if and when filed
 7 with the Court, the portions of such transcript so designated shall be filed under seal as required
 8 under Section 6 herein.

9 Counsel must designate portions of a deposition transcript, by page and line number(s),
 10 including any confidential exhibit(s), as "CONFIDENTIAL—Authorized Eyes Only" on the
 11 record at the deposition, or within ten (10) business days of receiving the transcript and
 12 corresponding exhibit(s). Designations may be made by letter to counsel of record or on the record
 13 during the deposition. Portions of deposition transcripts so designated shall be treated as
 14 Confidential Information by the parties as set forth herein. If all or a portion of a videotaped
 15 deposition is intended to be designated as Confidential Information, the videocassette, videotape,
 16 DVD, CD-ROM or other electronic medium storing or maintaining the deposition testimony shall
 17 be stamped or affixed "CONFIDENTIAL—Authorized Eyes Only." During the ten (10) business
 18 day period, the entire transcript, or other recording of deposition testimony, shall be treated as
 19 Confidential Information. If no confidential designations are made within the ten (10) business
 20 day period, the entire transcript shall be considered not Confidential Information.

21 **5. Disclosure of Confidential Information.** Confidential Information produced
 22 pursuant to this Stipulation and Order may be disclosed or made available only to the persons
 23 designated below:

- 24 (a) Retained counsel and in-house counsel for a party (including attorneys associated
 25 with retained counsel's law firm and the paralegal, clerical, and secretarial staff
 26 employed by retained counsel, and attorneys working under the leadership of
 27 retained counsel for a party, to the extent such persons are deemed reasonably
 28 necessary by the party's counsel to aid in the prosecution, defense or settlement of

- 1 this action);
- 2 (b) A Defendant, or officers, directors, and employees of a Defendant deemed
- 3 reasonably necessary by counsel for the Defendant to aid in the defense, or
- 4 settlement of this action;
- 5 (c) Outside experts or consultants (together with their clerical and secretarial staff)
- 6 retained by counsel for a party to assist in the prosecution, defense, or settlement of
- 7 this action, to the extent reasonably necessary to perform their work in connection
- 8 with this action, provided, however, that no such expert or consultant shall be
- 9 employed or retained by, or otherwise working for, any party (other than the
- 10 Defendants and their affiliates) in connection with the proceedings captioned *In re:*
- 11 *LightSquared Inc., et al.*, Case No. 12-12080 (SCC), pending in the United States
- 12 Bankruptcy Court for the Southern District of New York;
- 13 (d) Clerical and data processing personnel, including third party vendors, involved in
- 14 the production, reproduction, organizing, filing, coding, cataloging, converting,
- 15 storing, retrieving, and review of Discovery Material, to the extent reasonably
- 16 necessary to assist a party or its counsel in these proceedings;
- 17 (e) This Court and its staff and any other court, tribunal or dispute resolution officer
- 18 duly appointed, chosen or assigned in connection with this action;
- 19 (f) Court reporter(s) and videographers(s) employed in this action;
- 20 (g) A witness or person or non-party appearing at a deposition in this action (including
- 21 his or her counsel), subject to the terms of Section 4;
- 22 (h) The original source of the Confidential Information (its author), and any
- 23 addressee(s) or recipient(s) of communications or material that is designated as
- 24 Confidential Information, including but not limited to addressee(s) or recipient(s) of
- 25 confidential e-mail communications and/or confidential correspondence;
- 26 (i) Any other person as to whom the parties in writing agree or that the Court in this
- 27 action designates; and
- 28

1 (j) Any governmental agency or regulating authority to the extent disclosure is required
2 by applicable law.

3 To facilitate the expedited production of Confidential Information and Discovery Material
4 in connection with Count I of the Verified Amended Derivative Complaint, dated September 12,
5 2013, Plaintiff agrees that Confidential Information and Discovery Material will be made only
6 available to its retained counsel, its in-house counsel, and counsel working under Plaintiff's
7 retained counsel's leadership until the bankruptcy court presiding over *In re: LightSquared Inc., et*
8 *al.*, Case No. 12-12080 (SCC), pending in the United States Bankruptcy Court for the Southern
9 District of New York, conducts the bankruptcy plan confirmation hearing currently scheduled for
10 December 6, 2013 and issues a final order confirming a plan of reorganization in that case.
11 Following the bankruptcy plan confirmation hearing and a final order confirming a bankruptcy
12 plan, any Confidential Information produced pursuant to this Stipulation and Order may also be
13 disclosed or made available to up to three (3) officers, directors or employees of Plaintiff,
14 designated by counsel for Plaintiff as reasonably necessary to aid in the defense or settlement of
15 this action. Prior to receiving Confidential Information, the three (3) designated representatives of
16 Plaintiff must execute the Confidentiality Agreement set forth in Attachment A to this Stipulation
17 and Order.

18 Any person or non-party to whom Confidential Information is disclosed or revealed
19 pursuant to subparts (b), (c), (d), (f), (g) or (i) of this Section shall be given a copy of this
20 Stipulation and Order advised (1) that the Confidential Information is being disclosed pursuant to
21 an Order of the Court and agreement of the Parties; (2) that the Confidential Information may not
22 be disclosed by such person or non-party to any other person or non-party not permitted to have
23 access to the Confidential Information pursuant to this Stipulation and Order; and (3) that any
24 violation of this Protective Order may result in the imposition of such sanctions as the Court deems
25 proper. Prior to delivering or disseminating any Confidential Information to any person or non-
26 party designated in subparts (c), (d), (f), (g) or (i) of this Section, above, such person or non-party
27 shall be required to execute a copy of the form Attachment A affixed to this Stipulation and Order.
28 No party (or its counsel) shall discourage any persons or non-parties from signing a copy of the

1 form Attachment A affixed to this Stipulation and Order.

2 6. Filing of Confidential Information With the Court. Any Confidential
3 Information that any party or non-party files with the Court, including transcripts of depositions or
4 portions thereof, documents produced in discovery, information obtained from inspection of
5 premises or things, and answers to interrogatories or requests for admissions, exhibits and all other
6 documents that have previous thereto been designated as containing Confidential Information, or
7 any pleading, motion, brief or memorandum reproducing, paraphrasing, or containing such
8 Confidential Information, shall be filed and maintained under seal in compliance with Part VII of
9 the Nevada Supreme Court Rules Governing Sealing and Redacting Court Records. The filing
10 must be placed in a sealed envelope bearing the title of the case and the notation:

11 **“CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER**
12 **To Be Opened Only Upon Further Order Of This Court**
13 **Or For the Sole Use of The Court And Its Employees”**

14 All such sealed envelopes shall not be opened except for the sole use of the Court or its
15 employees or as otherwise ordered by the Court. Further, all such sealed envelopes shall be
16 maintained by the Clerk of the Court separate from public records in this action and shall be
17 released only upon further order of the Court; however, the same shall remain available to the
18 parties and all persons or non-parties entitled to receive Confidential Information pursuant to
19 Section 5.

20 7. Knowledge of Unauthorized Use or Possession of Confidential Information.

21 The Receiving Party or its counsel shall immediately notify counsel for the Producing Party
22 in writing if it learns of any unauthorized possession, knowledge, use or disclosure of any
23 Confidential Information in any manner inconsistent with the terms of this Stipulation and Order.
24 The Receiving Party shall promptly furnish the Producing Party in writing with the full details of
25 such unauthorized possession, knowledge, use or disclosure. With respect to such unauthorized
26 possession, knowledge, use or disclosure, the Receiving Party shall assist the Producing Party in
27 preventing its recurrence of and shall cooperate fully with the Producing Party in any litigation to
28 prevent unauthorized use or further dissemination of Confidential Information. The Receiving

Party shall further use its best efforts to retrieve all copies of Confidential Information obtained by persons or non-parties not authorized to possess, know or otherwise receive Confidential Information under this Stipulation and Order, and provide such person or non-party with a copy of this Stipulation and Order.

8. Copies, Summaries or Abstracts. Any and all copies, summaries, abstracts, compilations or exact duplications of Confidential Information shall be marked "CONFIDENTIAL—Authorized Eyes Only" and shall be considered Confidential Information subject to the terms and conditions of this Protective Order. Attorney-client communications and attorney work product regarding Confidential Information shall not be subject to this Section, regardless of whether they summarize, abstract, paraphrase, or otherwise reflect Confidential Information, provided that the holders of such communications and work product maintain its confidentiality.

9. Information Not Confidential. The restrictions set forth in this Protective Order shall not be construed:

- (a) To apply to information lawfully obtained by a party from any non-party to this litigation, if that non-party had the right to disclose such information subsequent to the production of information by the Producing Party, subject to and in accordance with Section 10 herein; or
- (b) To apply to information or other materials that have been or become part of the public domain by publication or otherwise and not due to any unauthorized act or omission on the part of a Receiving Party; or
- (c) To apply to information or other materials that, under law, have been declared to be in the public domain.

For purposes of this Stipulation and Order, "tax returns" shall not be declared as information or other Discovery Material that is or has become part of the public domain, unless such tax returns have been made publicly available pursuant to state or federal law or otherwise have been voluntarily made publicly available by the taxpayer.

10. Production of Confidential Information by Non-Parties. Promptly and in no

1 event later than five (5) business days of receipt of any information, documents, materials, items or
2 things produced by a non-party voluntarily or in response to a subpoena or court order, the party
3 receiving such information, documents, materials, items or things shall provide all parties in this
4 case with copies thereof. Any party who reasonably believes in good faith that any materials
5 produced by a non-party contain Confidential Information may, within ten (10) business days of
6 receipt thereof, designate the materials as "CONFIDENTIAL—Authorized Eyes Only" pursuant to
7 and consistent with Section 2. Until this ten (10) business day period expires, the parties shall treat
8 all such materials produced by a non-party as Confidential Information. If no objections or
9 confidential designations are made within the ten (10) day period, the materials shall be considered
10 not Confidential Information.

11 Nothing herein shall be construed as authorizing or encouraging a party to disobey a lawful
12 directive from this or another court or tribunal.

13 **11. Challenges to Confidentiality Designations.** If at any time counsel for the
14 Receiving Party believes in good faith that counsel for the Producing Party has unreasonably
15 designated certain Discovery Materials as containing Confidential Information, or believes in good
16 faith that it is necessary to disclose Confidential Information to persons or non-parties other than
17 those permitted by this Protective Order, the Receiving Party may make an appropriate application
18 to this Court requesting that the specific Discovery Materials be excluded from the provisions of
19 this Protective Order or be made available to specified other persons or non-parties; however, prior
20 to seeking relief from the Court, the Parties must comply with the requirements of EDCR 2.34 to
21 attempt to resolve informally any and all dispute(s) relating to confidentiality designations or the
22 disclosure of Confidential Information to persons or non-parties not identified in Section 5. A
23 party may seek an Order Shortening Time to object to the disclosure or designation of Confidential
24 Information. The party claiming confidentiality shall have the burden of establishing
25 confidentiality. Until the Court issues a ruling, all parties shall continue to afford the Discovery
26 Material(s) in dispute the protection to which it is entitled under this Protective Order, and will not
27 disclose or reveal the disputed Discovery Material(s) to the person or non-party at issue.

28 **12. Use of Confidential Information in Court.** In the event that any Confidential

1 Information is used or referenced in any pretrial Court proceeding in this action, it shall not lose its
2 confidential status through such use, and the party using or referring to such Confidential
3 Information shall take all reasonable steps to maintain its confidentiality during such use or
4 reference, including without limitation, requesting that the Court seal any transcript or portion(s)
5 thereof with respect to such proceeding. Nothing in this Protective Order, or designations of
6 confidentiality hereunder, shall in any way affect the treatment of Confidential Information at the
7 trial of this action. Should the Producing Party desire that Confidential Information be treated as
8 confidential at trial, the Producing Party must make an appropriate request to the Court for such
9 treatment at the time set forth by the Court for consideration of motions *in limine* or at such other
10 time as directed by the Court.

11 **13. Reservation of Rights.** This Protective Order is entered solely for the purpose of
12 facilitating the exchange of Discovery Materials among the parties to this action without involving
13 the Court unnecessarily in the process. Notwithstanding, the Parties hereby reserve the following
14 rights:

15 a. Nothing in this Protective Order, nor the production of any Discovery
16 Materials under the terms of this Protective Order, nor any proceedings pursuant to this Protective
17 Order, shall be deemed or construed (i) to have the effect of an admission or a waiver by any party
18 of the confidentiality or non-confidentiality of any such materials; (ii) to alter the confidentiality or
19 the non-confidentiality of any such materials; (iii) to alter any existing or pending obligation of any
20 party or the absence thereof; or (iv) to affect in any way the authenticity or admissibility of any
21 document, testimony or other evidence at trial.

22 b. Entry of this Protective Order does not preclude any party from seeking or
23 opposing additional or different protection for particular information or documents.

24 c. Each party may object to the production, disclosure or use of any Discovery
25 Materials that a party designates as containing Confidential Information on any other ground(s) it
26 deems appropriate, including, but not limited to, attorney-client privilege, work product, or any
27 other privilege or protection provided under applicable law.

28 d. This Stipulation and Order shall neither enlarge nor affect the proper scope

1 of discovery in this case or any other litigation, nor shall this Stipulation and Order imply that
2 Confidential Information is discoverable, relevant or admissible in this case or any other litigation.

3 e. Nothing in this Stipulation and Order is intended to expand or limit a party's
4 right under the Nevada Rules of Civil Procedure or other applicable state or federal law to pursue
5 costs and attorneys' fees incurred in making a motion to challenge a confidentiality designation
6 pursuant to Section 11 herein.

7 **14. Inadvertent Failure to Designate Information as Confidential.** The inadvertent
8 failure of a Party to designate Discovery Materials as Confidential Information (whether in the
9 form of documents, interrogatories, testimony or otherwise, and whether produced by that Party or
10 a third party) shall not be deemed, by itself, to be a waiver of the Party's right to so designate such
11 Discovery Materials. Immediately upon learning of any such inadvertent failure, the Party seeking
12 a confidentiality designation shall notify all Parties of such inadvertent failure and take such other
13 steps as necessary to correct such failure after becoming aware of it. However, disclosure by a
14 Receiving Party of such Discovery Materials to any other person or non-party prior to later
15 designation of the Discovery Materials by the Producing Party in accordance with this Stipulation
16 and Order shall not violate the terms of this Stipulation and Order. Notwithstanding the foregoing,
17 a Receiving Party that discloses inadvertently disclosed Discovery Material prior to its subsequent
18 designation as Confidential Information pursuant to this Section must take any and all good faith,
19 reasonable efforts to remediate the disclosure, including, but not limited to, seeking the return of
20 the disseminated Confidential Information and having persons to whom the Confidential
21 Information was given execute a copy of the form Attachment A.

22 **15. Amendment.** This Stipulation and Order may be amended from time to time by
23 written agreement of counsel for the Parties, which agreement shall be submitted to the Court in
24 advance for its approval.

25 **16. Return or Destruction of Confidential Information.** Within thirty (30) days after
26 the conclusion of this action, including any appeal thereof, or at such other time as the parties may
27 agree in writing, all Discovery Material, together with all copies, excerpts, summaries and
28 compilations thereof, which have been designated as containing Confidential Information or

1 otherwise treated by the parties as confidential, shall be returned to the Producing Party. In lieu of
2 returning such designated Discovery Materials as provided herein, counsel for the Receiving Party
3 may certify in writing to counsel for the Producing Party that the Discovery Materials, together
4 with all copies, excerpts, summaries and compilations thereof, which have been designated as
5 containing Confidential Information have been destroyed. This section shall not apply to the Court
6 or its staff.

7 **17. Injunctive Relief Available.** Each party acknowledges that monetary remedies
8 may be inadequate to protect each party in the case of unauthorized disclosure or use of
9 Confidential Information and that injunctive relief may be appropriate to protect each party's rights
10 in the event there is any such unauthorized disclosure or use of Confidential Information, in
11 addition to whatever relief may be available at law or in equity.

12 **18. Other Actions And Proceedings.** If a Receiving Party (a) is subpoenaed in
13 another action or proceeding, (b) is served with a demand in another action or proceeding in which
14 it is a party, or (c) is served with any legal process by one not a party to this Stipulation and Order,
15 seeking Discovery Materials that were produced or designated as containing Confidential
16 Information pursuant to this Stipulation and Order, the Receiving Party shall forward the subpoena,
17 demand or legal process by hand, email or facsimile transmission to counsel for the Producing
18 Party within five (5) business days of receipt of such subpoena, demand or legal process or such
19 shorter notice as may be required to provide the Producing Party with the opportunity to object to
20 the immediate production of the requested Discovery Materials to the extent permitted by law.
21 Should the person seeking access to the Confidential Information take action against the Receiving
22 Party or anyone else covered by this Stipulation and Order to enforce such a subpoena, demand or
23 other legal process, the Receiving Party shall respond by setting forth the existence of this
24 Stipulation and Order. The Producing Party is solely responsible for intervening to object or seek a
25 limitation of such subpoena, demand or other legal process. The Receiving Party agrees that it will
26 provide its best efforts to cooperate fully with any effort by the Producing Party to object to or
27 limit such disclosure of Confidential Information. In no event shall this stipulation be interpreted
28 to impose a requirement on the Receiving Party to defy a final, non-appealable Court order in any

1 action.

2 **19. No Waiver of Privilege.** Disclosure (including production) of information that a
3 party or non-party later claims should not have been disclosed because of a privilege, including,
4 but not limited to, the attorney-client privilege or work product doctrine ("Privileged
5 Information"), shall not constitute a waiver of, or estoppel as to, any claim of attorney-client
6 privilege, attorney work product, or other ground for withholding production as to which the
7 Producing or Receiving Party would be entitled in the action.

8 **20. Effect of Disclosure of Privileged Information.** The Receiving Party hereby
9 agrees to return, sequester, or destroy any Privileged Information disclosed or produced by
10 Producing Party upon request, except that, subject to the requirements below, the Receiving Party
11 may retain one copy for submission to the Court in connection with any challenge to the request
12 for the return, sequester, or destruction of purportedly Privileged Information pursuant to Section
13 11. If the Receiving Party retains a copy, the copy must be treated as Confidential Information and
14 the Receiving Party must make its application to the Court pursuant to Section 11 within ten (10)
15 days of the request by the Producing Party to return, sequester, or destroy the Privileged
16 Information.

17 If the Receiving Party reasonably believes that Privileged Information has been
18 inadvertently disclosed or produced to it, it shall promptly notify the Producing Party and sequester
19 such information until instructions as to disposition are received. The failure of any party to
20 provide notice or instructions under this Section shall not constitute a waiver of, or estoppel as to,
21 any claim of attorney-client privilege, attorney work product, or other ground for withholding
22 production as to which the Producing Party would be entitled in this action.

23 **21. Order Survives Termination.** This Protective Order shall survive the termination
24 of this action, including any appeals thereof, and the Court shall retain continuing jurisdiction to
25 enforce or resolve any dispute concerning the use of Confidential Information disclosed hereunder.

26 **22. Compliance with this Order.** All counsel of record in this action shall make a
27 good faith effort to comply with the terms of this Stipulation and Order, and ensure that their
28 clients, and the persons or non-parties receiving or being given access to Confidential Information

BROWNSTEIN HYATT FARBER SCHRECK, LLP
300 NORTH ZEEB ROAD, SUITE 1000
LAS VEGAS, NV 89155
(702) 380-2100

1 pursuant to Section 5 herein, similarly comply herewith. No Receiving Party may utilize any
2 portion of Confidential Information for its/his/her own personal or business advantage or gain,
3 aside from purpose(s) related to these proceedings.

4 In the event of a change in counsel, new counsel shall execute a copy of the form
5 Attachment A affixed to this Stipulation and Order.

6 **23. Miscellaneous.** When interpreting this Stipulation and Order:

7 a. The term "and" includes the term "or" and the term "or" includes the term
8 "and";

9 b. Defined terms shall have the meanings ascribed to such terms where used or
10 defined;

11 c. The paragraph headings are for convenience only and in no way limit or
12 enlarge the scope or meaning of the language thereof; and

13 d. The terms herein shall be construed as a whole according to their fair and
14 ordinary meaning and not strictly for or against any party.

1 DATED this ____ day of October, 2013.

2
3 By: _____
4 Brian W. Boschee, Esq.
5 Michael D. Navratil, Esq.
6 William N. Miller, Esq.
7 COTTON, DRIGGS, WALCH,
8 HOLLEY, WOLOSON & THOMPSON
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10 Las Vegas, NV 89101
11 *Liaison Counsel for Plaintiffs*

12 Mark Lebovich, Esq.
13 Jeroen van Kwawegen, Esq.
14 Jeremy Friedman, Esq.
15 BERNSTEIN LITOWITZ BERGER &
16 GROSSMAN LLP
17 1285 Avenue of the Americas
18 New York, New York 10019
19 *Lead Counsel for Plaintiffs*

20 DATED this ____ day of October, 2013.

21 By: _____
22 J. Stephen Peek, Esq.
23 Robert J. Cassity, Esq.
24 HOLLAND & HART LLP
25 9555 Hillwood Drive, 2nd Floor
26 Las Vegas, NV 89134

27 David C. McBride, Esq.
28 Robert S. Brady, Esq.
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*Attorneys for the Special Litigation
Committee of the Board of Directors of
Nominal Defendant DISH Network
Corporation and Defendant Tom A.
Ortolf*

DATED this 16 day of October, 2013.

By: _____
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New York, NY 10004

*Attorneys for Nominal Defendant Dish
Network Corporation and Defendants Joseph
P. Clayton, James DeFranco, Cantey M.
Ergen, David K. Moskowitz and Carl E. Vogel*

DATED this ____ day of October, 2013.

By: _____
Joshua H. Reisman, Esq.
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Las Vegas, NV 89123

James C. Dugan, Esq.
Tariq Mundiya, Esq.
Mary Warren, Esq.
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New York, NY 10019

Attorneys for Defendant Charles W. Ergen

1 DATED this ____ day of October, 2013.

2
3 By: _____
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19 *Lead Counsel for Plaintiffs*

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22 J. Stephen Peek, Esq.
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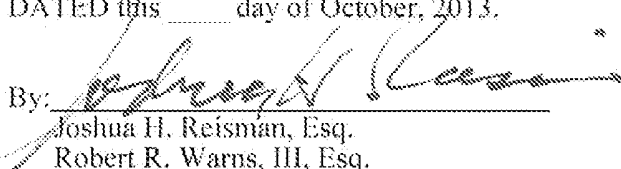
*Attorneys for the Special Litigation
Committee of the Board of Directors of
Nominal Defendant DISH Network
Corporation and Defendant Tom A.
Ortolf*

DATED this ____ day of October, 2013.

By: _____
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Network Corporation and Defendants Joseph
P. Clayton, James DeFranco, Cantley M.
Ergen, David K. Moskowitz and Carl E. Vogel*

DATED this ____ day of October, 2013.

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Joshua H. Reisman, Esq.
Robert R. Warns, III, Esq.
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Attorneys for Defendant Charles W. Ergen

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2
3 By: _____
4 Brian W. Boschee, Esq.
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19 *Lead Counsel for Plaintiffs*

20 DATED this 16th day of October, 2013.

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35 *Attorneys for the Special Litigation*
36 *Committee of the Board of Directors of*
37 *Nominal Defendant DISH Network*
38 *Corporation and Defendant Tom A.*
39 *Ortolf*

DATED this _____ day of October, 2013.

By: _____
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Network Corporation and Defendants Joseph
P. Clayton, James DeFranco, Cantey M.
Ergen, David K. Moskowitz and Carl E. Vogel

DATED this _____ day of October, 2013.

By: _____
Joshua H. Reisman, Esq.
Robert R. Wams, III, Esq.
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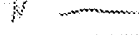
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1 DATED this 11th day of October, 2013.

2
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16 GROSSMAN LLP
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18 New York, New York 10019
19 *Lead Counsel for Plaintiffs*

20 DATED this _____ day of October, 2013.

21 By: _____
22 J. Stephen Peek, Esq.
23 Robert J. Cassity, Esq.
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25 9555 Hillwood Drive, 2nd Floor
26 Las Vegas, NV 89134
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28 David C. McBride, Esq.
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*Attorneys for the Special Litigation
Committee of the Board of Directors of
Nominal Defendant DISH Network
Corporation and Defendant Tom A.
Ortolf*

DATED this _____ day of October, 2013.

By: _____
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Of Counsel:
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New York, NY 10004

*Attorneys for Nominal Defendant Dish
Network Corporation and Defendants Joseph
P. Clayton, James DeFranco, Cantey M.
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Joshua H. Reisman, Esq.
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PROTECTIVE ORDER

Having considered the foregoing and finding good cause appearing,

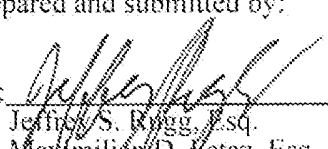
IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the foregoing Stipulated Confidentiality Agreement and Protective Order is GRANTED.

Dated this 16 day of October, 2013.


DISTRICT COURT JUDGE

Prepared and submitted by:

By:


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CLAYTON, JAMES DEFRANCO,
CANTEY M. ERGEN, DAVID K.
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LOS ANGELES, CA 90016
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FORM ATTACHMENT "A"
CONFIDENTIALITY AGREEMENT

I, _____, do hereby acknowledge and agree as follows:

1. I have received and read the Stipulated Confidentiality Agreement and Protective Order entered in the matter entitled *In re Dish Network Corporation Derivative Litigation*, Case No. A-13-686775-B, pending before the Eighth Judicial District Court, Clark County, Nevada, of which the form of this agreement is an attachment.

2. I understand the terms and provisions of the Stipulated Confidentiality Agreement and Protective Order and agree to be bound by and to strictly adhere to all of its terms and provisions.

3. I hereby submit to the jurisdiction of the Clark County, Nevada District Court solely for the purpose of enforcement of the Stipulated Confidentiality Agreement and Protective Order and this Confidentiality Agreement.

DATED this ____ day of _____, 20____.

[Signature]

[Name, Address, Telephone Number]

EXHIBIT B

EXHIBIT B

HOLLAND & HART LLP
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Las Vegas, NV 89134

SAO

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Fax: (302) 571-1253

*Attorneys for the Special Litigation Committee
of Dish Network Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

IN RE DISH NETWORK CORPORATION
DERIVATIVE LITIGATION

Case No. A-13-686775-B
Dept. No. XI

**STIPULATION AND
PROTECTIVE ORDER**

WHEREAS, on July 25, 2014, plaintiff Jacksonville Police and Fire Pension Fund ("Jacksonville") filed the Verified Second Amended Shareholder Derivative Complaint of Jacksonville Police and Fire Pension Fund Pursuant to Rule 23.1 of the Nevada Rules of Civil Procedure ("Second Amended Complaint") purporting to assert claims on behalf of DISH Network Corporation ("DISH") against certain DISH directors and officers;

1 WHEREAS, on October 24, 2014, the Special Litigation Committee (the "SLC") of
2 DISH, after conducting an investigation, filed with the Court a report (the "SLC Report"), in
3 which it presented its determination that pursuing the claims asserted in the Second Amended
4 Complaint was not in DISH's best interests;

5 WHEREAS, on November 17, 2014, the SLC filed a Motion to Defer to the SLC's
6 Determination that the Claims Should Be Dismissed (the "Motion to Defer"), by which the SLC
7 requested that the claims of the Second Amended Complaint be dismissed with prejudice on the
8 ground that they were not in DISH's best interest;

9 WHEREAS, on December 10, 2014, Jacksonville filed its opposition to the Motion to
10 Defer, and on January 5, 2015, the SLC filed its Reply in Support of the Motion to Defer;

11 WHEREAS, at the hearing on January 12, 2015, and in further response and opposition
12 to the Motion to Defer, Jacksonville served an affidavit (the "Rule 56(f) Affidavit") seeking
13 discovery pursuant to Rule 56(f), by which Jacksonville requested, among other discovery,
14 certain documents (the "Rule 56(f) Requests");

15 WHEREAS, by order dated January 12, 2015, the Court granted the Rule 56(f) Motion to
16 the extent that it requested discovery concerning the "independence and thoroughness of the
17 investigation by the Special Litigation Committee;"

18 WHEREAS, on January 26, 2015, in response to the Rule 56(f) Requests, the SLC
19 objected to producing, among other documents, (1) summaries of interviews conducted by the
20 SLC and/or its counsel; (2) documents provided to the SLC by its counsel; and (3) any drafts of
21 the SLC Report provided to persons other than the SLC or its counsel before the SLC Report was
22 filed with the Court (collectively the "Disputed Documents"), on the asserted grounds, among
23 other grounds, that they constitute attorney work product, may be subject to a common-interest
24 privilege with respect to third parties outside DISH, are highly confidential, and exceed the scope
25 of permissible discovery from a special litigation committee on the issues of independence of the
26 SLC and thoroughness of the SLC's investigation;

1 WHEREAS, the SLC has expressed to Jacksonville its concern that the Disputed
2 Documents should not be produced in a manner that might permit their use against DISH in
3 cases pending or that may be asserted against DISH, including cases pending in the United States
4 Bankruptcy Court for the Southern District of New York and the United States District Court for
5 the District of Colorado, which address or may address issues related to the factual and legal
6 issues raised and discussed in the Second Amended Complaint and the SLC Report;

7 WHEREAS, the SLC and Jacksonville have met and conferred in an effort to resolve the
8 disputes between the SLC and Jacksonville concerning the SLC's objections to the production of
9 the Disputed Documents and other documents;

10 WHEREAS, to resolve aspects of the disputes described above, the SLC has indicated
11 that it will agree to produce, and will produce, the Disputed Documents specified below,
12 provided that a stipulated protective order is entered by the Court setting forth the terms set forth
13 herein; and

14 WHEREAS, Jacksonville has agreed to accept such terms in exchange for the SLC's
15 agreement to produce such documents;

16 NOW, THEREFORE, IT IS STIPULATED AND ORDERED AS FOLLOWS:

17 1. Following approval and entry by the Court of this Stipulated Protective Order, the
18 SLC shall produce the following Disputed Documents:

19 A. the final versions of all memoranda prepared by counsel for the SLC
20 summarizing interviews conducted by the SLC in the investigation leading to the SLC
21 Report (the "Interview Summaries"), whether or not such memoranda were provided to
22 the members of the SLC, except to the extent such memoranda contain information that is
23 subject to the attorney-client privilege of DISH (although the redaction of any such
24 information shall be disclosed on an appropriate privilege log);

25 B. any documents collected by counsel for the SLC during the investigation
26 leading to the SLC Report from persons other than counsel for the SLC that were
27 provided, before the SLC Report was filed, to the members of the SLC by counsel for the
28

1 SLC (the "Selected Documents"), except to the extent such documents have already been
2 provided to Jacksonville as exhibits to the SLC Report or constitute or contain
3 information that is subject to the attorney-client privilege of DISH (although the
4 withholding or redaction of any such information shall be disclosed on an appropriate
5 privilege log); and

6 C. any drafts of the SLC Report or excerpts of such drafts that were disclosed
7 to persons, other than the members of the SLC or counsel for the SLC (the "Subject Draft
8 Reports"), including or constituting any such drafts or excerpts that were disclosed to
9 DISH's FCC counsel and/or other counsel for DISH, except to the extent such drafts or
10 excerpts contain information that is subject to the attorney-client privilege of DISH
11 (although the redaction of any such information shall be disclosed on an appropriate
12 privilege log);

13 2. The SLC asserts that the Interview Summaries, the collection of the Selected
14 Documents, and the Subject Draft Reports (the "Protected Documents") constitute attorney work
15 product of counsel for the SLC that is protected from disclosure under the common law, the
16 common-interest privilege, and Nevada Rule of Civil Procedure 26. Without admitting or
17 denying the SLC's work product assertions, the parties hereby agree, and the Court orders, that
18 the SLC and/or its counsel shall mark all Protected Documents produced to Jacksonville as
19 "Protected Documents," and the Protected Documents shall continue to be afforded attorney
20 work product protection and/or common-interest privilege protection while in the possession of
21 derivative plaintiff Jacksonville and its counsel and the other parties to this litigation and their
22 counsel, and the production of the Protected Documents shall not waive the work product
23 protection for such documents, nor waive the work product protection for any other documents
24 possessed by the members of the SLC or counsel for the SLC;

25 3. The SLC, its members and counsel shall not be required to produce for the
26 Motion to Defer any documents that are properly protected from disclosure as attorney work
27 product of counsel for the SLC, other than the Protected Documents, including, without
28

1 limitation, (a) any draft or final memoranda, analyses or email prepared by counsel for the SLC
2 or at their request, whether or not disclosed to members of the SLC, (b) any drafts of the SLC
3 Report other than the Subject Draft Reports, whether or not disclosed to the members of the
4 SLC, or (c) any drafts of or documents prepared by the SLC's counsel concerning any reports,
5 briefs or other documents filed by the SLC with the Court, whether or not disclosed to members
6 of the SLC;

7
8 4. The Protected Documents may not be disclosed by Jacksonville, the other parties
9 to this litigation or their counsel to any person other than (a) the parties to this litigation;
10 (b) Bernstein Litowitz Berger & Grossmann LLP, Holley Driggs Walch Puzey Thompson, Block
11 & Leviton, LLP, Gardy & Notis, LLP, Robbins Arroyo LLP, and Kessler Topaz Meltzer &
12 Check, LLP in their capacity as counsel for Jacksonville in this litigation; and (c) provided that
13 appropriate procedures are undertaken to preserve their confidentiality, the Court;

14 5. Jacksonville and its counsel shall not use the Protected Documents for any
15 purpose other than to respond to the Motion to Defer in this litigation. For the avoidance of
16 doubt, Jacksonville's and/or its counsel's use of the Protected Documents to respond to the
17 Motion to Defer in this litigation may include use of the Protected Documents in depositions of
18 any DISH employee or director taken in connection with Jacksonville's response to the Motion
19 to Defer.

20 A. If the Motion to Defer is denied, within 20 days after entry of the order
21 denying the Motion to Defer, the Protected Documents and all hard and electronic copies
22 thereof shall either be destroyed or returned to the SLC, as shall be certified by
23 Jacksonville, upon written request from the SLC or the SLC's counsel, within the 20
24 days.

25 B. If the Motion to defer is granted, within 20 days after the order granting
26 the Motion to Defer becomes final and no longer subject to any appeal the Protected
27 Documents and all hard and electronic copies thereof shall either be destroyed or returned
28 to the SLC within the 20 days.

C. All parties to this litigation reserve any rights or arguments they may have as to whether Jacksonville may discover or use the Protected Documents in this litigation for some other purpose.

DATED this 27 day of March, 2015

By: 

Jeffrey S. Rugg, Esq. (NBN 10978)
Mazimilien D. Fetaz, Esq. (NBN 12737)
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Robert J. Giuffra, Jr. Esq.
Brian T. Frawley, Esq.
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125 Broad Street
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Attorneys for Director Defendants

DATED this ____ day of March, 2015

By: _____

Brian W. Boschee, Esq. (NBN 7612)
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Adam D. Hollander, Esq.
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Lead Counsel for Plaintiff

DATED this ____ day of March, 2015

By: _____

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*Attorneys for Defendants Charles W. Ergen
and Cantey M. Ergen*

DATED this ____ day of March, 2015

By: _____

J. Stephen Peek, Esq. (NBN 1758)
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DATED this ____ day of March, 2015

By: Jeffrey S. Rugg, Esq. (NBN 10978)
Maximilien D. Fetaz, Esq. (NBN 12737)
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DATED this 26th day of March, 2015

By: 9
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Adam D. Hollander, Esq.
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Lead Counsel for Plaintiff

DATED this ____ day of March, 2015

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James C. Dugan, Esq.
Tariq Mundiya, Esq.
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*Attorneys for Defendants Charles W. Ergen
and Cantey M. Ergen*

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1000 North King Street

C. All parties to this litigation reserve any rights or arguments they may have as to whether Jacksonville may discover or use the Protected Documents in this litigation for some other purpose.

DATED this ____ day of March, 2015

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DATED this ____ day of March, 2015

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DATED this ____ day of March, 2015

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C. All parties to this litigation reserve any rights or arguments they may have as to whether Jacksonville may discover or use the Protected Documents in this litigation for some other purpose.

DATED this ____ day of March, 2015

By:

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DATED this ____ day of March, 2015

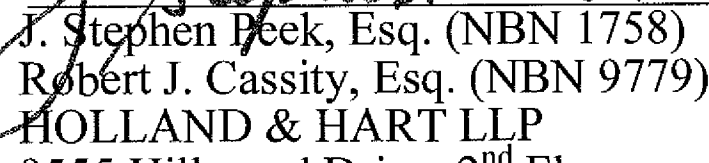
By:

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DATED this 27th day of March, 2015

By:

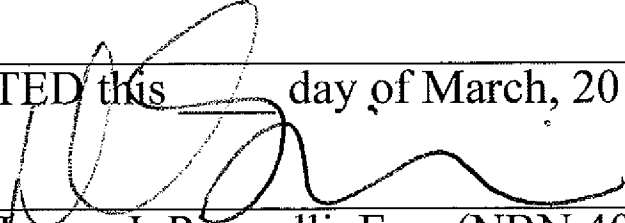

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	Wilmington, DE 19801 <i>Attorneys for the Special Litigation Committee of Dish Network Corporation</i>
DATED this day of March, 2015 By:  James J. Pisanelli, Esq. (NBN 4027) Debra J. Spinelli, Esq. (NBN 9695) PISANELLI BICE PLLC 400 South 7 th Street, Suite 300 Las Vegas, Nevada 89101 Bruce R. Braun SIDLEY AUSTIN LLP One South Dearborn Chicago, IL 60603 <i>Attorneys for Defendant Thomas A. Cullen, Kyle J. Kiser, and R. Stanton Dodge</i>	

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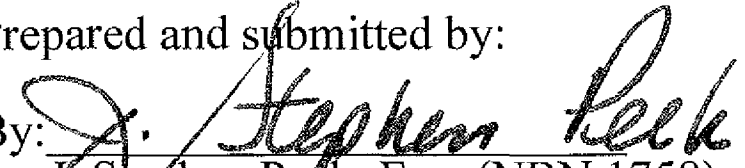
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PROTECTIVE ORDER

Having considered the foregoing and finding good cause appearing,
IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the foregoing
Stipulation and Protective Order is GRANTED.

Dated this ____ day of March, 2015


DISTRICT COURT JUDGE

Prepared and submitted by:
By: 
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Robert J. Cassity, Esq. (NBN 9779)
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EXHIBIT C

FILED
UNDER SEAL

EXHIBIT C

EXHIBIT D

EXHIBIT D

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Location : District Court Civil/Criminal [Help](#)

REGISTER OF ACTIONS

CASE No. A-13-686775-B

**Jacksonville Police and Fire Pension Fund, Plaintiff(s) vs.
Charles Ergen, Defendant(s)**

§
§
§
§
§
§
§
§

Case Type: **Business Court**
Date Filed: **08/09/2013**
Location: **Department 11**
Cross-Reference Case Number: **A686775**
Supreme Court No.: **69012**
69729

RELATED CASE INFORMATION

Related Cases

A-13-688862-B (Consolidated)
A-14-693887-B (Consolidated)

PARTY INFORMATION

Lead Attorneys

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Plaintiff **Jacksonville Police and Fire Pension
Fund**

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~~Retained~~
702-791-0308(W)

EVENTS & ORDERS OF THE COURT



08/21/2015 | **All Pending Motions** (3:00 AM) (Judicial Officer Gonzalez, Elizabeth)

Minutes

08/21/2015 3:00 AM

- THE SPECIAL LITIGATION COMMITTEE'S MOTION TO SEAL SUPPLEMENTAL REPLY IN SUPPORT OF ITS MOTION TO DEFER AND CERTAIN EXHIBITS THERETO PLAINTIFF'S MOTION TO REDACT ITS SUPPLEMENTAL OPPOSITION TO THE SLC'S MOTION TO DEFER TO THE SLC'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED PLAINTIFF'S MOTION TO SEAL SUPPLEMENTAL OPPOSITION TO THE SLC'S MOTION TO DEFER TO THE SLC'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED AND APPENDIX OF

EXHIBITS TO SUPPLEMENTAL OPPOSITION TO THE SLC'S MOTION TO DEFER TO THE SLC'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED The Court has reviewed the supplements to the motion to seal and redact filed by Plaintiff and the SLC, exhibits 1 and 2 to the motion to compel relate to sensitive business and litigation information and includes attorney work product accordingly the request to seal those exhibits is granted. The motion to seal the supplemental opposition to the motion to defer is GRANTED IN PART. The following exhibits are permitted to be sealed or redacted as noted below: 1 Redacted version due to atty client privilege and atty work product as submitted in supplement 2 Redacted version due to atty client privilege and atty work product as submitted in supplement 3 Redacted version due to atty client privilege and atty work product as submitted in supplement 5 Redact third party email address and resubmit 6 Sealed due to atty work product and sensitive business information 9 Sealed due to atty work product and sensitive business information 10 Sealed due to atty work product and sensitive business information 12 Sealed due to BK order and sensitive business information 14 Redact third party email address and resubmit 16 Redact third party email address and resubmit 17 Redact third party email address and resubmit 18 Redact third party email address and resubmit 20 Redact third party email address and phone numbers and resubmit 22 Redact third party email address and resubmit 23 Redact third party email address and resubmit 24 Redact third party email address and resubmit 25 Redact third party email address and resubmit 26 Redact third party email address and resubmit 27 Redact third party email address and resubmit 28 Redact third party email address and resubmit 30 Redact third party email address and resubmit 31 Redact third party email address and resubmit 32 Redact phone number and resubmit 33 Redact third party email address and resubmit 34 Redact third party email address and resubmit 35 Redact third party email address and resubmit 36 Redact third party email address and resubmit 37 Redact third party email address and resubmit 38 Redact third party email address and resubmit 42 Redact third party email address and resubmit 48 Sealed due to atty work product and sensitive business information 49 Sealed due to atty work product and sensitive business information 51 Sealed due to atty work product and sensitive business information 52 Sealed due to atty work product and sensitive business information 53 Sealed due to atty work product and sensitive business information 55 Sealed due to atty work product and sensitive business information 60 Sealed due to atty work product and sensitive business information 70 Sealed due to atty work product and sensitive business information 72 Sealed due to atty work product and sensitive business information 73 Sealed due to atty work product and sensitive business information 77 Sealed due to atty work product and sensitive business information 78 Sealed due to atty work product and sensitive business information 79 Sealed due to atty work product and sensitive business information 80 Sealed due to atty work product and sensitive business information 81 Sealed due to atty work product and sensitive business information 82 Sealed due to atty work product and sensitive business information 83 Sealed due to atty work product and sensitive business information 84 Sealed due to atty work product and sensitive business information 87 Sealed due to atty work product and sensitive business information 97 Sealed due to atty work product and sensitive business information 98 Sealed due to atty work product and sensitive business information The motion to seal the supplemental reply to the motion to defer is GRANTED IN PART. The following exhibits are permitted to be sealed or redacted as noted below: D Sealed due to atty work product and sensitive business information E Sealed due to atty work product and sensitive business information J Sealed due to atty work product and sensitive business information K Sealed due to atty work product and sensitive business information CLERK'S NOTE: The above minute order has been distributed to Brian Boschee, Esq. (702-791-1912), Kirk Lenhard, Esq. (702-382-8135),

James Pisanelli, Esq. (702-214-2101 ) and Joshua
Reisman, Esq. (702-446-6756 )

[Return to Register of Actions](#)

EXHIBIT E

FILED
UNDER SEAL

EXHIBIT E

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISH
NETWORK DERIVATIVE
LITIGATION.

JACKSONVILLE POLICE AND FIRE
PENSION FUND,

Appellant,

vs.

CHARLES W. ERGEN; GEORGE R.
BROKAW; THOMAS A. CULLEN;
JAMES DEFRANCO; R. STANTON
DODGE; CANTEY M. ERGEN; KYLE
J. KISER; CHARLES M. LILLIS;
DAVID K. MOSKOWITZ; TOM A.
ORTOLF; AND CARL E. VOGEL,

Respondents.

Supreme Court Case No.: 69012

Electronically Filed
District Court Case No. 08 2016 08:54 a.m.
A-13-686775-B Tracie K. Lindeman
Clerk of Supreme Court

Consolidated with:

Supreme Court Case No.: 69729

**Appeal from Eighth Judicial District Court, State of Nevada, County of Clark
The Honorable Elizabeth Gonzalez, District Court Judge**

**THE SLC'S LIMITED OPPOSITION TO APPELLANT'S MOTION FOR
LEAVE TO REDACT PORTIONS OF APPELLANT'S OPENING BRIEF
AND TO SEAL PORTIONS OF THE APPENDIX**

AND

**COUNTERMOTION FOR LEAVE TO MAKE ADDITIONAL
REDACTIONS**

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*Attorneys for the Special Litigation
Committee of DISH Network
Corporation*

The SPECIAL LITIGATION COMMITTEE OF NOMINAL DEFENDANT DISH NETWORK CORPORATION (the "SLC"), by and through its counsel of record hereby submits this limited opposition to Appellant Jacksonville Police & Fire Pension Fund's ("Jacksonville" or "Appellant") MOTION FOR LEAVE TO REDACT PORTIONS OF APPELLANT'S OPENING BRIEF AND TO SEAL PORTIONS OF THE APPENDIX filed on May 26, 2016 (the "Motion") and counter motion for leave to make additional redactions (the "Counter motion") pursuant to Rule 27(a)(4) of the Nevada Rules of Appellate Procedure ("NRAP").

DATED this 7th day of June, 2016.

HOLLAND & HART LLP 10045
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*Attorneys for the Special Litigation
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Corporation*

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE
SLC’S LIMITED OPPOSITION TO APPELLANT’S MOTION FOR LEAVE
TO REDACT PORTIONS OF APPELLANT’S OPENING BRIEF AND TO
SEAL PORTIONS OF THE APPENDIX**

AND

**COUNTERMOTION FOR LEAVE TO MAKE ADDITIONAL
REDACTIONS**

I.

INTRODUCTION

As stated in the Motion, Jacksonville’s Opening Brief cites to and discusses confidential information and certain documents that were designated as confidential under the Protective Orders¹ and included in the sealed portions of the Joint Appendix (“Confidential Information”). Mot. at 1:14-18. The Motion specifically identifies a number of references in the Opening Brief and the sealed portions of the Joint Appendix that should remain nonpublic for the duration of the appeal on the basis that they contain Confidential Information. *Id.* at 1:19-22. The SLC agrees that the Confidential Information cited to and discussed in the Opening Brief and the sealed portions of the Joint Appendix should remain nonpublic for the duration of the appeal.²

¹ The parties are subject to two confidentiality agreements and protective orders entered by the District Court: (1) a *Stipulated Confidentiality Agreement and Protective Order* entered on October 21, 2013 (attached hereto as **Exhibit “A”**) and (2) a *Stipulation and Protective Order* entered on March 30, 2015 (attached hereto as **Exhibit “B”**) (collectively, the “Protective Orders”).

² Through the filing of its proposed public version of its Opening Brief, Jacksonville proposes making redactions to pages 11, 16, 21, 22, 28, 31 & n.6, 32, and 49 of the Opening Brief. However, these page numbers do not match the page

The Opening Brief, however, discusses *additional* Confidential Information that was not referenced in the Motion but which must also be protected as required pursuant to the Protective Orders. The SLC's counsel has been in touch with Jacksonville's counsel, and Jacksonville does not disagree that the additional Confidential Information must be protected. Specifically, on page 74 of the Opening Brief, Jacksonville discloses Confidential Information describing the contents of a document that constitutes a portion of the SLC's work product, which was produced without waiver and previously sealed pursuant to the District Court's March 30, 2015 *Stipulation and Protective Order* and also previously sealed pursuant to the District Court's August 21, 2015 Minute Order.³ The information discussed on page 74 of the Opening Brief contains Confidential Information and should remain nonpublic for the duration of the appeal, and the Court should allow this information to be redacted. A proposed redacted copy of the Opening Brief containing all of the parties' requested redactions, including the redaction on page 74, is attached hereto as **Exhibit "C"**.

numbers listed in Jacksonville's Motion as containing Confidential Information. For the sake of clarity, the SLC specifically agrees that the redactions made in Jacksonville's proposed public version of its opening brief should be made.

Furthermore, in seeking that the sealed portions of the Joint Appendix remain under seal, Jacksonville fails to specifically reference JA005643 of Volume 23 as one of the portions of the Joint Appendix that should remain nonpublic even though it was filed as a sealed portion of the Joint Appendix. For the sake of clarity, the SLC specifically requests that pages JA005643-5674 remain under seal.

³ See Fn 4, *infra*.

The Motion also requests that certain documents, previously sealed and/or redacted by the District Court, which were included in the sealed portions of the Joint Appendix, be unsealed and disclosed publicly.⁴ Mot. at 1:26-28. The SLC agrees to the unsealing of the referenced documents at pages JA007346-47, JA007356-57 and JA007468 of Volume 30, pages JA007502 and JA7535-43 of Volume 31, pages JA007769-72 of Volume 32 and page JA008245 of Volume 34 of the sealed portions of the Joint Appendix. However, with respect to the referenced documents at pages JA007348-55 of Volume 30 of the sealed portions of the Joint Appendix,⁵ this Court should order that the personal contact information of third-parties contained therein (including personal email addresses) be redacted as such information remains confidential pursuant to the District Court's October 21, 2013 *Stipulated Confidentiality Agreement and Protective Order* and August 21, 2015 Minute Order. Redacted copies of the three documents at pages JA007348-55 of Volume 30 of the sealed portions of the Joint Appendix are attached hereto as **Exhibit "E"**.

As noted above, Jacksonville does not oppose the above-described additional

⁴ The documents consist of certain exhibits to *Plaintiff's Supplemental Opposition to the SLC's Motion to Defer to the SLC's Determination that the Claims Should be Dismissed* filed in the District Court on June 18, 2015 (the "Supplemental Opposition"). On August 21, 2015, the District Court entered an order sealing and/or redacting certain exhibits to the Supplemental Opposition (the "Minute Order"). A copy of the Minute Order is attached hereto as **Exhibit "D"**.

⁵ Pages JA007348-55 of Volume 30 consist of three documents, which were attached as Exhibits 16, 17 and 18 to the Supplemental Opposition.

redactions sought by the SLC.

II.

LEGAL ANALYSIS

The Nevada Rules for Sealing and Redacting Court Records (“SRCR”) requires records sealed pursuant to a district court order to be provided to the Nevada Supreme Court in the event of an appeal. *See* SRCR 7 (“A civil court record or any portion of it that was sealed in the trial court shall be made available to the Nevada Supreme Court in the event of an appeal.”). The sealed records shall remain sealed and any motion to unseal previously sealed records must be filed in the Supreme Court action. *See id.* (“Court records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.”).

Court records that are sealed may be examined by the public only after entry of a court order allowing access to the record in accordance with the SRCR. *See* SRCR 4(1). Rule 4 provides that “[a] sealed court record in a civil case shall be unsealed only upon stipulation of all the parties, upon the court’s own motion, or upon a motion filed by a named party or another person.” SRCR 4(2). Any party opposing the motion to unseal shall appear at a hearing and show cause why the motion should not be granted. *Id.* The responding party must show that compelling circumstances continue to exist or that other grounds provide a sufficient legal or

factual basis for keeping the record sealed. *Id.*

SRCR 3 sets forth the grounds upon which the Court may seal or redact documents or exhibits filed with the Court:

4. Grounds to seal or redact; written findings required. The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record. The parties' agreement alone does not constitute a sufficient basis for the court to seal or redact court records. The public interest in privacy or safety interests that outweigh the public interest in open court records include findings that:

(a) The sealing or redaction is permitted or required by federal or state law;

(b) *The sealing or redaction furthers* an order entered under NRCRP 12(f) or JCRCP 12(f) or *a protective order entered under NRCRP 26(c)* or JCRCP 26(c);

(c) The sealing or redaction furthers an order entered in accordance with federal or state laws that serve to protect the public health and safety;

(d) The redaction includes only restricted personal information contained in the court record;

. . . . or

(h) *The sealing or redaction is justified or required by another identified compelling circumstance.*

SRCR 3(4) (emphasis supplied). In this case, as set forth herein, the request for further redaction of the Opening Brief and Joint Appendix furthers the purposes of SRCR 3.

Here, the redacted information on page 74 of the Opening Brief is

Confidential Information and should remain nonpublic for the duration of the appeal. Specifically, the information on page 74 describes the contents of a document that constitutes a portion of the SLC's work product which was produced without waiver and previously sealed pursuant to the District Court's March 30, 2015 *Stipulation and Protective Order* and also previously sealed pursuant to the District Court's August 21, 2015 Minute Order. *See* Exs. B, D. The underlying document constitutes work product because it was selected by the SLC's counsel and provided to the SLC for its work in preparing the Report of the Special Litigation Committee of DISH Network Corporation dated October 24, 2014. *See* Ex. B. at 4:2-25. Jacksonville sought production of this work product, and the SLC objected. In an effort to resolve the parties' dispute, the SLC agreed to produce this document to Jacksonville on the condition that Jacksonville enter into the *Stipulation and Protective Order*. *See* Ex. B at 3:7-16. Through the *Stipulation and Protective Order*, Jacksonville agreed and the District Court ordered that the document – a “Protected Document” –

shall continue to be afforded attorney work product protection . . . while in the possession of derivative plaintiff Jacksonville and its counsel[,] . . . and the production of the Protected Documents shall not waive the work product protection for such documents, nor waive the work product protection for any other documents possessed by the members of the SLC or counsel for the SLC[.]

Ex. B. at 4:17-25. Further, the *Stipulation and Protective Order* precludes

Jacksonville and its counsel's use of the document "for any purpose other than to respond to the Motion to Defer" to the SLC's Determinations that the Claims Should Be Dismissed, which was filed in the underlying litigation and is at issue in this appeal. *See id.* at 5:13-18. Moreover, the document described on page 74 was also ordered by the District Court to be "[s]ealed due to atty work product and sensitive business information" pursuant to the Minute Order dated August 21, 2015. *See* Ex. D at p. 2 (referring to Exhibit 9 to the Supplemental Opposition). Because the redacted information contained on page 74 of the Opening Brief discusses and cites to work-product information protected by the *Stipulation and Protective Order* and Minute Order, this information is Confidential Information and compelling circumstances exist under SRCR 3(4)(a), (b), (c), and (h) to redact the information on page 74 of the Opening Brief.

Similarly, the personal information contained in the three documents at pages JA007348-55 of Volume 30 of the sealed portions of the Joint Appendix is also Confidential Information and must remain nonpublic for the duration of the appeal. Specifically, the personal information contained in the three documents includes the personal contact information, including email addresses, for third-parties. *See* Ex. E. Pursuant to the *Stipulated Confidentiality Agreement and Protective Order* entered by the District Court on October 21, 2013, the parties agreed and the Court ordered that personal information shall constitute Confidential Information. *See* Ex. A

§1(iii) (defining Confidential Information as, among other things, “any information of a personal or intimate nature regarding any individual”). Moreover, the third party email addresses contained in the three documents was subsequently ordered to be redacted under the District Court’s August 21, 2015 Minute Order. *See* Ex. D at p. 2 (“16 Redact third party email addresses and resubmit[,] 17 Redact third party email addresses and resubmit[,] 18 Redact third party email addresses and resubmit”). Because the personal information contained in the three documents is protected by multiple court orders and constitutes “restricted personal information contained in the court record” (*see* SRCR 3(4)(d)), compelling circumstances exist under SRCR 3(4)(a), (b), (c), (d) and (h) to redact the personal information contained in the three documents.

The redaction of the information described above is not opposed by Jacksonville. And, the redaction of this information, in addition to the information Jacksonville seeks to seal and/or redact, is supported by the Court’s public policy favoring redaction, which weighs in favor of allowing further redaction of the Opening Brief and sealed portions of the Joint Appendix rather than filing the Opening Brief and Joint Appendix entirely under seal. Accordingly, further redaction of the Opening Brief and Joint Appendix is warranted under the SRCR.

///

///

III.

CONCLUSION

Based on all of the foregoing reasons, the SLC respectfully requests that the Court issue an order directing the clerk to file publicly (1) the fully redacted Opening Brief as reflected in Exhibit C, attached hereto, and (2) the redacted documents reflected in Exhibit E, attached hereto.

DATED this 7th day of June, 2016.

HOLLAND & HART LLP

By:  10045

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