

1 (“Plaintiff” or “Jacksonville”) presented a motion and affidavit pursuant to Nevada Rule 56(f)
2 requesting certain discovery. The Court granted Plaintiff discovery regarding the independence
3 of the Special Litigation Committee of DISH Network Corporation (the “SLC”) and the
4 thoroughness of its investigation. The Court also scheduled supplemental briefing following
5 discovery and supplemental oral argument.

6 After Plaintiff completed its requested discovery, it filed a Supplemental Opposition to
7 the Motion to Defer and the SLC filed a Supplemental Reply in support of the Motion to Defer.
8 On July 16, 2015 at 8:00 a.m., the Court entertained supplemental oral argument on the SLC’s
9 Motion to Defer. Plaintiff appeared by and through its counsel of record, Brian W. Boschee,
10 Esq. and William N. Miller, Esq. of Cotton, Driggs, Walch, Holley, Woloson & Thompson,
11 Mark Lebovitch, Esq. and Adam Hollander, Esq. of Bernstein Litowitz Berger & Grossman LLP,
12 and Gregory Eric Del Gaizo, Esq. of Robbins Arroyo LLP; Defendants James DeFranco, David
13 K. Moskowitz, and Carl E. Vogel (together the “Director Defendants”) appeared by and through
14 their counsel of record Jeffrey S. Rugg, Esq. and Maximilien D. Fetaz, Esq. of Brownstein Hyatt
15 Farber Schreck, LLP and Brian T. Frawley, Esq. of Sullivan & Cromwell LLP; Defendants
16 Charles W. Ergen and Cantey M. Ergen (together the “Ergen Defendants” or the “Ergens”)
17 appeared by and through their counsel of record Joshua H. Reisman, Esq. of Reisman Sorokac
18 and Tariq Mundiya, Esq. of Willkie Farr & Gallagher LLP; Defendants R. Stanton Dodge,
19 Thomas A. Cullen, and Jason Kiser (together the “Officer Defendants”) appeared by and through
20 their counsel of record James J. Pisanelli, Esq. of Pisanelli Bice PLLC and Bruce Braun, Esq. of
21 Sidley Austin LLP; and the SLC, consisting of Charles M. Lillis, George R. Brokaw, and Tom
22 A. Ortolf, appeared by and through its counsel of record J. Stephen Peek, Esq., Holly Stein
23 Sollod, Esq., telephonically, and Robert J. Cassity, Esq. of Holland & Hart LLP and C. Barr
24 Flinn, Esq. and Emily V. Burton, Esq. of Young, Conaway, Stargatt & Taylor, LLP.

25 The Court, having reviewed and considered the pleadings and briefing submitted by the
26 parties and the evidence attached thereto or introduced during hearings with respect to the SLC’s
27 Motion to Dismiss for Failure to Plead Demand Futility, the Director Defendants’ Motion to
28 Dismiss the Second Amended Complaint, the Officer Defendants’ Motion to Dismiss the Second

1 Amended Complaint, Defendants Charles W. Ergen and Cantey M. Ergen's Motion to Dismiss
2 the Second Amended Derivative Complaint of Jacksonville Police and Fire Pension Fund, and
3 the SLC's Motion to Defer and having reviewed and considered the Report of the Special
4 Litigation Committee of DISH Network Corporation, dated October 24, 2014 (the "SLC
5 Report") and the arguments of counsel with respect to the SLC's Motion to Defer, makes the
6 following findings of fact and conclusions of law.

7 **FINDINGS OF FACT**

8 1. Through this action, Plaintiff seeks to assert, derivatively on behalf of DISH
9 Network Corporation ("DISH" or the "Company"), certain claims arising from, among other
10 things, (a) purchases by the Chairman of DISH's Board of Directors, Charles W. Ergen
11 ("Ergen"), through SP Special Opportunities, LLC ("SPSO"), of secured debt of LightSquared
12 L.P. ("LightSquared") in 2012 and 2013, (b) the termination of the special transaction committee
13 (the "STC") established by the DISH Board of Directors (the "Board") to consider a bid for
14 wireless spectrum and related assets of LightSquared (the "LightSquared Assets"), (c) the
15 subsequent bid by DISH (the "DISH Bid") for the LightSquared Assets, (d) the withdrawal of the
16 DISH Bid in early 2014, and (e) the establishment of the SLC.

17 **I. General Background**

18 2. DISH is a Nevada corporation in good standing.

19 3. The Ergens, along with James DeFranco ("DeFranco"), founded DISH in 1980.
20 During the time addressed by Plaintiff's claims, Ergen served as the Chairman of DISH's Board.
21 He and certain family trusts control more than 50% of the Company's outstanding equity and
22 90% of DISH's voting power. DISH's filings with the United States Securities and Exchange
23 Commission describe DISH as a "controlled company" within the meaning of the NASDAQ
24 Marketplace Rules.

25 **II. Ergen's Purchases of Secured Debt and the DISH Bid**

26 4. On May 14, 2012, LightSquared and various of its affiliates filed for bankruptcy
27 protection (the "LightSquared Bankruptcy").
28

1 5. Certain secured debt issued by LightSquared (the "Secured Debt") is governed by
2 a credit agreement (the "Credit Agreement"). Among other things, the Credit Agreement limits
3 the entities that may acquire the Secured Debt. As found by the Court overseeing the
4 LightSquared Bankruptcy (the "LightSquared Bankruptcy Court"), "each of DISH and [EchoStar
5 Corporation ("EchoStar")] is a 'Disqualified Company' under the Credit Agreement, and thus
6 neither can be an 'Eligible Assignee' [of Secured Debt]." Memorandum Decision Granting
7 Motions to Dismiss Complaint at 5, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc.
8 No. 13-1390 (SCC) (Bankr. S.D.N.Y. Nov. 21, 2013) (Adversary Docket No. 68) (Nov. 21, 2013
9 decision at 5). Under the LightSquared Bankruptcy Court ruling, DISH was not permitted to
10 acquire the LightSquared Secured Debt directly under the Credit Agreement.

11 6. Between the spring of 2012 and May 2013, Ergen, through SPSO, an entity that
12 he owns and controls, agreed to acquire approximately \$1 billion of Secured Debt at prices
13 discounted from face value. One of Ergen's purchases of Secured Debt was prevented from
14 closing. As a result, Ergen ultimately acquired approximately \$850 million in face amount of
15 Secured Debt, for a total purchase price of approximately \$690 million, using funds provided
16 from Ergen's personal assets.

17 7. On May 2, 2013, Ergen informed the DISH Board about the potential future
18 availability of the LightSquared Assets for purchase through the LightSquared Bankruptcy and
19 invited the DISH Board to consider whether DISH was interested in pursuing an acquisition of
20 the LightSquared Assets. At that time, Ergen also affirmatively told the Board that he owned a
21 substantial stake in LightSquared Secured Debt, and he recused himself from the Board's further
22 consideration of whether DISH should pursue the LightSquared opportunity. Ergen also
23 informed EchoStar, a separate publicly traded Nevada corporation controlled by Ergen, of the
24 LightSquared opportunity.

25 8. On May 8, 2013, at a meeting of the DISH Board held without the Ergens, the
26 Board formed the STC, a committee of directors who were independent of Ergen and EchoStar,
27 to consider a possible transaction between DISH and LightSquared. The STC consisted of Gary
28

1 S. Howard ("Howard") and Steven R. Goodbarn ("Goodbarn"). The STC thereafter retained
2 independent counsel and financial advisors.

3 9. On May 15, 2013, Ergen personally bid \$2 billion for the LightSquared Assets.
4 Approximately two weeks later, on May 28, 2013, Ergen created an entity called L-Band
5 Acquisition LLC ("LBAC"). LBAC, under Ergen's ownership and control, became the bidder
6 for the LightSquared Assets. This bid (the "LBAC Bid" or "LBAC's Bid")¹ was not subject to a
7 due diligence out or to FCC approval. The LBAC Bid specifically noted that the buyer under the
8 bid would be "owned by one or more of Charles Ergen, affiliated companies and/or other third
9 parties." Letter from Rachel Strickland to LightSquared LP (May 15, 2013) (attaching
10 LightSquared Summary of Principal Terms of Proposed Sale Transaction, at 1) (SLC Report Ex.
11 337).

12 10. On or about May 22, 2013, after learning of the formation of the STC, Ergen
13 informed the STC of the LBAC Bid. Ergen offered to permit DISH to acquire LBAC or assume
14 the LBAC Bid, if DISH chose to do so.

15 11. In connection with the LBAC Bid, during July of 2013, counsel for LBAC and
16 Ergen began negotiating various documents related to the LBAC Bid with representatives of a
17 group of LightSquared secured creditors (the "Ad Hoc Secured Group"). These documents
18 included a joint plan for the reorganization of LightSquared (the "Ad Hoc Secured Group Plan").
19 The Ad Hoc Secured Group Plan provided for an auction of the LightSquared Assets, and
20 provided for LBAC to act as a so-called "stalking horse" bidder, such that the LBAC Bid would
21 be qualified to serve as the initial bid subject to higher offers from other bidders, and subject to
22 various negotiated rights protecting LBAC's Bid.

23 12. Counsel for LBAC, Ergen, and the Ad Hoc Secured Group also negotiated a plan
24 support agreement (the "PSA"), which set forth the terms and conditions upon which the parties
25 would support the Ad Hoc Secured Group Plan after it was filed in the LightSquared
26 Bankruptcy. The PSA included a timeline for milestones towards Plan confirmation. If these

27
28 ¹ Although LBAC did not exist when Ergen initially submitted his personal bid, that bid, which
LBAC was formed to consummate, is referred to herein consistently as the LBAC Bid.

1 milestones were not met by the timeline set forth in the PSA, the parties to the PSA had the right
2 to withdraw their support for the Ad Hoc Secured Group Plan.

3 13. Finally, counsel for LBAC, Ergen, and the Ad Hoc Secured Group also negotiated
4 a proposed form of draft asset purchase agreement (the "APA") between LightSquared and
5 LBAC governing the sale by LightSquared to LBAC of the LightSquared Assets, the final terms
6 of which would be subject to further negotiation and agreement between LightSquared and
7 LBAC. The draft form of APA included a footnote (the "Release Footnote") indicating that a
8 broad release (the "Release") would be included in the agreement and would cover the purchaser
9 and its affiliates. If LBAC acquired the LightSquared Assets pursuant to the APA, the Release
10 would, among other things, release any claims that LightSquared had against LBAC and its
11 affiliates, including, among others, Ergen, DISH, and SPSO.

12 14. Counsel for DISH and the STC were provided with advance copies of, reviewed,
13 and commented on drafts of the Ad Hoc Secured Group Plan, the PSA, and the APA, although
14 the STC had not then determined whether DISH should acquire LBAC from Ergen or pursue an
15 acquisition of the LightSquared Assets.

16 15. On July 17, 2013, while negotiation of the Ad Hoc Secured Group Plan, the PSA,
17 and the APA remained ongoing, the Ad Hoc Secured Group sent a letter to LBAC's counsel
18 asking LBAC to increase the cash component of the LBAC Bid in order to obtain the Ad Hoc
19 Secured Group's support for the LBAC Bid.

20 16. On July 21, 2013, after receipt of a fairness opinion from its financial advisor and
21 advice of its counsel, the STC determined that a bid by DISH for the LightSquared Assets in an
22 amount up to \$2.4 billion was in the best interests of DISH.

23 17. At a Board meeting on July 21, 2013, without the Ergen Defendants present, the
24 STC recommended to the Board that DISH bid up to \$2.4 billion to acquire the LightSquared
25 Assets on terms consistent with the draft APA. The STC further recommended that, if such bid
26 were made through LBAC, DISH acquire LBAC from Ergen for a nominal fee and assume only
27 LBAC's counsel fees associated with preparation of a bid for the LightSquared Assets. The
28 DISH Board, among other things, resolved to accept the STC's recommendation. The DISH

1 Board authorized DISH to acquire LBAC for a nominal payment, and to submit the DISH Bid
2 for the LightSquared Assets, at a price of up to \$2.4 billion, on terms substantially consistent
3 with the terms set forth in the draft APA.

4 18. Further, at the same July 21, 2013 meeting, the DISH Board resolved to dissolve
5 the STC, but reserved the right to reinstate the STC or another committee should the
6 circumstances warrant. With the exception of STC members Howard and Goodbarn, all
7 members of the Board present at the meeting voted in favor of terminating the STC. Howard and
8 Goodbarn, the members of the STC, abstained.

9 19. On July 22, 2013, Ergen and DISH entered into a purchase and sale agreement
10 under which Ergen sold all of the units in LBAC to DISH for nominal consideration, consistent
11 with the STC's recommendation.

12 20. Contemporaneously, LBAC completed negotiations with the Ad Hoc Secured
13 Group with respect to the Ad Hoc Secured Group Plan, a draft APA supported by the Ad Hoc
14 Secured Group, and the PSA. Among other things, these documents memorialized the DISH
15 Bid, made through LBAC, of \$2.22 billion for the LightSquared Assets, which did not include a
16 due diligence out and was not conditioned upon FCC approval. The DISH Bid was increased to
17 \$2.22 billion, from the \$2 billion LBAC Bid, based on the Ad Hoc Secured Group's July 17
18 letter.

19 21. On July 23, 2013, the Ad Hoc Secured Group and SPSO filed the Ad Hoc
20 Secured Group Plan in the LightSquared Bankruptcy.

21 22. LBAC and SPSO also entered into the PSA at or around the time the Ad Hoc
22 Secured Group Plan was filed. Under the PSA, LBAC committed to support the Ad Hoc
23 Secured Group Plan. LBAC was permitted to terminate the PSA and withdraw the bid if the Ad
24 Hoc Secured Group Plan was not consummated in the LightSquared Bankruptcy on or before
25 December 31, 2013.

26 23. On July 24, 2013, the members of the STC sent a letter to the DISH Board
27 outlining various conditions to its approval of the DISH Bid and open matters that it believed
28 should have been addressed by the STC before the committee was terminated by the Board. On

1 July 25, 2013, Howard resigned from the DISH Board, effective July 31, 2015. The issues raised
2 in the July 24 letter from the STC, to the extent not moot, were investigated by the SLC and
3 addressed in the SLC Report.

4 24. On October 1, 2013, the LightSquared Bankruptcy Court entered an agreed order
5 designating LBAC as a stalking horse bidder for the LightSquared Assets under the Ad Hoc
6 Secured Group Plan.

7 **III. The Adversary Proceedings in the LightSquared Bankruptcy**

8 25. On August 6, 2013, LightSquared's controlling shareholder, Harbinger Capital
9 Partners, LLC and various funds under its control (collectively "Harbinger"), initiated an
10 adversary proceeding against DISH, LBAC, Ergen, and others (the "Adversary Proceeding") in
11 the LightSquared Bankruptcy.

12 26. Harbinger alleged that SPSO misrepresented that it was an "Eligible Assignee"
13 under the Credit Agreement when purchasing the Secured Debt. *See* Complaint, *In re*
14 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC) (Bankr. S.D.N.Y. Aug.
15 6, 2013) (Adversary Docket No. 15) ("Harbinger Complaint"). It further alleged that Ergen,
16 DISH, and other entities owned by Ergen "fraudulently infiltrated the senior-most tranche of
17 LightSquared's capital structure, secretly amassing, based on knowing misrepresentations of
18 fact, a position as the single largest holder of [Secured Debt]." *Id.* Harbinger alleged that "the
19 DISH/EchoStar Defendants and Sound Point [then] disrupted Harbinger's efforts to negotiate a
20 plan of reorganization[,] and to obtain exit financing for LightSquared by intentionally
21 prolonging the closing of numerous trades for Secured Debt. *Id.* at ¶¶ 7-8. Finally, Harbinger
22 alleged that DISH was trying to unfairly profit from this misconduct (1) by submitting a bid that
23 undervalued the LightSquared Assets and (2) by having an unfair advantage in any sale of the
24 LightSquared Assets, because, Harbinger contended, Ergen purchased and held the Secured Debt
25 for the benefit of DISH. Harbinger Complaint ¶ 11. Based on this alleged misconduct,
26 Harbinger asserted claims for fraud, tortious interference, and civil conspiracy.

27 27. On August 22, 2013, LightSquared intervened and partially joined in Harbinger's
28 claims in the Adversary Proceeding. *See* LightSquared's Notice of Intervention, *In re*

1 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC) (Bankr. S.D.N.Y. Aug.
2 22, 2013) (Adversary Docket No. 15).

3 28. On September 9, 2013, the defendants named in the Harbinger Complaint moved
4 to dismiss for, among other things, failure to state a claim. Notice of Motion to Dismiss
5 Complaint, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC)
6 (Bankr. S.D.N.Y. Sept. 9, 2013) (Adversary Docket No. 29). On September 30, 2013, Harbinger
7 amended the Harbinger Complaint. The defendants named in the amended Harbinger Complaint
8 also moved to dismiss the Amended Complaint between October 3 and October 5, 2013.

9 29. On October 29, 2013, the LightSquared Bankruptcy Court dismissed the
10 Harbinger Complaint. The LightSquared Bankruptcy Court gave LightSquared leave to re-plead
11 the claims for itself on or before November 15, 2013, but only granted Harbinger "leave to file a
12 Second Amended Complaint in the . . . adversary proceeding, setting forth an objection pursuant
13 to Section 502 of the Bankruptcy Code." Transcript, at 127-31, *In re LightSquared Inc.*, No. 12-
14 12080-scc, Adv. Proc. No. 13-01390-scc (Bankr. S.D.N.Y. Oct. 29, 2013) (Adversary Docket
15 No. 64).

16 30. On November 15, 2013, the special committee of LightSquared's board formed to
17 oversee its bankruptcy filed a Status Report in which it announced that it intended to pursue the
18 adversary claims identified in the Harbinger Complaint against DISH, SPSO, and Ergen. The
19 LightSquared special committee noted that pursuing these claims may prevent LightSquared
20 from satisfying the milestones for plan confirmation set forth in the PSA and the Ad Hoc
21 Secured Group Plan.

22 31. LightSquared then brought its own complaint (the "LightSquared Adversary
23 Complaint") in the Adversary Proceeding against Ergen, DISH, EchoStar, and SPSO. The
24 LightSquared Adversary Complaint raised essentially the same claims as the Harbinger
25 Complaint. LightSquared alleged, among other things, that Ergen's purchases of Secured Debt
26 were effectively purchases by DISH for DISH's benefit. LightSquared also alleged that these
27 purchases improved DISH's ability to acquire the LightSquared Assets by forcing
28 LightSquared's creditors to support a plan under which DISH would acquire the LightSquared

1 Assets and by deterring any competing bidders. See Complaint-in-Intervention ¶¶ 3-6, *In re*
2 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-01390 (SCC) (Bankr. S.D.N.Y. Nov.
3 15, 2013) (Adversary Docket No. 66).

4 **IV. The Jacksonville Action**

5 32. On August 9, 2013, Plaintiff commenced this action by filing its Verified
6 Derivative Complaint (the “Complaint”) in the Eighth Judicial District Court of Nevada, alleging
7 that it was a stockholder of DISH and asserting claims derivatively allegedly on behalf of DISH
8 against DISH Board members Ergen, Joseph P. Clayton (“Clayton”), DeFranco, Cantey M.
9 Ergen (“Cantey Ergen”), Goodbarn, David K. Moskowitz (“Moskowitz”), Ortolf (“Ortolf”), and
10 Carl E. Vogel (“Vogel”). Among other things, the Complaint alleged that (1) Ergen usurped a
11 corporate opportunity belonging to DISH to acquire the Secured Debt, (2) Ergen’s acquisition of
12 the Secured Debt and actions in the LightSquared Bankruptcy risk causing the LightSquared
13 Bankruptcy Court to preclude DISH from participating in any auction for the LightSquared
14 Assets, (3) Ergen breached fiduciary duties owed to DISH by causing DISH to submit the DISH
15 Bid at an inflated price, and (4) Ergen would be unjustly enriched by this misconduct. Plaintiff
16 also alleged in the Complaint that the other defendants breached fiduciary duties by “failing to
17 require Ergen to fully recuse himself from the process resulting in the Board’s purported
18 approval of the [DISH Bid].”

19 33. Shortly thereafter, Plaintiff filed an Ex Parte Motion for Order to Show Cause and
20 Motion to (1) Expedite Discovery and (2) Set a hearing on a proposed Motion for Preliminary
21 Injunction and a Memorandum of Points and Authorities in support thereof. Plaintiff sought a
22 preliminary injunction to prevent “Ergen and his loyalists on the [Board] from interfering with or
23 impairing DISH’s efforts to acquire LightSquared.”

24 34. On September 12, 2013, Plaintiff filed an Amended Verified Derivative
25 Complaint (the “Amended Complaint”). Among other things, the Amended Complaint alleged
26 that (1) the defendants named in the Amended Complaint breached their fiduciary duties to
27 DISH by permitting Ergen to interfere with the DISH Bid for the LightSquared Assets and by
28 permitting Ergen to remain involved in DISH’s efforts to acquire the LightSquared Assets

1 because Ergen's involvement led to an inflated DISH Bid, increased the cost of the DISH Bid,
2 and threatened DISH's ability to pursue the DISH Bid, (2) Ergen usurped DISH's corporate
3 opportunity to acquire the Secured Debt and, in doing so, imperiled DISH's future, allegedly
4 foreseeable, efforts to acquire the LightSquared Assets, and (3) Ergen would be unjustly
5 enriched as a result of this misconduct.

6 35. On September 13, 2013, Plaintiff filed its Motion for Preliminary Injunction.

7 **V. The Formation of the SLC**

8 36. On September 18, 2013, the Board, without the Ergens' participation, formed the
9 SLC, a special litigation committee, to investigate the claims asserted in the Amended Verified
10 Complaint and any amendments thereto and to determine whether it would be in DISH's best
11 interest to pursue the claims asserted in the Amended Complaint and any amendments.

12 37. The resolutions forming the SLC specifically empowered the SLC to:

13 (1) review, investigate and evaluate the claims asserted in the
14 Derivative Litigation; (2) file any and all pleadings and other
15 papers on behalf of the Corporation which the Special Litigation
16 Committee finds necessary or advisable in connection therewith;
17 (3) determine whether it is in the best interests of the Corporation
18 and/or to what extent it is advisable for the Corporation to pursue
19 any or all of the claims asserted in the Derivative Litigation taking
20 into consideration all relevant factors as determined by the Special
21 Litigation Committee; (4) prosecute or dismiss on behalf of the
22 Corporation any claims asserted in the Derivative Litigation; and
23 (5) direct the Corporation to formulate and file any and all
24 pleadings and other papers on behalf of the Corporation which the
25 Special Litigation Committee finds necessary or advisable in
26 connection therewith, including without limitation, the filing of
27 other litigation and counterclaims or cross complaints, or motions
28 to dismiss or stay the proceedings if the Special Litigation
Committee determines that such action is advisable and in the best
interests of the Corporation[.]

23 Status Report, at Ex. A (Oct. 3, 2013) (attaching Resolutions Forming SLC (Sept. 18, 2013)).

24 38. The resolutions forming the SLC also "authorized and empowered" the SLC to
25 "retain and consult with such advisors, consultants and agents, including, without limitation,
26 legal counsel and other experts or consultants, as the Special Litigation Committee deems
27 necessary or advisable to perform such services, reach conclusions or otherwise advise and assist
28 the Special Litigation Committee in connection with carrying out its duties," and to enter into

1 “contracts providing for the retention, compensation, reimbursement of expenses and
2 indemnification of such legal counsel, accountants and other experts or consultants as the Special
3 Litigation Committee deems necessary or advisable[.]” *Id.* The resolutions further directed
4 DISH to “pay, on behalf of the Special Litigation Committee, all fees, expenses and
5 disbursements of such legal counsel, experts and consultants on presentation of statements
6 approved by the Special Litigation Committee[.]” *Id.*

7 39. The SLC initially consisted of George R. Brokaw (“Brokaw”), who joined the
8 Board effective October 7, 2013, and long-standing Board member Ortolf.

9 40. The SLC retained Holland & Hart LLP and Young Conaway Stargatt & Taylor,
10 LLP (“SLC Counsel”) as its attorneys. SLC Counsel are free of conflicts with any parties in this
11 matter and are competent attorneys with experience handling and investigating claims of the type
12 asserted in this litigation and also with respect to complex bankruptcy matters.

13 **VI. Plaintiff’s Motion for Preliminary Injunction**

14 41. On September 23, 2013, at the Court’s direction, Plaintiff made a demand upon
15 the SLC. Among other things, Plaintiff demanded that the SLC take immediate action to obtain
16 the relief that Plaintiff sought in its Motion for Preliminary Injunction.

17 42. On October 3, 2013, the SLC responded to Plaintiff’s demand. The SLC noted
18 that “it t[ook] seriously the claims in the Complaint, would investigate them thoroughly and
19 would decide whether they should be pursued, stayed or dismissed in the best interest of DISH
20 and its stockholders.” Status Report, at 3 (Oct. 3, 2013). The SLC provided an anticipated
21 timeline for its investigation. The SLC refused to take immediate action to obtain the relief
22 sought by Plaintiff’s Motion for Preliminary Injunction because “the SLC [did] not believe that
23 the requested relief, if granted, would serve the best interest of DISH.” Status Report, at 4-5
24 (Oct. 3, 2013).

25 43. On October 4, 2013, this Court granted Plaintiff expedited discovery for purposes
26 of Plaintiff’s Motion for Preliminary Injunction and set the Motion for hearing on November 25,
27 2013.

28

1 44. On October 8, 2013, Plaintiff stipulated to the dismissal of its claims against
2 Goodbarn. This Court granted the dismissal on October 10, 2013.

3 45. Between September 25, 2013 and November 20, 2013, the SLC investigated
4 Jacksonville's assertion that a mandatory injunction should be imposed to require DISH to
5 reconstitute a special transaction committee to control all aspects of the DISH Bid for the
6 LightSquared Assets. In connection with that investigation, the SLC's counsel reviewed over
7 20,000 pages of documents collected from members of the DISH Board, including Ergen,
8 Goodbarn, and Howard, including all documents collected and produced in connection with
9 Plaintiff's Preliminary Injunction Motion, concerning DISH's decision to submit the DISH Bid
10 for the LightSquared Assets, the work of the STC, and Ergen's conflict of interest with respect to
11 DISH's Bid. The SLC interviewed Clayton, DeFranco, Goodbarn, Ergen, Moskowitz, Vogel,
12 and Rachel Strickland ("Strickland"), Andrew Sorkin, and Tariq Mundiya of Willkie Farr &
13 Gallagher LLP about these topics and attended the depositions of Ergen, Ihsan Essaid, Goodbarn,
14 and Howard taken in connection with the Motion for Preliminary Injunction. The SLC also
15 received legal advice concerning a variety of topics, including the LightSquared Bankruptcy, the
16 Board's fiduciary duties, and controlling stockholder fiduciary duties.

17 46. On November 20, 2013, the SLC filed its Report of the Special Litigation
18 Committee of DISH Network Corporation Regarding Plaintiff's Motion for Preliminary
19 Injunction (the "Interim Report"). The Interim Report advised that Plaintiff's Motion for
20 Preliminary Injunction was not necessary to protect DISH from irreparable harm and may itself
21 harm DISH. The SLC reasoned that entrusting DISH's efforts to purchase the LightSquared
22 Assets to only one director and possibly a newly added director (as Plaintiff requested) created a
23 substantial risk of irreparable harm to DISH. In contrast to Plaintiff's assertions in support of its
24 Motion, the SLC determined that Ergen no longer had a conflict of interest with respect to any
25 increase in the amount of the DISH Bid, and any other risk of a conflict of interest between
26 DISH and Ergen was speculative.

27 47. This Court held a hearing on Plaintiff's Motion for Preliminary Injunction on
28 November 25, 2013.

48. On November 27, 2013, based on the pleadings, the SLC's Interim Report, and the November 25, 2013 hearing on the Motion for Preliminary Injunction, this Court issued findings of fact and conclusions of law, denying in part and granting in part Plaintiff's Motion for Preliminary Injunction. The Court denied the Motion to the extent that it sought to prevent directors other than Goodbarn and possibly Charles M. Lillis ("Lillis"), who joined the DISH Board on November 5, 2013, from "interfering" with DISH's efforts to acquire the LightSquared Assets. The Court however enjoined "Charles Ergen or anyone acting on his behalf . . . from participation, including any review, comment, or negotiations related to the [R]elease contained in the Ad Hoc LP Secured Group Plan pending before the Bankruptcy Court for any conduct which was outside or beyond the scope of his activities related to DISH and LBAC." Findings of Fact and Conclusions of Law, at 15 (Nov. 27, 2013).

VII. Lillis's Addition to the SLC

49. On December 9, 2013, the Board resolved to add Lillis to the SLC.

50. The resolutions adding Lillis to the SLC provided that "any and all actions or determinations of the Special Litigation Committee following the date of these resolutions must include the affirmative vote of Mr. Lillis and at least one (1) other committee member in order to constitute a valid and final action or determination of the Special Litigation Committee" (the "Required Vote Resolution"). Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation, at 6-7 (Dec. 9, 2013).

VIII. The Members of the SLC

51. Lillis is a member of the Board's Audit Committee and of the Board's Compensation Committee. Lillis is considered independent under the independence requirements of NASDAQ and the SEC's rules and regulations.

52. Lillis was formerly the CEO of MediaOne Group, Inc. ("MediaOne"). He has served on multiple corporate boards, including Agilera, Inc., Ascent Entertainment Grp., Charter Communications, Inc. ("Charter") and various affiliates, Medco Health Solutions, Inc., MediaOne, On Command Corporation, SUPERVALU Inc., Time Warner Entertainment Company, L.P., Williams Companies, Inc., and Washington Mutual Inc. and affiliated entities.

1 53. Lillis also has a distinguished record of public service in the academic arena. The
2 Governor of Oregon appointed Lillis Chair of the Board of Trustees of the University of Oregon.
3 He previously served on the University of Washington Business Advisory Board, the University
4 of Washington Foundation Board, and the University of Colorado Foundation Board. Lillis was
5 also the Dean of the University of Colorado's college of business and a professor at Washington
6 State University.

7 54. During the time periods at issue, Lillis had no financial or business connection to
8 any Defendant other than his service on the DISH Board and his ownership of DISH common
9 stock.

10 55. Brokaw is a member of the DISH Board, a member of the Board's Audit
11 Committee, and the Chair of the Board's Nominating Committee. Brokaw is considered
12 independent under the independence requirements of NASDAQ and the SEC rules and
13 regulations.

14 56. From 1996 to 2005, Brokaw worked at Lazard Freres & Co. LLC, where he
15 ultimately became a Managing Director. Thereafter, Brokaw served as Managing Partner and
16 Head of Private Equity at Perry Capital, L.L.C. for six years and as a Managing Director of
17 Highbridge Principal Strategies, LLC until September 30, 2013. Brokaw is currently a
18 Managing Partner in Trafelet Brokaw & Co., LLC.

19 57. Brokaw has served on the boards of directors of multiple other companies,
20 including Alico, Inc. and North American Energy Partners Inc.

21 58. During the time periods at issue, Brokaw had no financial or business connection
22 to any Defendant other than his service on the DISH Board and his ownership of options to
23 acquire DISH common stock.

24 59. Ortolf is the Chair of the Board's Audit Committee, a member of the Board's
25 Compensation Committee, and a member of the Board's Nominating Committee. Ortolf is
26 considered independent under the independence requirements of NASDAQ and the SEC rules
27 and regulations.

28

1 60. Ortolf was the President and Chief Operating Officer of Echosphere L.L.C.
2 ("Echosphere") from 1988 to 1991. Echosphere is a current DISH subsidiary, which predated
3 DISH. Ortolf has been the President of Colorado Meadowlark Corp., a privately held investment
4 management firm for over twenty years. Ortolf has been a member of the DISH Board of
5 Directors since 2005.

6 61. During the time periods at issue, Ortolf had no financial or business connection to
7 any Defendant other than his service on the DISH Board, service on the board of EchoStar, and
8 his ownership of DISH common stock.

9 **IX. The SLC Begins its Investigation**

10 62. The SLC began its investigation of the merits of the claims and issues raised in
11 the Amended Complaint in early December 2013, following Lillis's addition to the SLC.

12 63. The SLC and its counsel began collecting and reviewing tens of thousands of
13 documents, including the documents produced in connection with the Motion for Preliminary
14 Injunction in this action, documents produced by SPSO, DISH, Ergen, LBAC and others in the
15 LightSquared Bankruptcy, and additional documents collected from DISH officers and directors
16 specifically for the purposes of the SLC investigation, some dating back to 2005.

17 64. The SLC also requested and reviewed briefing, transcripts and opinions from the
18 LightSquared Bankruptcy.

19 65. The full scope of the SLC's investigation is discussed in detail in paragraphs
20 [[74]]-[[79]] *infra*.

21 **X. The Termination of the DISH Bid**

22 66. After LBAC made the DISH Bid, DISH engaged in due diligence with respect to
23 the LightSquared Assets. When the DISH Bid was submitted, the DISH Board was aware of
24 interference between LightSquared's downlink spectrum and the wireless spectrum used by GPS
25 devices. According to the SLC, following due diligence, DISH management informed the DISH
26 Board of an additional potential interference issue with LightSquared's uplink spectrum (the
27 "Technical Issue"). If not resolved, this Technical Issue might, among other things, reduce the
28 anticipated value of the LightSquared Assets, increase regulatory uncertainty surrounding

1 DISH's use of the LightSquared Assets, and impair or prevent DISH's contemplated use of
2 LightSquared's spectrum.²

3 67. After considering the Technical Issue at several prior meetings, on December 23,
4 2013, as reflected in the minutes, the DISH Board:

5 RESOLVED, that . . . (i) the Corporation and LBAC should
6 continue to endeavor to address the above-described concerns,
7 including without limitation negotiating with the LightSquared LP
8 Lenders to add appropriate conditions or other terms to the PSA
9 and LBAC Bid to address the potential technical issue regarding
10 LightSquared's uplink spectrum; and (ii) in the event that the
11 Corporation and LBAC are unsuccessful, the Corporation and
12 LBAC shall be, and they hereby are, authorized to terminate the
13 PSA and LBAC Bid[.]

14 Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation, at 3-4
15 (Dec. 23, 2013) (SLC Report Ex. 443).

16 68. On January 7, 2014, after efforts to modify the DISH bid to address the risk
17 associated with the Technical Issue failed, and after the milestones provision in the PSA had
18 been breached, DISH withdrew the DISH Bid and terminated the PSA. The Ad Hoc Secured
19 Group opposed the termination and sought to compel DISH to specifically perform the DISH

20 ² Following both trial in the Adversary Proceeding and plan confirmation proceedings in the
21 LightSquared Bankruptcy (the "Plan Confirmation Proceeding"), the LightSquared Bankruptcy
22 Court observed: "Whether LBAC terminated its bid because it 'believed' there was a technical
23 issue (even though the record does not support a finding that there was or is such an issue), or
24 because it wanted to make a lower conditional bid, or because Mr. Ergen decided to direct DISH
25 and its capital elsewhere, or because of negative implications for DISH in connection with the
26 Nevada shareholder litigation, remain[ed] unclear." See Decision Denying Confirmation of
27 Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code, at 65, *In re*
28 *LightSquared Inc.*, No. 12-12080 (SCC) (Bankr. S.D.N.Y. July 11, 2014). The SLC
acknowledged the LightSquared Bankruptcy Court's findings in the SLC Report. However, the
SLC determined, consistent with Nevada law, that the issue raised by the DISH Board was the
financial risk to DISH from the uncertainties posed by the Technical Issue, and the DISH Board
was entitled to rely on DISH's managements' well-informed recommendations as to the
implications of the Technical Issue when determining whether it was in DISH's best interest to
withdraw the DISH Bid. NRS 78.138(2)(a) ("In performing their respective duties, directors and
officers are entitled to rely on information, opinions, [and] reports . . . that are prepared or
presented by . . . [o]ne or more directors, officers or employees of the corporation reasonably
believed to be reliable and competent in the matters prepared or presented."). According to the
SLC, the DISH Board's determination to withdraw the DISH Bid is protected by the business
judgment rule. As such, the SLC's determination that it would not be in DISH's best interest to
pursue claims related to the termination of the DISH Bid is not inconsistent with the
LightSquared Bankruptcy Court's ruling with respect to the Technical Issue.

1 Bid. DISH opposed the Ad Hoc Secured Group's Motion. The Bankruptcy Court held that
2 DISH "was free to terminate the PSA and then terminate its bid for any reason once any of those
3 milestones [in the PSA] was missed." Transcript, Hearing: Bench Decision in Adv. Proc. 13-
4 01390-scc., at 151, *In re LightSquared Inc.*, No. 12-120808-scc, Adv. Proc. No. 13-01390-scc
5 (Bankr. S.D.N.Y. May 8, 2014).

6 **XI. Conclusion of the LightSquared Bankruptcy Adversary Proceeding**

7 69. On June 10, 2014, following a full trial on the merits of the claims raised in the
8 Adversary Proceeding, the LightSquared Bankruptcy Court issued an opinion determining that,
9 although technically permissible, Ergen's purchases of the Secured Debt (through SPSO) in
10 April 2013 "violated the spirit and purpose of the Credit Agreement restrictions designed to
11 prevent competitors from purchasing Secured Debt and breached the Credit Agreement's implied
12 covenant of good faith and fair dealing[.]" because it violated the purpose of the provisions of
13 the Credit Agreement restricting which entities were permitted to acquire the Secured Debt.
14 Post-Trial Findings of Fact and Conclusions of Law, at 154, *LightSquared LP v. Special*
15 *Opportunities LLC (In re LightSquared Inc.)*, No. 12-12080 (SCC), Adv. Pro. No. 13-01390
16 (Bankr. S.D.N.Y. June 10, 2014) (Bankruptcy Docket No. 165). The LightSquared Bankruptcy
17 Court did, however, dismiss all of the claims against DISH. *Id.* at 99 n.48.

18 70. On July 25, 2014, Plaintiff filed the Verified Second Amended Shareholder
19 Derivative Complaint of Jacksonville Police and Fire Pension Fund Pursuant to Rule 23.1 of the
20 Nevada Rules of Civil Procedure (the "Second Amended Complaint"), in which Plaintiff
21 asserted additional and modified derivative claims based upon the withdrawal of the DISH Bid.
22 Plaintiff replaced its claim that Ergen had caused DISH to overpay for the LightSquared Assets
23 through the DISH Bid with a claim that Ergen had deprived DISH of the beneficial ability to
24 acquire the LightSquared Assets at the price of the DISH Bid. The Second Amended Complaint
25 added Brokaw, Lillis, Cullen, Kiser, and Dodge as defendants.
26
27
28

71. Through the Second Amended Complaint, Plaintiff sought derivatively to compel DISH to pursue claims generally falling into eight categories:³ First, Plaintiff claimed that Ergen or the Board breached fiduciary duties in connection with the termination of the DISH Bid (the “Bid Termination Claims”). Second, Plaintiff claimed that the inclusion of the Release in the APA caused LightSquared to refuse to proceed with the DISH Bid and to cancel the LightSquared Bankruptcy Auction, to the detriment of DISH. Plaintiff claimed that Ergen and the DISH Board breached fiduciary duties owed to DISH by including or by failing to remove the Release from the DISH Bid (the “Auction Cancellation Claims”). Third, Plaintiff claimed that by purchasing the Secured Debt, Ergen usurped a corporate opportunity of DISH and was unjustly enriched thereby (the “Corporate Opportunity Claims”). Fourth, Plaintiff claimed that in purchasing the Secured Debt, Ergen misused confidential DISH information concerning a strategy for DISH to acquire the LightSquared Assets and was unjustly enriched thereby (the “Confidential Information Claims”). Fifth, Plaintiff claimed that Ergen and the Officer Defendants breached fiduciary duties by failing to notify the Board of Ergen’s purchases of Secured Debt immediately, or upon learning of the purchases (the “Disclosure Claims”). Sixth, Plaintiff claimed that in purchasing the Secured Debt, Ergen and Kiser acted disloyally to DISH in using DISH resources for Ergen’s Secured Debt Purchases and that Ergen was unjustly enriched thereby (the “Corporate Resources Claims”). Seventh, Plaintiff claimed that Ergen breached fiduciary duties by exposing DISH to increased legal risk and legal fees in the LightSquared Bankruptcy by acquiring the Secured Debt, that the Board breached fiduciary duties by paying Ergen’s legal fees, and that Ergen was unjustly enriched as a result (the “Legal Fee Claims”). Eighth, Plaintiff alleged that the Board improperly terminated the STC (the “STC Termination Claim”).

³ The Second Amended Complaint included five Counts, many of which raised multiple legal issues. The SLC Report organized the issues differently than the Second Amended Complaint did. The SLC Report addressed each of the issues raised through the Second Amended Complaint. This Court refers to the claims based on the SLC’s organization, as the parties have generally done in their briefing, for ease of reference.

XII. The SLC Expanded its Investigation to Address the New Claims Raised in the Second Amended Complaint

72. In July of 2014, when Plaintiff filed the Second Amended Complaint, the SLC had been investigating the claims in Jacksonville's Amended Complaint since December 9, 2013. After Plaintiff filed the Second Amended Complaint, the SLC expanded the scope of its investigation to include the additional claims raised in the Second Amended Complaint concerning the termination of the DISH Bid.

73. After receiving the Second Amended Complaint, the SLC and its counsel requested and reviewed additional documents from DISH, DISH's officers, and DISH's directors relevant to the new claims asserted.

74. In the full course of its investigation, the SLC's counsel reviewed more than 39,000 documents, (more than 357,000 pages) from the following custodians: Michael Abatemarco, Jeffrey Blum ("Blum"), Brokaw, Kenneth Carroll, Clayton, Cullen, DeFranco, Dodge, Mike Dugan, Brandon Ehrhart, Cantey Ergen, Ergen, Kevin Gerlitz, Goodbarn, Howard, Anders Johnson, Stephen Ketchum ("Ketchum"), John Kim, Kiser, Lillis, Jennifer Manner, Moskowitz, Ortolf, David Rayner, Rick Richert, Mariam Sorond ("Sorond"), Brad Schneider, Strickland, Vogel, David Zufall, and Sound Point Capital Management LP ("Sound Point"). These documents included all documents produced in this action, the materials produced by DISH, SPSO, Ergen, and Sound Point in the LightSquared Bankruptcy, and additional documents requested by the SLC from all DISH Board members, members of DISH management, and counsel to LBAC, the entity that made the DISH Bid. The members of the SLC personally reviewed the documents that were most pertinent to the SLC's investigation.

75. The SLC and its counsel monitored proceedings in the LightSquared Bankruptcy from the formation of the SLC through the completion of the SLC Report, and thereafter. Among other things, the SLC attended oral arguments in the Adversary Proceeding and monitored telephonically or reviewed transcripts of other substantive hearings, including telephonically monitoring or reviewing transcripts of the open portions of the entire trial on the Adversary Proceeding and the Plan Confirmation hearing.

1 76. Counsel for the SLC reviewed extensive briefing submitted in the LightSquared
2 Bankruptcy, including the briefing concerning the Adversary Proceeding, the scheduling of the
3 auction of the LightSquared Assets and certain other assets of LightSquared, the proceeding
4 seeking confirmation of LightSquared's plan of reorganization (the "Confirmation Proceeding"),
5 and the termination of the DISH Bid. Counsel for the SLC monitored significant hearings and
6 reviewed testimony within the LightSquared Bankruptcy to the extent available under the
7 confidentiality stipulation governing LightSquared's Bankruptcy, including reviewing all
8 available transcripts concerning the submission of DISH's Bid, the auction scheduling, the
9 termination of DISH's Bid, the Adversary Proceeding, and the Confirmation Proceeding.
10 Counsel for the SLC also attended many of the aforementioned proceedings telephonically or in
11 person. The SLC or its counsel reviewed transcripts of every deposition taken in the
12 LightSquared Bankruptcy available for use in this proceeding under the confidentiality
13 stipulation in the LightSquared Bankruptcy, including transcripts of the LightSquared
14 Bankruptcy depositions of Cullen, Ergen, Howard, Ketchum, Kiser, Joseph Roddy, and Sorond.

15 77. The SLC interviewed numerous people including conducting formal interviews of
16 present and former defendants: Clayton, Cullen, DeFranco, Dodge, Cantey Ergen, Ergen,
17 Goodbarn, Howard, Kiser, Moskowitz, and Vogel; DISH senior executives and regulatory and
18 technical experts: Blum and Sorond; and counsel for Ergen, LBAC and SPSO: Mundiya, Sorkin,
19 and Strickland. Several people were interviewed both in connection with the SLC's
20 investigation of Plaintiff's Motion for Preliminary Injunction and the SLC's investigation of
21 Plaintiff's substantive claims. As a result, the SLC conducted a total of 21 interviews, of 16
22 different people. In most cases, all three members of the SLC attended these interviews.

23 78. The SLC also requested interviews from Plaintiff, LightSquared, and the Ad Hoc
24 Secured Group. However, each of these requests, including the request to interview Plaintiff,
25 was refused.

26 79. Finally, the SLC received extensive legal advice on the issues raised by the
27 matters under investigation at numerous points throughout its investigation.
28

XIII. Motions to Dismiss the Second Amended Complaint

80. On August 29, 2014 the SLC moved to dismiss the Second Amended Complaint, pursuant to Rule 23.1, for failure to plead demand futility; the Director Defendants moved to dismiss the Second Amended Complaint, pursuant to NRCP 12(b)(5), for failure to state a claim upon which relief can be granted; and the Ergen Defendants moved to dismiss the Second Amended Complaint for failure to state a claim upon which relief can be granted.

81. On September 15, 2014, the Officer Defendants moved to dismiss the Second Amended Complaint, pursuant to NRCP 12(b)(5) and Rule 23.1, for failure to state a claim upon which relief can be granted and failure to plead demand futility.

XIV. The SLC's Report and Subsequent Motion to Defer

82. On October 24, 2014, the SLC filed with this Court the SLC Report, which detailed its investigation of the claims asserted in the Second Amended Complaint.

83. In its 330-page SLC Report, the SLC extensively described the scope and depth of its investigation and the facts that it found to be true based on that investigation. The SLC also analyzed the factual and legal bases for each of the claims asserted in the Second Amended Complaint. The SLC ultimately concluded that "it would not be in the best interests of DISH to pursue the claims asserted by Jacksonville in the Nevada Litigation." SLC Report, at 333.

84. It is beyond the scope of this opinion to capture the SLC's full reasoning, set forth in detail in the SLC Report. The SLC Report provides extensive factual, legal, and practical reasons why pursuit of each one of Plaintiff's claims would not be in the best interests of DISH. Among the reasons set forth in the SLC Report, the SLC determined that certain claims advanced by Plaintiff were foreclosed by DISH's certificate of incorporation, certain claims lacked a cognizable damages theory, certain claims were not meritorious as a matter of law, and certain claims could not be proven in light of uncontroversial factual determinations. The Court finds that each of the SLC's determinations is reasonable and neither egregious nor irrational.

85. On November 17, 2014, the SLC filed its Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed (the "Motion to Defer"). In connection

1 with the Motion to Defer, each SLC member filed a declaration addressing his independence
2 from Defendants under the relevant legal standards.

3 86. Oral argument was initially held on the Motion to Defer on January 12, 2015. At
4 oral argument, Plaintiff for the first time requested discovery pursuant to Nevada Rule 56(f).

5 87. This Court granted Plaintiff's request for discovery. The Court also scheduled
6 supplemental briefing following discovery and supplemental oral argument.

7 88. Plaintiff was permitted to take, and did take, discovery into the independence of
8 the SLC and the thoroughness of its investigation. The SLC gathered and produced documents
9 from the files of the individual SLC members covering a six-year period, documents from the
10 files of SLC counsel, and documents from the files of DISH Board members. Pursuant to a
11 stipulation and order preserving the SLC's work product protection, the SLC also produced
12 certain work product prepared in the course of its investigation, including summaries of the
13 interviews that it conducted and the documents received by the SLC members in the course of
14 the investigation. Plaintiff also deposed each of the SLC members: Lillis, Brokaw, and Ortolf.

15 89. On July 16, 2015, the supplemental oral argument was held on the SLC's Motion
16 to Defer.

17 90. If any findings of fact are properly conclusions of law, they shall be treated as if
18 appropriately identified and designated.

19 **CONCLUSIONS OF LAW**

20 1. This Court has subject matter jurisdiction over all claims asserted in the Second
21 Amended Complaint and personal jurisdiction over all the parties.

22 2. "[U]nder Nevada's corporations laws, a corporation's 'board of directors has full
23 control over the affairs of the corporation.'" *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 632,
24 137 P.3d 1171, 1178 (2006) (quoting NRS 78.120(1)). Therefore, in "managing the
25 corporation's affairs, the board of directors may generally decide whether to take legal action on
26 the corporation's behalf." *Id.*, 122 Nev. at 632, 137 P.3d at 1179; *see also In re Amerco*
27 *Derivative Litig.*, 127 Nev. Adv. Op. 17, 252 P.3d 681, 705 (Nev. 2011) ("Among the matters
28 entrusted to a corporation's directors is the decision to litigate -- or not to litigate -- a claim by

1 the corporation against third parties.”) (citing *In re Citigroup S’holder Derivative Litig.*, 964
2 A.2d 106, 120 (Del. Ch. 2009)). Nevada law gives strong preference to honoring the business
3 judgment of the boards of directors of Nevada corporations. *See Shoen*, 122 Nev. at 621, 137
4 P.3d at 1181; NRS 78.138(3) (“Directors and officers, in deciding upon matters of business, are
5 presumed to act in good faith, on an informed basis and with a view to the interests of the
6 corporation.”).

7 3. Under Nevada law, a stockholder may pursue litigation on a corporation’s behalf
8 only where the stockholder both alleges and proves “particularized factual statements . . . that
9 making a demand [for the Board to cause the corporation to pursue the litigation] would be futile
10 or otherwise inappropriate.” *Id.*, 122 Nev. at 634, 137 P.3d at 1179-80; *see also* NRS 41.520;
11 NRCP 23.1.

12 4. If a stockholder makes this showing, the board nonetheless may properly delegate
13 to a special litigation committee of the board authority to control the litigation and, if the
14 committee determines that the litigation is not in the best interests of the corporation, to
15 terminate the litigation. NRS 78.125; 13 William Meade Fletcher, *Fletcher Cyclopedia of the*
16 *Law of Corporations* (“Fletcher Cyc. Corp.”) § 6019.50 (West 2014).

17 **I. Standard of Review for a Special Litigation Committee Motion Under Nevada Law**

18 5. No Nevada court has ruled on the standard by which to review a special litigation
19 committee’s determination on behalf of the corporation as to whether or in what respect it is in
20 the corporation’s best interest to pursue litigation. Most jurisdictions outside of Nevada follow a
21 form of either the majority *Auerbach* standard or the minority *Zapata* standard. *See Auerbach v.*
22 *Bennett*, 393 N.E.2d 994 (N.Y. 1979); *Zapata Corp. v. Maldonado*, 430 A.2d 779 (Del. 1981).

23 6. Under the *Auerbach* standard, a court defers to the business judgment of a special
24 litigation committee if (a) the special litigation committee is independent and (b) its procedures
25 and methodologies were not so deficient as to demonstrate a lack of good faith in the
26 investigation. *See Auerbach*, 393 N.E.2d at 1003.

27 7. Under the *Zapata* standard, the Court applies these same considerations, but the
28 *Zapata* standard also includes an optional “second step.” *See Carlton Invs. v. Tlc Beatrice Int’l*

1 *Holdings*, No. 13950, 1997 WL 305829, at *2 (Del. Ch. May 30, 1997). If “the court could not
2 consciously determine on the first leg of the analysis that there was no want of independence or
3 good faith, [but] it nevertheless ‘felt’ that the result reached was ‘irrational’ or ‘egregious’ or
4 some other such extreme word[,]” the second step of the *Zapata* standard permits the Court to
5 apply its own business judgment review to determine whether the litigation is in the best interests
6 of the corporation. *Id.* Delaware courts, which developed the *Zapata* standard, have noted that
7 “courts should not make such judgments but for reasons of legitimacy and for reasons of
8 shareholder welfare.” *Id.*

9 8. In this case, the determination of whether *Auerbach* or *Zapata* is the appropriate
10 standard under Nevada law is not dispositive. If *Zapata* were to apply, the SLC’s determination
11 is not “irrational” or “egregious” so as to merit review under the optional second step of a *Zapata*
12 analysis. This Court therefore need not determine which standard of review is appropriate.

13 9. Nevada gives strong preference to honoring the business judgment of boards and
14 their committees. NRS 78.125, 78.138. Nevada further recognizes that disclosed conflicts do not
15 necessarily prevent business judgment from being exercised. NRS 78.140. Here, in considering
16 the Motion to Defer, the Court focuses on two issues: thoroughness and independence of the
17 SLC. This is consistent with the standards adopted outside of Nevada, which generally defer to
18 the business judgment of a special committee that is independent and investigated the claims in
19 good faith, even where the court may have approached the investigation differently. *In re*
20 *Consumers Power Co. Derivative Litig.*, No. 87-CV-60103-AA, 132 F.R.D. 455, 483 (E.D.
21 Mich. 1990) (“[F]or the business judgment rule to apply, a corporation is not required to
22 undertake the ideal or perfect investigation[.]”); *see also Hirsch v. Jones Intercable, Inc.*, 984
23 P.2d 629, 637-38 (Colo. 1999) (“[B]ecause most courts are ill equipped and infrequently called
24 on to evaluate what are and must be essentially business judgments, . . . the role of a . . . trial
25 court in reviewing an SLC’s decision regarding derivative litigation should be limited to
26 inquiring into the independence and good faith of the committee.”) (citation omitted).

1 **II. The SLC Is Independent.**⁴

2 10. A director lacks independence if the director is “beholden” to an interested
3 person. *See, e.g., Jacobi v. Ergen*, 2:12-CV-2075-JAD-GWF, 2015 WL 1442223, at *5 (D. Nev.
4 Mar. 30, 2015). Beholdenness is generally shown through financial dependence. *See La. Mun.*
5 *Police Emples. Ret. Sys. v. Wynn*, 2:12-CV-509 JCM GWF, 2014 WL 994616, at *5 (D. Nev.
6 Mar. 13, 2013), *appeal docketed*, No. 14-15695 (9th Cir. April 11, 2014).⁵

7 11. It is well-settled that “long-standing personal and business ties” are insufficient to
8 “overcome the presumption of independence that all directors . . . are afforded.” *In re Walt*
9 *Disney Co. Derivative Litig.*, 731 A.2d 342, 355 (Del. Ch. 1998), *aff’d in part, rev’d in part on*
10 *other grounds sub nom. Brehm v. Eisner*, 746 A.2d 244 (Del. 2000); *see also Wynn*, 2014 WL
11 994616, at *6-7, *18 (“Allegations of a lengthy friendship are not enough” to find a director
12 “beholden[,]” including allegations that directors had “been close . . . since they were young” as
13 a result of their fathers’ business together and the interested director’s past employment of the
14 other director and the other director’s siblings); *Highland Legacy Ltd. v. Singer*, No. 1566-N,
15 2006 WL 741939, at *5 (Del. Ch. Mar. 17, 2006) (“It is well settled that the naked assertion of a
16 previous business relationship is not enough to overcome the presumption of a director’s
17 independence.”) (internal quotation marks omitted); *Ankerson v. Epik Corp.*, 2005 WI App 1, at

18 ⁴ The parties disagree as to whether the burden on these issues lies with the SLC or Plaintiff.
19 Nevada courts have not addressed this question previously. In most jurisdictions, the special
20 litigation committee bears the burden to establish its own independence and the good faith,
21 thoroughness of its investigation. The SLC however argues that, due to the statutory
22 presumption of N.R.S. 78.138(3), the members of the SLC are presumed to have acted in good
23 faith and on a fully informed basis, and that shifting the burden to the SLC would be inconsistent
24 with this presumption. The Court need not address this issue because it concludes that the SLC
25 was independent and conducted a good faith, thorough investigation and that the motion should
26 be granted, irrespective of which party bears the burden.

27 ⁵ The substantive test for special litigation committee independence is no different from the
28 substantive test for director independence generally. *See In re ITT Derivative Litig.*, 932 N.E.2d
664, 666 (Ind. 2010) (“[T]he same standard [applies] for showing ‘lack of disinterestedness’ both
as to the composition of special board committees . . . and to the requirement that a shareholder
must make a demand.”); *see also St. Clair Shores Gen. Emps. Ret. Sys. v. Eibeler*, No. 06 Civ.
688(SWK), 2008 WL 2941174, at *8 n.7 (S.D.N.Y. July 30, 2008) (stating that demand futility
cases are “relevant to the [SLC] context” in terms of their “treatment of director independence”
and explaining that the “formula for evaluating independence of special litigation committees is
consistent with that which pertains in demand excusal cases”) (citing *In re Oracle Corp.*
Derivative Litig., 824 A.2d 917, 938-39 (Del. Ch. 2003)). Thus, this Court cites authority from
both contexts interchangeably.

1 *3, 690 N.W.2d 885 (Wis. Ct. App. 2004) (TABLE) (“A director may be independent even if he
2 or she has had some personal or business relation with an individual director accused of
3 wrongdoing.”); *Jacobi*, 2015 WL 1442223, at *5 (“Even allegations of friendship or affinity are
4 insufficient to rebut the presumption that a director acts independently.”); *Freedman v. Redstone*,
5 No. CV 12-1052-SLR, 2013 WL 3753426, at *8 (D. Del. July 16, 2013) *aff’d*, 753 F.3d 416 (3d
6 Cir. 2014) (“Standing alone, plaintiff’s allegation that Greenberg is a close friend and advisor to
7 an interested director defendant does not create a reasonable doubt that Greenberg would have
8 been ‘beholden’ to another director.”) (emphasis added).

9 12. Plaintiff argues that Lillis lacks independence from Cullen because Lillis and
10 Cullen were both employed at MediaOne during the same time period, Lillis worked with Cullen
11 at LoneTree Capital Partners, and Lillis and Cullen continue to see each other socially perhaps
12 twice per year, including attending occasional football games together. Plaintiff also argues that
13 Lillis lacks independence from Vogel because Vogel was the President and Chief Executive
14 Officer of Charter when Lillis served on Charter’s board.

15 13. There is no evidence that Lillis is beholden to Cullen, Vogel, or any other
16 defendant. During the relevant time period, Lillis had no financial or business connection to any
17 defendant other than his service on the DISH Board. As detailed above, professional
18 relationships and friendships do not suffice to negate independence. The relationships between
19 Lillis and Cullen and Vogel do not undermine Lillis’s independence. Based upon all of the
20 evidence presented, including Lillis’s declaration, exhibits provided by Plaintiff, briefing on the
21 subject, and oral argument, the Court finds that there is no genuine issue of material fact as to
22 Lillis’ independence. Lillis is clearly not beholden and therefore is clearly independent under the
23 relevant legal authority.

24 14. A special litigation committee is generally independent if the committee cannot
25 lawfully act without the approval of at least one director who is independent. *See Johnson v.*
26 *Hui*, 811 F.Supp. 479, 486-87 (N.D. Cal. 1991); *see also Struogo ex rel. Brazil Fund v. Padegs*,
27 27 F. Supp. 2d 442, 450 n.3 (S.D.N.Y. 1998); *In re Oracle Sec’s Litig.*, 852 F. Supp. 1437, 1442

1 (N.D. Cal. 1994).⁶ This is true even if there is reason to doubt the independence of another
2 member or other members of the special litigation committee.

3 15. The voting structure of the SLC requires that Lillis vote affirmatively in favor of
4 any resolution of the SLC in order for it to have effect. The evidence of the independence of
5 Messrs. Brokaw and Ortolf coupled with the unusual voting structure of the SLC demonstrates
6 that the SLC is independent.

7 16. Plaintiff makes numerous assertions concerning the independence of the other
8 members of the SLC, Messrs. Brokaw and Ortolf,⁷ the significance of which the SLC disputes.⁸
9 In all events, after considering the evidence concerning the independence of Messrs. Brokaw and
10 Ortolf, together with the evidence concerning the independence of Mr. Lillis and his voting
11 power, the Court is persuaded that the SLC as a whole was independent and acted independently.

12 17. Plaintiff's assertions, which follow expansive discovery into the SLC's
13 independence, do not raise any genuine issue of material fact with respect to whether the SLC as
14 a whole acted independently.⁹

15 18. The Court thus concludes that there is no genuine issue of material fact with
16 respect to whether the SLC's business judgment is independent as a matter of Nevada law. *See*
17 *Johnson v. Hui*, 811 F.Supp. 479, 486-87 (N.D. Cal. 1991) (special litigation committee is
18 generally independent if the committee cannot lawfully act without the approval of at least one
19 director who is independent); *see also Struogo ex rel. Brazil Fund v. Padeys*, 27 F. Supp. 2d 442,

20
21 ⁶ The same might not hold if the independent director was overcome by a director who lacks
independence. Such was not this case here.

22 ⁷ Generally, with respect to Brokaw, Plaintiff argues that Brokaw lacks independence because
23 Brokaw has a social relationship with the Ergens, in which Cantey Ergen is godmother to one of
Brokaw's children. Generally, with respect to Ortolf, Plaintiff argues that Ortolf lacks
24 independence because Ortolf has a close friendship with the Ergens.

25 ⁸ Numerous courts considering facts similar to those raised by Plaintiff have determined that
such social relationships, even close friendships, do not render a director lacking independence.
26 *See, e.g., Jacobi*, 2015 WL 1442223, at *5 ("Even allegations of friendship or affinity are
insufficient to rebut the presumption that a director acts independently.").

27 ⁹ Moreover, Plaintiff has not identified any genuine issue of material fact with respect to whether
the issues that it raises with respect to Brokaw and Ortolf were disclosed. The disclosure of all
28 potential challenges to the SLC members' independence provides an additional basis to find the
SLC as a whole independent in light of Lillis' independence.

1 450 n.3 (S.D.N.Y. 1998); *In re Oracle Sec's Litig.*, 852 F. Supp. 1437, 1442 (N.D. Cal. 1994).

2 The SLC as a whole is independent given all of the evidence presented.

3 19. Plaintiff also argues that the SLC members lack independence because the Second
4 Amended Complaint asserts claims against them.¹⁰ Allowing a putative derivative plaintiff to
5 disqualify members of an independent committee simply by asserting claims against those
6 members, regardless of the merits of the claims, would give a putative derivative plaintiff the
7 power to unilaterally nullify the strong presumption of the business judgement rule under
8 Nevada law and, *a fortiori*, replace the business judgement of any board or committee thereof
9 with that of the plaintiff in every putative derivative action. Asserting claims against a director
10 neutralizes the director's ability to objectively assess the merits of the litigation for the
11 corporation only "in those 'rare case[s]' . . . where defendants' actions were so egregious that a
12 substantial likelihood of director liability exists'" as a result of the claim. *Shoen*, 122 Nev. at
13 639-40, 137 P.3d at 1184 (quoting *Seminaris v. Landa*, 662 A.2d 1350, 1354 (Del. Ch. 1995)).

14 20. DISH's articles of incorporation indemnify and exculpate DISH's Board of
15 Directors (the "Board") from liability for any breach of the fiduciary duty of care.

16 21. Particularly in light of the exculpation and indemnification provision in DISH's
17 articles of incorporation — and the fact that Lillis joined the DISH Board four months after this
18 action was filed — the challenged actions of the SLC members, even if they might potentially
19 give rise to liability, were not so "egregious that a substantial likelihood of director liability
20 exists." Thus, there is no genuine issue of material fact with respect to whether the claims
21 asserted against the SLC members undermine the independence of the SLC.

22 22. Based upon the above and all the evidence and legal authority presented, the
23 Court is persuaded that there is no genuine issue of material fact as to the independence of the
24 SLC. The SLC is independent.

25
26 ¹⁰ Often courts frame the analysis of whether claims asserted against a director neutralize that
27 director's exercise of business judgment as a question of interest, rather than of independence.
28 This opinion addresses the issue as one of independence because Plaintiff frames the issue in that
manner. The question would be analyzed in the same manner and with the same outcome if
framed as a question of the SLC members' disinterest.

1 **III. The SLC Conducted a Good Faith, Thorough Investigation.**

2 23. Both *Auerbach* and *Zapata* establish the same standard by which a court should
3 analyze the good faith, thoroughness of a special litigation committee's investigation:

4 What has been uncovered and the relative weight accorded in
5 evaluating and balancing the several factors and considerations are
6 beyond the scope of judicial concern. Proof, however, that the
7 investigation has been so restricted in scope, so shallow in
8 execution, or otherwise so pro forma or halfhearted as to constitute
 a pretext or sham, consistent with the principles underlying the
 application of the business judgment doctrine, would raise
 questions of good faith or conceivably fraud which would never be
 shielded by that doctrine.

9 *Auerbach*, 393 N.E.2d at 1002-03. *See also Stein v. Bailey*, 531 F. Supp. 684, 691, 695
10 (S.D.N.Y. 1982) (under the *Zapata* standard, "[p]roof . . . that the investigation has been so
11 restricted in scope, so shallow in execution, or otherwise so pro forma or halfhearted as to
12 constitute a pretext or sham . . . would raise questions of good faith") (internal quotation marks
13 omitted); *Hasan v. CleveTrust Realty Investors*, 729 F.2d 372, 378 (6th Cir. 1984) (*Auerbach*
14 and *Zapata* "are convergent in their approach to the issues of good faith and thoroughness.").

15 24. Regardless of which standard applies, the Court finds that the SLC conducted a
16 good faith, thorough investigation. As detailed above, the SLC reviewed thousands of
17 documents, interviewed numerous witnesses and thoroughly analyzed each of the claims in its
18 330-page Report. *See supra*, paragraphs [[74]] – [[86]] and [[83]] – [[84]]. The SLC Report
19 addressed each of the significant concerns raised by the Second Amended Complaint.

20 25. Although Plaintiff makes numerous assertions concerning supposed deficiencies
21 or bad faith of the SLC's investigation, none of the assertions has merit:

22 26. Among other assertions, Plaintiff asserts that the SLC failed to address or
23 concealed evidence concerning compliance by Ergen and his counsel with this Court's partial
24 preliminary injunction. Contrary to Plaintiff's assertion, the SLC disclosed the comments that
25 counsel for SPSO made concerning the Release to the LightSquared Bankruptcy Court and
26 addressed the implications of those statements, based upon the full record. Furthermore, there is
27 no evidence that Ergen or his counsel failed to comply with this Court's partial preliminary
28 injunction.

1 27. Plaintiff also asserts that the SLC failed to analyze the STC Termination Claim.
2 Contrary to Plaintiff's assertion, the SLC Report addressed this issue at pages 325 to 327 of the
3 SLC Report.

4 28. Plaintiff also asserts that the SLC failed to address Plaintiff's derivative claim for
5 unjust enrichment. Contrary to Plaintiff's assertion, the SLC addressed Plaintiff's claim for
6 unjust enrichment in connection with the SLC's consideration of Plaintiff's other claims as set
7 forth at pages 301-02, 312-13, 321-22, and 324-25 of the SLC Report.

8 29. Regardless of whether Plaintiff may have preferred that its claims be investigated
9 differently, Plaintiff has not identified a genuine issue of material fact with respect to whether the
10 SLC's investigation of the claims set forth in the Second Amended Complaint was thorough and
11 conducted in good faith.

12 30. The Court concludes that there is no genuine issue of material fact as to the
13 thoroughness or good faith of the SLC's extensive investigation. The SLC is independent and
14 conducted a good faith, thorough investigation. For this reason, the Court grants the SLC's
15 Motion and dismisses this action with prejudice. The Court does so based upon the
16 independence of the SLC and thoroughness and good faith of its investigation.

17 31. If this Court were to adopt the *Zapata* standard, this Court likewise would find
18 that standard met, for, among other reasons, the conclusions in the SLC Report were neither
19 irrational nor egregious.

20 **IV. The Remaining Motions to Dismiss Are Moot.**

21 32. The SLC's Motion to Dismiss under Rule 23.1 and the Director Defendants',
22 Officer Defendants', and Ergen Defendants' Motions to Dismiss are moot at this time.

23 33. If any conclusions of law are properly findings of fact, they shall be treated as if
24 appropriately identified and designated.

25 THEREFORE, having made the foregoing Findings of Fact and Conclusions of Law, and
26 good cause appearing,


1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the SLC's Motion to
2 Defer to the SLC's Determination That the Claims Should Be Dismissed is hereby GRANTED
3 and this action is dismissed with prejudice.

4 IT IS FURTHER ORDERED that in light of the Court's ruling on the SLC's Motion to
5 Defer, the Court need not rule upon the SLC's Motion to Dismiss for Failure to Plead Demand
6 Futility, the Director Defendants' Motion to Dismiss the Second Amended Complaint, The
7 Officer Defendants' Motion to Dismiss the Second Amended Complaint, and Defendants
8 Charles W. Ergen and Cantey M. Ergen's Motion to Dismiss the Second Amended Derivative
9 Complaint of Jacksonville Police and Fire Pension Fund. These and any other pending motions
10 are hereby denied without prejudice as moot.

11 DATED this 19th day of September 2015.

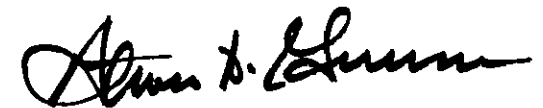
12
13 
14 DISTRICT COURT JUDGE

15 Respectfully submitted by:

16 
17 J. Stephen Peek
18 Robert J. Cassity
19 HOLLAND & HART LLP
20 9555 Hillwood Drive, 2nd Floor
21 Las Vegas, NV 89134

22 Holly Stein Sollod (*pro hac vice*)
23 HOLLAND & HART LLP
24 555 17th Street Suite 3200
25 Denver, CO 80202

26 David C. McBride (*pro hac vice*)
27 Robert S. Brady (*pro hac vice*)
28 C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801
*Attorneys for the Special Litigation Committee
of DISH Network Corporation*



CLERK OF THE COURT

MEMO

J. Stephen Peek
Nevada Bar No. 1758
Robert J. Cassity
Nevada Bar No. 9779
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 669-4600
Fax: (702) 669-4650

Holly Stein Sollod (*pro hac vice*)
HOLLAND & HART LLP
555 17th Street Suite 3200
Denver, CO 80202
Phone (303) 295-8000
Fax: (303) 975-5395

David C. McBride (*pro hac vice*)
Robert S. Brady (*pro hac vice*)
C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801
Phone: (302) 571-6600
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

Consolidated with A688882

**THE SPECIAL LITIGATION
COMMITTEE OF DISH NETWORK
CORPORATION'S MEMORANDUM OF
COSTS**

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Pursuant to NRS 18.005, the Special Litigation Committee of DISH Network Corporation (the "SLC"), by and through its undersigned counsel, seeks recovery of its costs detailed below. The SLC seeks only the costs it incurred after it determined that pursuit of the plaintiff's claims was not in DISH Network Corporation's best interest and filed its Report on October 24, 2014. The costs detailed below therefore represent only the costs incurred by the SLC in seeking dismissal of the claims and responding to the plaintiff's opposition to dismissal, which included document discovery, depositions and briefing. The SLC does not seek the costs that it incurred for its investigation of the plaintiff's claims.

1. NRS 18.005(1) - COURT FEES

| COURT FEES | DATE OF FILING | AMOUNT |
|---|-----------------------|---------------|
| <i>Wiznet</i> | | |
| Clark County: Motion to Redact the Special Litigation Committee's Report and to Seal Certain Exhibits Thereto | 10/24/2014 | \$3.50 |
| Clark County: Report of the Special Litigation Committee of DISH Network Corporation | 10/24/2014 | \$3.50 |
| Clark County: Volume 1 of Appendix to the Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 1-21) | 10/26/2014 | \$3.50 |
| Clark County: Volume 2 (Part 1) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 22-23) | 10/26/2014 | \$3.50 |
| Clark County: Volume 2 (Part 2) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 24-34) | 10/26/2014 | \$3.50 |
| Clark County: Volume 2 (Part 3) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 35-36) | 10/26/2014 | \$3.50 |
| Clark County: Volume 2 (Part 4) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 37-59) | 10/26/2014 | \$3.50 |
| Clark County: Volume 3 (Part 1) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 109-125) | 10/26/2014 | \$3.50 |
| Clark County: Volume 3 (Part 7) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibit 152 – part 1) | 10/26/2014 | \$3.50 |
| Clark County: Volume 3 (Part 8) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibit 152 – part 2) | 10/26/2014 | \$3.50 |
| Clark County: Volume 3 (Part 9) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 153-185) | 10/26/2014 | \$3.50 |

| | | | |
|----|---|-----------------------|---------------|
| 1 | COURT FEES | DATE OF FILING | AMOUNT |
| 2 | Clark County: Volume 3 (Part 20) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 221-227) | 10/26/2014 | \$3.50 |
| 3 | Clark County: Volume 5 of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 298-468) | 10/26/2014 | \$3.50 |
| 4 | Clark County: Volume 6 of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 469-485) | 10/26/2014 | \$3.50 |
| 5 | Clark County: Volume 2 (Part 5) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 60-108 – part 1) | 10/27/2014 | \$3.50 |
| 6 | Clark County: Volume 2 (Part 6) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 60-108 – part 2) | 10/27/2014 | \$3.50 |
| 7 | Clark County: Volume 2 (Part 7) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 60-108 – part 3) | 10/27/2014 | \$3.50 |
| 8 | Clark County: Volume 3 (Part 2) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 126-151 – part 1) | 10/27/2014 | \$3.50 |
| 9 | Clark County: Volume 3 (Part 3) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 126-151 – part 2) | 10/27/2014 | \$3.50 |
| 10 | Clark County: Volume 3 (Part 4) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 126-151 – part 3) | 10/27/2014 | \$3.50 |
| 11 | Clark County: Volume 3 (Part 5) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 126-151 – part 4) | 10/27/2014 | \$3.50 |
| 12 | Clark County: Volume 3 (Part 6) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 126-151 – part 5) | 10/27/2014 | \$3.50 |
| 13 | Clark County: Volume 3 (Part 10) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 186-195 - part 1) | 10/27/2014 | \$3.50 |
| 14 | Clark County: Volume 3 (Part 11) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 186-195 – part 2) | 10/27/2014 | \$3.50 |
| 15 | Clark County: Volume 3 (Part 12) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 186-195 – part 3) | 10/27/2014 | \$3.50 |
| 16 | Clark County: Volume 3 (Part 13) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 186-195 – part 4) | 10/27/2014 | \$3.50 |
| 17 | Clark County: Volume 3 (Part 14) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 196-205) | 10/27/2014 | \$3.50 |
| 18 | Clark County: Volume 3 (Part 15) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 206-220 – part 1) | 10/27/2014 | \$3.50 |

| | | | |
|----|--|-----------------------|---------------|
| 1 | COURT FEES | DATE OF FILING | AMOUNT |
| 2 | Clark County: Volume 3 (Part 16) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 206-220 – part 2) | 10/27/2014 | \$3.50 |
| 3 | Clark County: Volume 3 (Part 17) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 206-220 – part 3) | 10/27/2014 | \$3.50 |
| 4 | Clark County: Volume 3 (Part 18) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 206-220 – part 4) | 10/27/2014 | \$3.50 |
| 5 | Clark County: Volume 3 (Part 19) of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 206-220 – part 5) | 10/27/2014 | \$3.50 |
| 6 | Clark County: Volume 4 of the Appendix in Support of Report of the Special Litigation Committee of DISH Network Corporation (Exhibits 228-297) | 10/27/2014 | \$3.50 |
| 7 | Clark County: Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 11/12/2014 | \$3.50 |
| 8 | Clark County: Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 11/17/2014 | \$3.50 |
| 9 | Clark County: Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC's Motion | 11/17/2014 | \$3.50 |
| 10 | Clark County: Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 11/18/2014 | \$3.50 |
| 11 | Clark County: Notice of Entry of Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 11/19/2014 | \$3.50 |
| 12 | Clark County: Notice of Entry of Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC's Motion | 11/19/2014 | \$3.50 |
| 13 | Clark County: Supplemental Brief Regarding Motion to Redact the Special Litigation Committee's Report and to Seal Certain Exhibits Thereto | 12/4/2014 | \$3.50 |
| 14 | Clark County: Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 1/5/2015 | \$3.50 |
| 15 | Clark County: Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed (cover page and table of contents portion of appendix) | 1/5/2015 | \$3.50 |
| 16 | Clark County: Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed (exhibits portion of appendix) | 1/6/2015 | \$3.50 |
| 17 | Clark County: Status Report Regarding Motion to Redact The Special Litigation Committee's Report and to Seal Certain Exhibits Thereto | 1/16/2015 | \$3.50 |
| 18 | Clark County: Notice of Submission of Proposed Order Regarding Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 1/26/2015 | \$3.50 |
| 19 | Clark County: Notice of Filing Redacted Report of the Special Litigation Committee of DISH Network Corporation | 1/30/2015 | \$3.50 |

| | | | |
|----|---|-----------------------|------------------|
| 1 | COURT FEES | DATE OF FILING | AMOUNT |
| 2 | Clark County: Order Regarding Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 2/19/2015 | \$3.50 |
| 3 | Clark County: Motion to Associate Counsel (Emily V. Burton) | 2/19/2015 | \$3.50 |
| 4 | Clark County: Notice of Entry of Order Regarding Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 2/20/2015 | \$3.50 |
| 5 | Clark County: Order Granting Motion to Associate Emily V. Burton as Counsel | 3/27/2015 | \$3.50 |
| 6 | Clark County: Stipulation and Protective Order | 3/30/2015 | \$3.50 |
| 7 | Clark County: Notice of Entry of Order Granting Motion to Associate Emily V. Burton As Counsel | 3/30/2015 | \$3.50 |
| 8 | Clark County: Notice of Entry of Stipulation and Protective Order | 4/1/2015 | \$3.50 |
| 9 | Clark County: Status Report | 4/6/2015 | \$3.50 |
| 10 | Clark County: Stipulation and Scheduling Order | 4/7/2015 | \$3.50 |
| 11 | Clark County: Notice of Entry of Stipulation and Scheduling Order | 4/8/2015 | \$3.50 |
| 12 | Clark County: Ex Parte Application for Leave to Exceed Page Limit for the Special Litigation Committee's Supplemental Reply in Support of Its Motion to Defer | 6/29/2015 | \$3.50 |
| 13 | Clark County: Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Special Litigation Committee's Supplemental Reply in Support of Its Motion to Defer | 6/30/2015 | \$3.50 |
| 14 | Clark County: Notice of Entry of Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Special Litigation Committee's Supplemental Reply in Support of Its Motion to Defer | 7/1/2015 | \$3.50 |
| 15 | Clark County: The Special Litigation Committee's Motion to Seal Supplemental Reply in Support of Its Motion to Defer and Certain Exhibits Thereto | 7/2/2015 | \$3.50 |
| 16 | Clark County: Appendix of Exhibits to Supplemental Reply in Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 7/2/2015 | \$3.50 |
| 17 | Clark County: Appendix of SLC Report Exhibits Referenced in Supplemental Reply in Support of the Motion to Defer to the SCL's Determination that the Claims Should Be Dismissed | 7/2/2015 | \$3.50 |
| 18 | Clark County: Supplemental Reply in Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | 7/9/2015 | \$3.50 |
| 19 | Clark County: Supplement to the Special Litigation Committee's Motion to Seal Supplemental Reply in Support of its Motion to Defer and Certain Exhibits Thereto | 7/31/2015 | \$3.50 |
| 20 | TOTAL | | \$ 224.00 |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |
| 26 | | | |
| 27 | | | |
| 28 | | | |

2. NRS 18.005(2) - REPORTERS' FEES FOR DEPOSITIONS

| REPORTERS' FEES FOR DEPOSITIONS DEPONENT/DESCRIPTION | DATE OF INVOICE | AMOUNT |
|--|-----------------------|--------------------|
| Cost of Interactive Realtime transcript, draft transcript, final transcript and deposition exhibits from deposition of T. Ortolf | 6/11/2015 | \$5,750.15 |
| Cost of video of deposition of T. Ortolf | 6/17/2015 | \$1,004.50 |
| Cost of Interactive Realtime transcript, draft transcript, final transcript and deposition exhibits from deposition of C. Lillis | 6/25/2015 | \$4,145.10 |
| Cost of Interactive Realtime transcript, draft transcript, final transcript and deposition exhibits from deposition of G. Brokaw | 6/25/2015 | \$6,283.65 |
| Cost of video of deposition of C. Lillis | 6/29/2015 | \$633.75 |
| Cost of video of deposition of G. Brokaw | 6/29/2015 | \$1,129.00 |
| TOTAL | | \$18,946.15 |

3. NRS 18.005(8) - COMPENSATION FOR OFFICIAL REPORTER

| COMPENSATION FOR OFFICIAL REPORTER | DATE OF PROCEEDING | AMOUNT |
|---|-----------------------|-----------------|
| VENDOR: Florence M. Hoyt; INVOICE#: 1410133; INVOICE DATE: 10/31/2014 - Transcript for telephonic hearing re scheduling | 10/30/2014 | \$135.00 |
| VENDOR: Clark County Treasurer - Recording of telephonic hearing re scheduling | 10/30//2014 | \$30.00 |
| VENDOR: Florence M. Hoyt; INVOICE#: 1501004; INVOICE DATE: 1/14/2015 - Transcript for hearing re motions | 1/12/2015 | \$472.08 |
| VENDOR: Clark County Treasurer - Recording of hearing re motions | 1/12/2015 | \$60.00 |
| VENDOR: Florence M. Hoyt; INVOICE#: 1507055; INVOICE DATE: 7/16/2015 - Transcript for hearing re Motion to Defer | 7/16/2015 | \$172.50 |
| VENDOR: Clark County Treasurer - Recording of hearing re Motion to Defer | 7/16/2015 | \$30.00 |
| TOTAL | | \$899.58 |

4. NRS 18.005(12) - COST FOR PRINTING/PHOTOCOPIES/SCANNING

| COST FOR PRINTING/PHOTOCOPIES/SCANNING VENDOR / DESCRIPTION | DATES OF TRANSACTIONS | AMOUNT |
|---|--------------------------|----------|
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 10/27/2014-10/31/2014 | \$316.60 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 11/1/2014-11/30/2014 | \$761.00 |
| Young Conaway Stargatt & Taylor, LLP- printing and photocopying | 12/1/2014-12/31/2014 | \$271.60 |

| COST FOR PRINTING/PHOTOCOPIES/SCANNING VENDOR / DESCRIPTION | DATES OF TRANSACTIONS | AMOUNT |
|--|----------------------------------|--------------------|
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 1/1/2015-1/31/2015 | \$1,203.60 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 2/1/2015-2/28/2015 | \$483.60 |
| Parcels – Scanning | 2/4/2015 | \$58.01 |
| Parcels – Additional scanning | 2/4/2015 | \$179.88 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 3/1/2015-3/31/2015 | \$2,066.80 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 4/1/2015-4/30/2015 | \$1,077.70 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 5/1/2015-5/31/2015 | \$7,254.80 |
| Parcels - Photocopying | 5/21/2015 | \$1,007.39 |
| Parcels – Photocopying | 5/25/2015 | \$206.00 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 6/1/2015-6/30/2015 | \$2,265.70 |
| Parcels - scanning | 7/1/2015 | \$245.00 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 7/1/2015-7/31/2015 | \$1,317.40 |
| Young Conaway Stargatt & Taylor, LLP – printing and photocopying | 8/1/2015-8/31/2015 | \$105.00 |
| TOTAL | | \$18,820.08 |

5. NRS 18.005(13) – COST FOR TELECONFERENCE

| COST FOR TELECONFERENCE COUNSEL / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|---|----------------------------|-----------------|
| <i>SoundPath Legal</i> | | |
| Teleconferences hosted by attorney C. Barr Flinn | 12/12/2014 | \$101.63 |
| Teleconferences hosted by attorney C. Barr Flinn and L. Muthu | 2/12/2015 | \$88.01 |
| Teleconferences hosted by attorney C. Barr Flinn | 3/12/2015 | \$51.23 |
| Teleconference hosted by attorney C. Barr Flinn | 4/12/2015 | \$31.18 |
| Teleconferences hosted by attorney C. Barr Flinn | 5/12/2015 | \$73.17 |
| Teleconferences hosted by attorneys E. Burton and C. Barr Flinn | 6/12/2015 | \$181.80 |
| Teleconferences hosted by attorney C. Barr Flinn | 7/12/2015 | \$50.09 |
| Teleconferences hosted by attorneys E. Burton and C. Barr Flinn | 8/12/2015 | \$130.91 |
| TOTAL | | \$708.02 |

6. NRS 18.005(14) - POSTAGE/FEDERAL EXPRESS

| POSTAGE/FEDERAL EXPRESS COSTS VENDOR/COUNSEL / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|---|--------------------|----------|
| Shipping of Special Litigation Committee Report and corresponding exhibits to Bruce R. Braun at Winston & Strawn LLP, Chicago, IL | 10/27/2014 | \$15.33 |
| Shipping of Special Litigation Report and corresponding exhibits to Brian T. Frawley at Sullivan & Cromwell LLP, New York, NY | 10/27/2014 | \$15.53 |
| Shipping of Special Litigation Committee Report and corresponding exhibits to Mark Lebovitch at Bernstein Litowitz, New York, NY | 10/27/2014 | \$15.53 |
| Shipping of Special Litigation Committee Report and Corresponding exhibits to Martin L. Seidel at Cadwalader Wickersham & Taft, New York, NY | 10/27/2014 | \$15.53 |
| Shipping of Special Litigation Committee Report and corresponding exhibits to James C. Dugan at Willkie Farr & Gallagher, New York, NY | 10/27/2014 | \$15.53 |
| Shipping of Special Litigation Committee Report and corresponding exhibits to David C. McBride at Young Conaway Stargatt & Taylor, LLP, Wilmington, DE | 10/27/2014 | \$15.53 |
| Shipping Motion to Dismiss and Motion to Defer materials from Nevada to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) | 1/13/2015 | \$49.83 |
| Shipping request for copy of good standing certificate to the Clerk of the Supreme Court of Madison, Wisconsin related to attorney E. Burton's pro hac motion for the Nevada District Court | 1/27/2015 | \$14.74 |
| Shipping materials from Delaware to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) | 2/24/2015 | \$16.37 |
| Shipping materials from Delaware to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) | 3/24/2015 | \$37.47 |
| Shipping .pst files from Nevada to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) | 3/30/2015 | \$22.86 |
| Shipping materials from Delaware to Colorado for Special Litigation Committee member T. Ortolf | 3/31/2015 | \$38.89 |
| Shipping materials from Delaware to Colorado for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of T. Ortolf | 5/26/2015 | \$119.93 |
| Shipping additional materials from Delaware to Colorado for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of T. Ortolf | 5/26/2015 | \$142.09 |
| Shipping materials from Delaware to Colorado for counsel to the Special Litigation Committee (Holland & Hart LLP) for deposition preparation of T. Ortolf | 5/26/2015 | \$296.33 |
| Shipping materials (Box 1 of 2) from Nevada to New York for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of G. Brokaw | 5/29/2015 | \$123.30 |
| Shipping additional materials (Box 2 of 2) from Nevada to New York for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of G. Brokaw | 5/29/2015 | \$123.30 |

| | | | |
|----|--|----------------|-------------------|
| 1 | POSTAGE/FEDERAL EXPRESS COSTS | DATE OF | AMOUNT |
| 2 | VENDOR/COUNSEL / DESCRIPTION | INVOICE | |
| 3 | Shipping further additional materials from Nevada to New York for counsel to the Special Litigation Committee for (Holland & Hart LLP) deposition preparation of G. Brokaw | 5/29/2015 | \$104.08 |
| 4 | Returning materials from New York to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) following deposition preparation and deposition of G. Brokaw | 6/5/2015 | \$82.87 |
| 5 | Shipping materials from New York to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) following deposition preparation of G. Brokaw | 6/9/2015 | \$87.47 |
| 6 | Shipping additional materials from New York to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) following deposition preparation of G. Brokaw | 6/9/2015 | \$108.92 |
| 7 | Shipping materials from New York to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) following deposition preparation of G. Brokaw | 6/9/2015 | \$35.61 |
| 8 | Shipping additional materials from New York to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) following deposition preparation of G. Brokaw | 6/9/2015 | \$34.99 |
| 9 | Shipping further additional materials from New York to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) following deposition preparation of G. Brokaw | 6/9/2015 | \$21.27 |
| 10 | Shipping deposition materials from Nevada to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) following deposition of C. Lillis | 6/12/2015 | \$108.22 |
| 11 | Shipping deposition materials from Nevada to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) following deposition of C. Lillis | 6/12/2015 | \$110.53 |
| 12 | Shipping deposition materials from Nevada to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) following deposition of C. Lillis | 6/12/2015 | \$98.13 |
| 13 | Shipping materials from Delaware to Colorado for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of C. Lillis | 6/16/2015 | \$112.04 |
| 14 | Shipping additional materials from Delaware to Colorado for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of C. Lillis | 6/16/2015 | \$99.93 |
| 15 | Shipping further additional materials from Delaware to Colorado for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) for deposition preparation of C. Lillis | 6/16/2015 | \$96.91 |
| 16 | Shipping materials from Delaware to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) in connection to hearing on Motion to Defer | 7/21/2015 | \$88.32 |
| 17 | Shipping additional materials from Delaware to Nevada for counsel to the Special Litigation Committee (Holland & Hart LLP) in connection to hearing on Motion to Defer | 7/21/2015 | \$109.98 |
| 18 | Returning various materials, including materials regarding motion to defer, from Nevada to Delaware for counsel to the Special Litigation Committee (Young Conaway Stargatt & Taylor, LLP) | 8/13/2015 | \$46.71 |
| 19 | TOTAL | | \$2,424.07 |

7. NRS 18.005(15) - TRAVEL AND LODGING FOR HEARINGS AND
DEPOSITIONS

| TRAVEL AND LODGING FOR HEARINGS AND DEPOSITIONS VENDOR/COUNSEL / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|---|--------------------|----------|
| Air travel to and from Nevada for C. Barr Flinn for Motion to Defer hearing | 12/30/2014 | \$502.20 |
| Air travel to and from Nevada for E. Burton for Motion to Defer hearing | 12/30/2014 | \$502.20 |
| Change fee for air travel to and from Nevada for C. Barr Flinn for Motion to Defer hearing | 1/9/2015 | \$473.00 |
| Change fee for air travel to and from Nevada for E. Burton for Motion to Defer hearing | 1/9/2015 | \$473.00 |
| Hotel for E. Burton during trip to Nevada for Motion to Defer hearing | 1/10/2015 | \$378.54 |
| Air travel for T. Ortolf for trip to Nevada for Motion to Defer hearing | 1/11/2015 | \$180.00 |
| Hotel for T. Ortolf for trip to Nevada for Motion to Defer hearing | 1/12/2015 | \$264.36 |
| Parking for T. Ortolf at Denver International Airport during trip to Nevada for Motion to Defer hearing | 1/12/2015 | \$33.00 |
| Parking for S. Peek while attending hearing on Motion to Defer in Nevada | 1/12/2015 | \$25.00 |
| Hotel for C. Barr Flinn during trip to Nevada for Motion to Defer hearing | 1/12/2015 | \$490.03 |
| Parking for S. Peek while attending status check in Nevada | 4/7/2015 | \$12.00 |
| Air Travel to Colorado for C. Barr Flinn for deposition preparation and deposition of T. Ortolf | 5/7/2015 | \$584.10 |
| Air Travel to Colorado for L. Muthu for deposition preparation and deposition of T. Ortolf | 5/7/2015 | \$584.10 |
| Air Travel from Colorado for C. Barr Flinn following deposition preparation and deposition of T. Ortolf (originally scheduled to depart May 30, 2015) | 5/7/2015 | \$454.10 |
| Air Travel from Colorado for L. Muthu following deposition preparation and deposition of T. Ortolf (originally scheduled to depart May 30, 2015) | 5/7/2015 | \$454.10 |
| Air Travel from Colorado to New York for S. Peek for deposition preparation and deposition of G. Brokaw | 5/12/2015 | \$488.20 |
| Air Travel to Colorado for S. Peek for deposition preparation and deposition of T. Ortolf | 5/13/2015 | \$352.00 |
| Taxi to Philadelphia Airport for L. Muthu for trip to Colorado for deposition preparation and deposition of T. Ortolf | 5/25/2015 | \$70.00 |
| Change fee for air travel from Colorado for C. Barr Flinn following deposition preparation and deposition of T. Ortolf (departing on May 29, 2015 due to change in deposition schedule) | 5/27/2015 | \$508.00 |
| Change fee for air travel from Colorado for L. Muthu following deposition preparation and deposition of T. Ortolf (departing on May 29, 2015 due to change in deposition schedule) | 5/27/2015 | \$508.00 |
| Hotel for B. Flinn for trip to Colorado for deposition preparation and deposition of T. Ortolf | 5/29/2015 | \$732.43 |

| 1 | TRAVEL AND LODGING FOR HEARINGS AND DEPOSITIONS | DATE OF INVOICE | AMOUNT |
|----|--|-----------------|------------|
| 2 | VENDOR/COUNSEL / DESCRIPTION | | |
| 3 | Hotel for L. Muthu for trip to Colorado for deposition preparation and deposition of T. Ortolf | 5/29/2015 | \$562.80 |
| 4 | Car rental for B. Flinn for trip to Colorado for deposition preparation and deposition of T. Ortolf | 5/29/2015 | \$400.38 |
| 5 | Air Travel expenses from Colorado to New York for S. Peek for deposition preparation and deposition of G. Brokaw | 5/30/2015 | \$109.00 |
| 6 | Car service for S. Peek during trip for deposition preparation and deposition of G. Brokaw | 5/30/2015 | \$40.34 |
| 7 | Airline baggage fee from Colorado to New York for S. Peek for deposition preparation and deposition of G. Brokaw | 5/30/2015 | \$25.00 |
| 8 | Hotel for S. Peek during trip to Colorado for deposition preparation and deposition of T. Ortolf | 5/30/2015 | \$547.95 |
| 9 | Train for C. Barr Flinn for trip to New York for deposition preparation and deposition of G. Brokaw | 5/31/2015 | \$141.00 |
| 10 | Train for L. Muthu for trip to New York for deposition preparation and deposition of G. Brokaw | 5/31/2015 | \$179.00 |
| 11 | Car service for S. Peek for round trip airport transfers to and from depositions in Colorado | 6/1/2015 | \$201.00 |
| 12 | Air Travel from New York for S. Peek following deposition preparation and deposition of G. Brokaw | 6/1/2015 | \$486.00 |
| 13 | Air Travel expenses from Nevada to New York for S. Peek for deposition preparation and deposition of G. Brokaw | 6/2/2015 | \$142.00 |
| 14 | Hotel for L. Muthu during trip to New York for deposition preparation and deposition of G. Brokaw | 6/2/2015 | \$773.54 |
| 15 | Hotel for C. Barr Flinn during portion of trip to New York for deposition preparation and deposition of G. Brokaw | 6/2/2015 | \$773.54 |
| 16 | Airline baggage fee from New York to Nevada for S. Peek for deposition preparation and deposition of G. Brokaw | 6/2/2015 | \$25.00 |
| 17 | Hotel for S. Peek during trip to New York for deposition preparation and deposition of G. Brokaw | 6/2/2015 | \$1,099.47 |
| 18 | Hotel for C. Barr Flinn for final portion of trip to New York for deposition preparation and deposition of G. Brokaw | 6/3/2015 | \$612.53 |
| 19 | Taxi and Train for C. Barr Flinn from New York following deposition preparation and deposition of G. Brokaw | 6/3/2015 | \$196.00 |
| 20 | Train for L. Muthu from New York following deposition preparation and deposition of G. Brokaw | 6/3/2015 | \$100.00 |
| 21 | Airport Parking in Nevada for S. Peek during trip to Colorado and New York for depositions from May 25-June 3, 2015 | 6/3/2015 | \$138.00 |
| 22 | Air travel for C. Barr Flinn to and from Colorado for deposition preparation and deposition of C. Lillis | 6/4/2015 | \$1,196.20 |
| 23 | Air travel for L. Muthu to and from Colorado for deposition preparation and deposition of C. Lillis | 6/4/2015 | \$1,196.20 |
| 24 | Hotel for L. Muthu during trip to Colorado for deposition preparation and deposition of C. Lillis | 6/12/2015 | \$616.98 |
| 25 | Car rental for B. Flinn for trip to Colorado for deposition preparation and deposition of C. Lillis | 6/12/2015 | \$317.41 |
| 26 | Airport parking in Pennsylvania for C. Barr Flinn during trip to Colorado for deposition preparation of C. Lillis | 6/13/2015 | \$60.00 |
| 27 | Taxi from Philadelphia Airport for L. Muthu following deposition preparation and deposition of C. Lillis | 6/13/2015 | \$138.00 |
| 28 | | | |

| TRAVEL AND LODGING FOR HEARINGS AND DEPOSITIONS | DATE OF INVOICE | AMOUNT |
|---|------------------------|--------------------|
| VENDOR/COUNSEL / DESCRIPTION | | |
| Hotel for C. Barr Flinn during trip to Colorado for deposition preparation and deposition of C. Lillis | 6/14/2015 | \$642.98 |
| Air travel for C. Barr Flinn from Philadelphia, Pennsylvania to Nevada for hearing on Motion to Defer | 7/8/2015 | \$735.10 |
| Air travel for E. Burton to and from Nevada for hearing on Motion to Defer | 7/8/2015 | \$666.20 |
| Air travel for C. Barr Flinn from Nevada to Philadelphia, Pennsylvania leg of trip following hearing on Motion to Defer | 7/9/2015 | \$729.60 |
| Air travel for C. Lillis to and from Nevada for hearing on Motion to Defer | 7/10/2015 | \$912.19 |
| Hotel for C. Barr Flinn during trip to Nevada for Motion to Defer hearing | 7/14/2015 | \$348.04 |
| Hotel for E. Burton during trip to Nevada for hearing on Motion to Defer | 7/14/2015 | \$583.33 |
| Car service for G. Brokaw to airport for trip to Nevada for hearing on Motion to Defer | 7/15/2015 | \$92.00 |
| Car rental for C. Barr Flinn during trip to Nevada for hearing on Motion to Defer | 7/16/2015 | \$209.76 |
| Parking for S. Peek while attending hearing on Motion to Defer | 7/16/2015 | \$9.00 |
| Hotel for C. Lillis during trip to Nevada for hearing on Motion to Defer | 7/16/2015 | \$122.08 |
| Hotel for G. Brokaw during trip to Nevada for hearing on Motion to Defer | 7/16/2015 | \$245.56 |
| Car service for G. Brokaw from airport following hearing on Motion to Defer in Nevada | 7/16/2015 | \$100.00 |
| Car rental for E. Burton during trip to Nevada for hearing on Motion to Defer | 7/17/2015 | \$45.90 |
| Parking at Philadelphia Airport for C. Barr Flinn for three days during trip to Nevada for hearing on Motion to Defer. | 7/26/2015 | \$92.25 |
| TOTAL | | \$23,679.69 |

8. NRS 18.005(17) - OTHER REASONABLE AND NECESSARY EXPENSES

A. COMPUTERIZED LEGAL RESEARCH

| COMPUTERIZED LEGAL RESEARCH | DATE OF INVOICE | AMOUNT |
|---|------------------------|---------------|
| VENDOR / DESCRIPTION | | |
| <i>Lexis Nexis</i> | | |
| Computerized legal research by attorney L. Muthu; document retrieval by paralegal C. Fowle | 10/31/2014 | \$98.14 |
| Computerized legal research by attorney E. Bradley; computerized legal research by attorney E. Burton; computerized legal research by attorney L. Muthu | 11/30/2014 | \$195.42 |
| Computerized legal research by attorney E. Bradley; computerized legal research by attorney E. Burton; computerized legal research by attorney L. Muthu; computerized legal research by attorney B. Potts; document retrieval by paralegal C. Fowle | 12/31/2014 | \$340.45 |

| COMPUTERIZED LEGAL RESEARCH VENDOR / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|--|--------------------|-------------------|
| Computerized legal research by attorney L. Muthu; computerized legal research by attorney B. Potts; document retrieval by paralegal C. Fowle | 1/31/2015 | \$113.64 |
| Computerized legal research by attorney L. Muthu | 2/28/2015 | \$89.23 |
| Computerized legal research by attorney B. Potts | 3/31/2015 | \$124.50 |
| Computerized legal research by attorney E. Bradley; document retrieval by paralegal D. Chase; document retrieval by legal assistant M. O'Donnell; computerized legal research by attorney B. Potts | 4/30/2015 | \$107.91 |
| Document retrieval by paralegal D. Chase; document retrieval by legal assistant M. O'Donnell; computerized legal research by attorney R. Thomas | 5/31/2015 | \$106.27 |
| Computerized legal research by attorney E. Burton; computerized legal research by attorney L. Muthu; computerized legal research by attorney B. Potts; document retrieval by paralegal C. Fowle | 6/30/2015 | \$145.36 |
| Document retrieval by paralegal C. Fowle and legal assistant M. O'Donnell | 7/31/2015 | \$16.87 |
| Computerized legal research by attorney L. Muthu. | 8/31/2015 | \$189.43 |
| TOTAL | | \$1,527.22 |

B. ELECTRONIC DISCOVERY

| ELECTRONIC DISCOVERY VENDOR / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|--|--------------------|-------------|
| <i>Digital Legal Services:</i> | | |
| Load and index raw data; de-duplicate data; deliver data | 1/27/2015 | \$24,646.95 |
| Collect data | 1/31/2015 | \$3,445.85 |
| Load and index data; run search reports; collect data | 2/10/2015 | \$4,834.20 |
| Collect data; load and index data; run search reports | 3/3/2015 | \$13,787.65 |
| Run search reports; deliver data | 3/17/2015 | \$575.00 |
| Run search reports; deliver data | 4/23/2015 | \$450.00 |
| <i>Discovery Solutions, Inc. (a/k/a Falcon Discovery):</i> | | |
| Host data; communicate with counsel regarding data hosting | 11/30/2014 | \$5,428.89 |
| Host data | 12/31/2014 | \$4,334.10 |
| Collect data; process and index data; host data; run search reports; communicate with counsel regarding data collection, processing and indexing of data and search terms and search reports | 1/31/2015 | \$8,336.60 |
| Run search reports; process, load and index data; collect data; communicate with counsel regarding search terms and search reports, data processing, and data collection; host data | 2/28/2015 | \$23,384.30 |

| ELECTRONIC DISCOVERY VENDOR / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|--|----------------------------|---------------------|
| Process, index and load data; communications with counsel regarding document review and search terms and search reports; collect data; manage document review platform; run search reports; host data | 3/31/2015 | \$16,932.50 |
| Index and load data; communications with counsel regarding search terms and search reports, document review, and document production; manage document review platform; prepare to produce documents; host data | 4/30/2015 | \$14,480.53 |
| Communications with counsel regarding document production; produce documents; manage document review platform; host data; index data | 5/31/2015 | \$13,403.50 |
| Host data | 6/30/2015 | \$5,362.00 |
| Host data | 7/31/2015 | \$5,488.00 |
| Host data | 8/31/2015 | \$5,368.00 |
| Edge Legal Services: | | |
| Prepare documents for production | 3/3/2015 | \$400.00 |
| Process data | 5/4/2015 | \$250.00 |
| QUIVX: | | |
| Technical Time - file reduction and removal of security | 10/31/2014 | \$270.25 |
| TOTAL | | \$151,178.32 |

C. DELIVERY AND FILING SERVICES/MESSENGERS

| DELIVERY AND FILING SERVICES/MESSENGERS VENDOR / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|--|----------------------------|---------------|
| Runner Charge: Delivery of payment for Transcript for telephonic hearing re scheduling to Court | 11/5/2014 | \$12.50 |
| Runner Charge: Picking up signed Stipulation and Order Regarding January 12, 2015 Hearing Transcript from: Holley Driggs, 400 S. 4th Street; picking up signed Stipulation and Order Regarding January 12, 2015 Hearing Transcript from: Pisanelli & Bice, 400 S. 7th Street, Suite 300; picking up signed Stipulation and Order Regarding January 12, 2015 Hearing Transcript from: Reisman Sorokac, 8965 South Eastern Avenue, Suite 382; and delivering signed Stipulation and Order Regarding January 12, 2015 Hearing Transcript to: District Court, Dept. XI | 3/19/2015 | \$50.00 |
| Runner Charge: Delivering Order Granting Motion to Associate Emily V. Burton as Counsel to: District Court, Dept. XI | 3/25/2015 | \$12.50 |
| Runner Charge: Delivering Courtesy Copy of Status Report to District Court, Dept. XI | 4/6/2015 | \$12.50 |
| Runner Charge: Delivering Order Granting Ex Parte Application for Leave to Exceed Page Limit for the SLC Reply in Support of Its Motion to Defer to: District Court, Dept. 11 | 6/29/2015 | \$12.50 |

| DELIVERY AND FILING SERVICES/MESSENGERS VENDOR / DESCRIPTION | DATE OF INVOICE | AMOUNT |
|---|----------------------------|-----------------|
| Runner Charge: Delivering Supplemental Reply in Support of Motion to Defer with Appendices to be filed under seal to District Court Clerk | 7/2/2015 | \$12.50 |
| Runner Charge: Delivering Courtesy Copy of Supplemental Reply in Support of Motion to Defer with Appendices to District Court Clerk | 7/7/2015 | \$12.50 |
| TOTAL | | \$125.00 |

D. ACCESS TO COURT RECORDS

| ACCESS TO COURT RECORDS VENDOR / DESCRIPTION | DATES OF TRANSACTIONS | AMOUNT |
|---|----------------------------------|-----------------|
| Public Access to Court Electronic Records of the United States Bankruptcy Court for the Southern District of New York by paralegal C. Fowle | 11/6/2014 | \$20.80 |
| Public Access to Court Electronic Records of the United States District Court for the District of Nevada by paralegal D. Chase | 11/18/2014 | \$0.20 |
| Public Access to Court Electronic Records of the United States Bankruptcy Court for the Southern District of New York, the United States District Court for the District of Nevada, and the United States District Court for the District of Colorado by paralegal C. Fowle | 1/1/2015-3/31/2015 | \$19.90 |
| Public Access to Court Electronic Records of the United States Bankruptcy Court for the Southern District of New York and the United States District Court for the District of Nevada, and the United States District Court for the Southern District of New York by paralegals B. Walters and D. Laskin, and attorneys K. Enos and L. Roglen | 4/1/2015-6/30/2015 | \$90.40 |
| Public Access to Court Electronic Records of the United States District Court for the District of Colorado, the United States District Court for the Southern District of New York, and the United States Bankruptcy Court for the Southern District of New York by paralegals C. Fowle and D. Laskin | 7/1/2015-9/28/2015 | \$27.70 |
| TOTAL | | \$159.00 |

E. COSTS RELATED TO PRO HAC VICE ADMISSIONS

| COSTS RELATED TO PRO HAC VICE ADMISSIONS VENDOR / DESCRIPTION | DATE OF CHECK/ INVOICE | AMOUNT |
|--|---------------------------------------|---------------|
| VENDOR: State Bar of Nevada; INVOICE#: 102814; DATE: 10/28/2014 - Annual Renewal Fee of Pro Hac Vice of Holly Stein Sollod | 10/28/2014 | \$500.00 |
| Copy of good standing certificate from Supreme Court of Wisconsin for attorney E. Burton related to E. Burton's pro hac motion in the Nevada District Court. | 1/21/2015 | \$3.00 |

| TOTALS – SECTION | AMOUNT |
|--|---------------------|
| 1. NRS 18.005 (1) - COURT FEES | \$224.00 |
| 2. NRS 18.005 (2) – REPORTER’S FEES FOR DEPOSITIONS | \$18,946.15 |
| 3. NRS 18.005 (8) – COMPENSATION FOR OFFICIAL REPORTER | \$899.58 |
| 4. NRS 18.005 (12) – COST FOR PRINTING/PHOTOCOPIES/SCANNING | \$18,820.08 |
| 5. NRS 18.005 (13) – COST FOR TELECONFERENCES | \$708.02 |
| 6. NRS 18.005 (14) – POSTAGE/FEDERAL EXPRESS | \$2,424.07 |
| 7. NRS 18.005 (15) – TRAVEL AND LODGING FOR HEARINGS AND DEPOSITIONS | \$23,679.69 |
| 8. NRS 18.005 (17) – OTHER REASONABLE AND NECESSARY EXPENSES A. COMPUTERIZED LEGAL RESEARCH | \$1,527.22 |
| 8. NRS 18.005 (17) – OTHER REASONABLE AND NECESSARY EXPENSES B. ELECTRONIC DISCOVERY | \$151,178.32 |

///

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

| | |
|--|---------------------|
| 8. NRS 18.005 (17) – OTHER REASONABLE AND NECESSARY EXPENSES | \$125.00 |
| C. DELIVERY AND FILING SERVICES/MESSENGERS | |
| 8. NRS 18.005 (17) – OTHER REASONABLE AND NECESSARY EXPENSES | \$159.00 |
| D. ACCESS TO COURT RECORDS | |
| 8. NRS 18.005 (17) – OTHER REASONABLE AND NECESSARY EXPENSES | \$1,158.00 |
| E. COST RELATED TO PRO HAC VICE ADMISSIONS | |
| TOTAL | \$219,849.13 |

DATED this 19 day of October, 2015


J. Stephen Peek
Robert J. Cassity
HOLLAND & HART LLP

9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Holly Stein Sollod (*pro hac vice*)
HOLLAND & HART LLP
555 17th Street Suite 3200
Denver, CO 80202

David C. McBride (*pro hac vice*)
Robert S. Brady (*pro hac vice*)
C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801

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

1 STATE OF NEVADA)
2 COUNTY OF CLARK) ss.

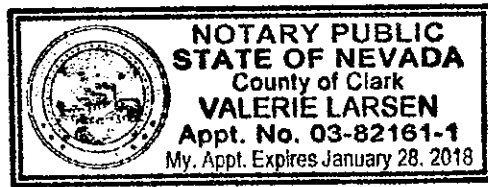
3
4 J. Stephen Peek, Esq., being duly sworn, states affiant is the attorney for the Special
5 Litigation Committee of DISH Network Corporation, and has knowledge of the above costs and
6 disbursements expended; that the items contained in the above memorandum are true and correct
7 to the best of this affiant's knowledge and belief; and that the said disbursements have been
8 necessarily incurred and paid in this action.

9 DATED October 19th, 2015.

10 J. Stephen Peek
11 J. Stephen Peek, Esq.

12 SUBSCRIBED AND SWORN to before
13 me this 19th day of October, 2015.

14 Valerie Larsen
15 NOTARY PUBLIC



CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of October, 2015, a true and correct copy of the foregoing **THE SPECIAL LITIGATION COMMITTEE OF DISH NETWORK CORPORATION'S MEMORANDUM OF COSTS** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Please see the attached Master E-Service List

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:

☒ Hand-Delivery: by causing a copy to be hand delivered to the following:

Brian W. Boschee, Esq.
William N. Miller, Esq.
HOLLEY DRIGGS WALCH FINE WRAY
PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

Mark Lebovitch, Esq.
Jeroen Van Kwawegen, Esq.
Adam D. Hollander, Esq.
BERNSTEIN, LITOWITZ, BERGER, &
GROSSMANN, LLP
1285 Avenue of the Americas
38th Floor
New York, New York 10019
Admitted Pro Hac Vice

Attorneys for Plaintiff


An Employee of Holland & Hart LLP

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

**E-Service Master List
For Case****null - Jacksonville Police and Fire Pension Fund, Plaintiff(s) vs. Charles Ergen, Defendant(s)****Bernstein Litowitz Berger & Grossmann LLP****Contact**Adam D. Hollander
Jeroen Van Kwawegen
Mark Lebovitch**Email**adam.hollander@blbqlaw.com
jeroen@blbqlaw.com
markl@blbqlaw.com**Brownstein Hyatt Farber Schreck, LLP****Contact**Jeffrey S. Rugg
Karen Mandall
Maximilien "Max" D. Fetaz**Email**jrugg@bhfs.com
kmandall@bhfs.com
MFetaz@BHFS.com**Cadwalader Wickersham****Contact**Brittany Schulman
Gregory Beaman
William Foley**Email**brittany.schulman@cwt.com
Gregory.Beaman@cwt.com
William.Foley@cwt.com**Greenberg Traurig, LLP****Contact**6085 Joyce Heilich
7132 Andrea Rosehill
IOM Mark Ferrario
LVGTDocketing
RRW Randolph Westbrook**Email**heilichj@gtlaw.com
rosehilla@gtlaw.com
lvitdock@gtlaw.com
lvitdock@gtlaw.com
westbrookr@gtlaw.com**Holland & Hart****Contact**

Steve Peek

Emailspeek@hollandhart.com**Holland & Hart LLP****Contact**Robert Cassity
Valerie Larsen**Email**bcassity@hollandhart.com
vlarsen@hollandhart.com**Holley Driggs Walch Fine Wray Puzey & Thompson****Contact**

Dawn Dudas

Emailddudas@nevadafirm.com**Holley Driggs Walch Puzey Thompson****Contact**

William N. Miller

Emailwmiller@nevadafirm.com**Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson****Contact**

Brian W. Boschee

Emailbboschee@nevadafirm.com**Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson****Contact**

Brian W. Boschee, Esq.

Emailbboschee@nevadafirm.com**Holley, Driggs, Walch, Puzey & Thompson****Contact**

William N. Miller

Emailwmiller@nevadafirm.com**McDonald Carano Wilson LLP****Contact**Amanda Yen
CaraMia Gerard
Jeff Silvestri**Email**ayen@mcdonaldcarano.com
cgerard@mcdonaldcarano.com
jsilvestri@mcdonaldcarano.com

Michelle Wade

mwade@mcdonaldcarano.com

Pisanelli Bice PLLC**Contact**Debra L. Spinelli
Paul Garcia
PB Lit**Email**dls@pisanellibice.com
pg@pisanellibice.com
lit@pisanellibice.com

Reisman Sorokac**Contact**Joshua H. Reisman, Esq.
Kelly Wood**Email**JReisman@rsnvlaw.com
kwood@rsnvlaw.com

Sullivan & Cromwell, LLP**Contact**Andrew L. Van Houter
Brian T. Frawley
Heather Celeste Mitchell**Email**vanhoutera@sullcrom.com
frawleyb@sullcrom.com
MITCHELLH@SULLCROM.COM

Willkie, Farr & Gallagher LLP**Contact**

Tariq Mundiya

Emailtmundiya@willkie.com

Winston & Strawn**Contact**

Bruce R. Braun

EmailBBraun@winston.com

Young, Conway, Stargatt & Taylor, LLP**Contact**

C. Barr Flinn

Emailbflinn@ycst.com

– 1 –

NRS 18.005(1)

Court Fees

Details of filing: Motion to Redact the Special Litigation Committee's Report and to Seal Certain Exhibits Thereto
Filed in Case Number: A-13-686775-B

E-File ID: 6315345

Lead File Size: 496963 bytes

Date Filed: 2014-10-24 22:43:06.0

Case Title: A-13-686775-B

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

Filing Title: Motion to Redact the Special Litigation Committee's Report and to Seal Certain Exhibits Thereto

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: MSRC

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:43:21.0

Review Comments:

Reviewer: Allison Behrhorst

File Stamped Copy: A-13-686775-B-6315345 MSRC Motion to Redact the Special Litigation Committee s Report and to Seal Certain Exhi.pdf

Cover Document:

Documents:

Lead Document: Motion to SEal.pdf 496963 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Report of the Special Litigation Committee Of Dish Network Corporation
Filed in Case Number: A-13-686775-B

E-File ID: 6315346

Lead File Size: 214236 bytes

Date Filed: 2014-10-24 22:46:04.0

Case Title: A-13-686775-B

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

Filing Title: Report of the Special Litigation Committee Of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: SR

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-25 06:54:10.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6315346 SR Report of the Special Litigation Committee Of Dish Network Corporation.pdf

Documents: Cover Document:

Lead Document: REPORT TO FILE.pdf 214236 bytes

Data Reference ID:

Credit Card Response: System Response: 0
Reference:

Details of filing: Volume 1 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation
Filed in Case Number: A-13-686775-B

E-File ID: 6315472

Lead File Size: 26467 bytes

Date Filed: 2014-10-26 18:27:18.0

Case Title: A-13-686775-B

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

Filing Title: Volume 1 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:45:33.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315472 APEN Volume 1 of Appendix to the Report of the Special Litigation Committee of Dish Netw.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 1.pdf 26467 bytes

Attachment # 1: Ex. 1 - 21 (Volume 1).pdf 12094161 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation (part 1)

Filed in Case Number: A-13-686775-B

E-File ID: 6315473

Lead File Size: 38469 bytes

Date Filed: 2014-10-26 18:29:50.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation (part 1)

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:40:48.0

Review Comments:

Reviewer: Lisamarie Vaquero

File Stamped Copy: A-13-686775-B-6315473 APEN Volume 2 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: Ex. 22 - 23 (Volume 2).pdf 15662614 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315474

Lead File Size: 38469 bytes

Date Filed: 2014-10-26 18:30:53.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:46:25.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315474 APEN Volume 2 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: Ex. 24 - 34 (Volume 2).pdf 8601820 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315475

Lead File Size: 38469 bytes

Date Filed: 2014-10-26 18:31:45.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted --(A)

Date Accepted: 2014-10-27 07:48:21.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315475 APEN Volume 2 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: Ex. 35 - 36 (Volume 2).pdf 20998946 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315476

Lead File Size: 38469 bytes

Date Filed: 2014-10-26 18:32:59.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:49:57.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315476 APEN Volume 2 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: Ex. 37 - 59 (Volume 2).pdf 23256087 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315478

Lead File Size: 60769 bytes

Date Filed: 2014-10-26 18:35:04.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:51:16.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315478 APEN Volume 3 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: Ex. 109 - 125 (Volume 3).pdf 17333903 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315480

Lead File Size: 60769 bytes

Date Filed: 2014-10-26 18:38:07.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 07:58:28.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315480 APEN Volume 3 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes
Attachment # 1: Ex. 152 part 1 (Volume 3).pdf 10957722 bytes

Data Reference ID: .

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315481

Lead File Size: 60769 bytes

Date Filed: 2014-10-26 18:38:52.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 08:00:31.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315481 APEN Volume 3 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: Ex. 152 part 2 (Volume 3).pdf 16047637 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315482

Lead File Size: 60769 bytes

Date Filed: 2014-10-26 18:40:32.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$-0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 08:03:28.0

Review Comments: ERROR - Potential document conversions issues were found. Ex. 153 - 164 (Volume 3).pdf: Error: This PDF contains JBIG objects, which are not supported. Error: Document contains Adobe Acrobat Form elements which are not supported. Ex. 165 - 175 (Volume 3).pdf: Error: Document contains Adobe Acrobat Form elements which are not supported. Ex. 176 - 185 (Volume 3).pdf: Error: Document contains Adobe Acrobat Form elements which are not supported.

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315482 APEN Volume 3 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Lead Document: Appendix Volume 3.pdf 60769 bytes

Documents: Attachment # 1: Ex. 153 - 164 (Volume 3).pdf 7413955 bytes

Attachment # 2: Ex. 165 - 175 (Volume 3).pdf 9645919 bytes

Attachment # 3: Ex. 176 - 185 (Volume 3).pdf 7473699 bytes

Data Reference ID:

9/24/2015

E-Filing Details

Credit Card System Response: 0
Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315486

Lead File Size: 60769 bytes

Date Filed: 2014-10-26 18:45:26.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 08:04:55.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315486 APEN Volume 3 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: Ex. 221 - 227 (Volume 3).pdf 14117983 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 5 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6315488

Lead File Size: 55087 bytes

Date Filed: 2014-10-26 18:47:37.0

Case Title: A-13-686775-B

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

Filing Title: Volume 5 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 08:08:08.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped Copy: A-13-686775-B-6315488 APEN Volume 5 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 5.pdf 55087 bytes

Attachment # 1: Ex. 298 - 468 (TO FILE - Volume 5).pdf 107367 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 6 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation (Exhibits 469,470,471,472,473,474,475,476 & 478 Filed Under Seal)

Filed in Case Number: A-13-686775-B

E-File ID: 6315489

Lead File Size: 26808 bytes

Date Filed: 2014-10-26 18:49:14.0

Case Title: A-13-686775-B

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

Filing Title: Volume 6 of the Appendix in Support of Report of the Special Litigation Committee of Dish Network Corporation (Exhibits 469,470,471,472,473,474,475,476 & 478 Filed Under Seal)

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-27 08:15:21.0

Review Comments:

Reviewer: Kory Schlitz

File Stamped A-13-686775-B-

Copy: 6315489 APEN Volume 6 of the Appendix in Support of Report of the Special Litigation Committee o.pdf

Cover Document:

Lead Document: Appendix Volume 6.pdf 26808 bytes

Attachment # 1: Ex. 469 - 476 (TO FILE - Volume 6).pdf 10147 bytes

Attachment # 2: Ex. 477 (Volume 6).pdf 733180 bytes

Attachment # 3: Ex. 478 (TO FILE - Volume 6).pdf 5984 bytes

Attachment # 4: Ex. 479 - 485 (Volume 6).pdf 3437567 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319958

Lead File Size: 38469 bytes

Date Filed: 2014-10-27 16:37:39.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:40:34.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319958 APEN Volume 2 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: 60 - 108 (V2) (part 1).pdf 16953056 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319964

Lead File Size: 38469 bytes

Date Filed: 2014-10-27 16:38:25.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:41:16.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319964 APEN Volume 2 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: 60 - 108 (V2) (part 2).pdf 11990250 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 2 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319968

Lead File Size: 38469 bytes

Date Filed: 2014-10-27 16:39:15.0

Case Title: A-13-686775-B

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

Filing Title: Volume 2 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:41:54.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319968 APEN Volume 2 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 2.pdf 38469 bytes

Attachment # 1: 60 - 108 (V2) (part 3).pdf 16311918 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319975

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:40:21.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:42:35.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319975 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 126 - 151 (V3) (Smaller) Part1.pdf 14658032 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319982

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:41:12.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:43:13.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319982 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 126 - 151 (V3) (Smaller) Part2.pdf 15153609 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319992

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:42:07.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:43:49.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319992 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 126 - 151 (V3) (Smaller) Part3.pdf 13361436 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6319996

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:42:46.0

Case Title: A-13-686775-B

Case Name: Jacksonville Police and Fire Pension Fund, Plaintiff(s) vs, Charles Ergen, Defendant(s)

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:44:19.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6319996 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 126 - 151 (V3) (Smaller) Part4.pdf 10632580 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320007

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:43:34.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:44:52.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320007 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 126 - 151 (V3) (Smaller) Part5.pdf 7701434 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320030

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:46:13.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:45:35.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320030 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 186-195 (V3) smaller Part1.pdf 12704825 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320045

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:47:11.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:46:15.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320045 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 186-195 (V3) smaller Part2.pdf 13646077 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320053

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:48:03.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:46:54.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320053 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 186-195 (V3) smaller Part3.pdf 14708999 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320058

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:48:45.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:47:30.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320058 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 186-195 (V3) smaller Part4.pdf 9825592 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320066

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 16:49:52.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:48:03.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320066 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 196 - 205 (V3) smaller.pdf 6207518 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320200

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 17:10:10.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:48:59.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320200 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 206 - 220 (V3) smaller Part1.pdf 14382310 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320208

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 17:11:53.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:49:39.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320208 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 206 - 220 (V3) smaller Part2.pdf 17049473 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320215

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 17:12:55.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:50:16.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320215 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 206 - 220 (V3) smaller Part3.pdf 15077688 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320223

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 17:15:23.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:50:47.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320223 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 206 - 220 (V3) smaller Part4.pdf 14329065 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320225

Lead File Size: 60769 bytes

Date Filed: 2014-10-27 17:15:55.0

Case Title: A-13-686775-B

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

Filing Title: Volume 3 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:51:55.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320225 APEN Volume 3 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 3.pdf 60769 bytes

Attachment # 1: 206 - 220 (V3) smaller Part5.pdf 4329207 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Volume 4 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filed in Case Number: A-13-686775-B

E-File ID: 6320131

Lead File Size: 38208 bytes

Date Filed: 2014-10-27 16:58:28.0

Case Title: A-13-686775-B

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

Filing Title: Volume 4 of the Appendix in Support of Report of the the Special Litigation Committee Of DISH Network Corporation

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-10-28 06:48:26.0

Review Comments:

Reviewer: Norreta Caldwell

File Stamped Copy: A-13-686775-B-6320131 APEN Volume 4 of the Appendix in Support of Report of the the Special Litigation Committ.pdf

Cover Document:

Documents: Lead Document: Appendix Volume 4.pdf 38208 bytes

Attachment # 1: 228 - 297 (V4).pdf 18742951 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should be Dismissed

Filed in Case Number: A-13-686775-B

E-File ID: 6365060

Lead File Size: 305583 bytes

Date Filed: 2014-11-12 09:19:00.0

Case Title: A-13-686775-B

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

Filing Title: Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should be Dismissed

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: EXPT

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-11-12 18:39:30.0

**Review
Comments:**

Reviewer: Joshua Raak

File Stamped A-13-686775-B-

Copy: 6365060 EXPT Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the .pdf

Cover Document:

Documents:

Lead Document: Ex Parte App.pdf 305583 bytes

**Data Reference
ID:**

Credit Card System Response: 0

Response: Reference:

Details of filing: Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filed in Case Number: A-13-686775-B

E-File ID: 6381053

Lead File Size: 90329 bytes

Date Filed: 2014-11-17 13:08:03.0

Case Title: A-13-686775-B

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

Filing Title: Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: ORDG

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-11-17 13:39:35.0

Review Comments:

Reviewer: Joshua Raak

File Stamped A-13-686775-B-

Copy: 6381053 ORDG Order Granting Ex Parte Application for Leave to Exceed Page Limit for the Motion t.pdf

Cover Document:

Documents:

Lead Document: 45 order.pdf 90329 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC's Motion
Filed in Case Number: A-13-686775-B

E-File ID: 6381100

Lead File Size: 341165 bytes

Date Filed: 2014-11-17 13:14:26.0

Case Title: A-13-686775-B

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

Filing Title: Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC's Motion

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: SAO

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-11-17 13:38:56.0

Review Comments:

Reviewer: Joshua Raak

File Stamped Copy: A-13-686775-B-6381100 SAO Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC s Motion.pdf

Documents: Cover Document:

Lead Document: Stip and ORder DISH.pdf 341165 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed
Filed in Case Number: A-13-686775-B

E-File ID: 6384363

Lead File Size: 3520365 bytes

Date Filed: 2014-11-18 09:38:48.0

Case Title: A-13-686775-B

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

Filing Title: Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: MDSM

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments: This motion is already on the court's calendar for Dec. 15. I uploaded it for filing yesterday and it was rejected due to a "bad date". The motion is already on Calendar, per open court and a stip. Thanks.

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-11-18 13:31:59.0

Review Comments:

Reviewer: Ann Thomson

File Stamped A-13-686775-B-

Copy: 6384363 MDSM Motion to Defer to the SLC s Determination that the Claims Should Be Dismissed.pdf

Cover Document:

Documents: Lead Document: Motion to Defer to the SLCs Determination that the Claims Should Be Dismissed.pdf 3520365 bytes

Attachment # 1: Motion to Defer Exhibits.pdf 2828452 bytes

Data Reference ID:

Credit Card Response: System Response: 0
Reference:

Details of filing: Notice of Entry of Order Granting Ex Parte Application for Leave to Exceed Page Limit For the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filed in Case Number: A-13-686775-B

E-File ID: 6393515

Lead File Size: 293589 bytes

Date Filed: 2014-11-19 16:51:44.0

Case Title: A-13-686775-B

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

Filing Title: Notice of Entry of Order Granting Ex Parte Application for Leave to Exceed Page Limit For the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: NEOJ

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy

Copies:

Firm Name: Holland & Hart LLP

**Your File
Number:** 83857.0001

Status: Accepted - (A)

**Date
Accepted:** 2014-11-19 20:05:56.0

**Review
Comments:**

Reviewer: Ivonne Hernandez

File Stamped A-13-686775-B-

Copy: 6393515 NEOJ Notice of Entry of Order Granting Ex Parte Application for Leave to Exceed Page Lim.pdf

Cover Document:

Documents:

Lead Document: DISH NOE Page Limit.pdf 293589 bytes

**Data
Reference ID:**

Credit Card System Response: 0

Response: Reference:

Details of filing: Notice of Entry of Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC's Motion
Filed in Case Number: A-13-686775-B

E-File ID: 6393505

Lead File Size: 511064 bytes

Date Filed: 2014-11-19 16:50:34.0

Case Title: A-13-686775-B

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

Filing Title: Notice of Entry of Stipulation and Order Regarding Briefing Schedule and Hearing on the SLC's Motion

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: NEOJ

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-11-19 20:04:31.0

Review Comments:

Reviewer: Ivonne Hernandez

File Stamped Copy: A-13-686775-B-6393505 NEOJ Notice of Entry of Stipulation and Order Regarding Briefing Schedule and Hearing on.pdf

Cover Document:

Documents:

Lead Document: DISH NOE Briefing Schedule.pdf 511064 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Supplemental Brief Regarding Motion to Redact the Special Litigation Committee's Report and to Seal Certain Exhibits Thereto

Filed in Case Number: A-13-686775-B

E-File ID: 6433519

Lead File Size: 286248 bytes

Date Filed: 2014-12-04 08:32:03.0

Case Title: A-13-686775-B

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

Filing Title: Supplemental Brief Regarding Motion to Redact the Special Litigation Committee's Report and to Seal Certain Exhibits Thereto

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: SUPP

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2014-12-04 08:36:02.0

Review Comments:

Reviewer: Michelle McCarthy

File Stamped Copy: A-13-686775-B-6433519 SUPP Supplemental Brief Regarding Motion to Redact the Special Litigation Committee s Re.pdf

Cover Document:

Documents:

Lead Document: DISH Supplement.pdf 286248 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed
Filed in Case Number: A-13-686775-B

E-File ID: 6522683

Lead File Size: 2317331 bytes

Date Filed: 2015-01-05 17:51:38.0

Case Title: A-13-686775-B

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

Filing Title: Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: RPLY

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2015-01-05 20:36:01.0

Review Comments:

Reviewer: Ivonne Hernandez

File Stamped Copy: A-13-686775-B-6522683 RPLY Reply In Support of the Motion to Defer to the SLC's Determination that the Claims .pdf

Cover Document:

Documents:

Lead Document: Reply ISO Motion to Defer.pdf 2317331 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

Details of filing: Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filed in Case Number: A-13-686775-B

E-File ID: 6522684

Lead File Size: 177195 bytes

Date Filed: 2015-01-05 17:52:21.0

Case Title: A-13-686775-B

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

Filing Title: Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filing Type: EFS

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2015-01-05 20:50:38.0

**Review
Comments:**

Reviewer: Ivonne Hernandez

File Stamped A-13-686775-B-

Copy: 6522684 APEN Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the S.pdf

Cover Document:

Documents:

Lead Document: Appendix to Reply.pdf 177195 bytes

**Data Reference
ID:**

Credit Card System Response: 0

Response: Reference:

Details of filing: Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filed in Case Number: A-13-686775-B

E-File ID: 6523476

Lead File Size: 11722896 bytes

Date Filed: 2015-01-06 09:45:36.0

Case Title: A-13-686775-B

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

Filing Title: Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed

Filing Type: EFO

Filer's Name: Accounts Payable

Filer's Email: accountspayable@hollandhart.com

Account Name: HollandHart

Filing Code: APEN

Amount: \$ 3.50

Court Fee: \$ 0.00

Card Fee: \$ 0.00

Payment: Processing complete. Payment not yet captured.

Comments:

Courtesy Copies:

Firm Name: Holland & Hart LLP

Your File Number: 83857.0001

Status: Accepted - (A)

Date Accepted: 2015-01-06 10:55:17.0

Review Comments:

Reviewer: Chauntel Hahn

File Stamped Copy: A-13-686775-B-6523476 APEN Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer to the S.pdf

Cover Document:

Documents:

Lead Document: A-13-686775-B-6522681 Service Only Appendix of Exhibits Referenced in Reply In Support of the Motion to Defer .pdf 11722896 bytes

Data Reference ID:

Credit Card System Response: 0

Response: Reference:

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.

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

Respondent.

Electronically Filed
SUPREME COURT No. 69012
May 27 2016 09:31 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

**JOINT APPENDIX
VOLUME 41 of 44**

JEFF SILVESTRI (NSBN 5779)
AMANDA C. YEN (NSBN 9726)
DEBBIE LEONARD (NSBN 8620)
McDONALD CARANO WILSON LLP
2300 W. Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: (702) 873-4100
Facsimile: (702) 873-9966
jsilvestri@mcdonaldcarano.com
ayen@mcdonaldcarano.com
dleonard@mcdonaldcarano.com

BRIAN W. BOSCHEE (NSBN 7612)
WILLIAM N. MILLER (NSBN 11658)
HOLLEY, DRIGGS, WALCH,
FINE, WRAY, PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: (702) 791-0308
bboschee@nevadafirm.com
wmiller@nevadafirm.com

MARK LEBOVITCH (*pro hac vice*)
JEROEN VAN KWAWEGEN (*pro hac*
vice)
ADAM D. HOLLANDER (*pro hac vice*)
BERNSTEIN LITOWITZ BERGER &
GROSSMANN LLP
1251 Avenue of the Americas, 44th Floor
New York, NY 10020
Telephone: (212) 554-1400
markL@blbglaw.com
jeroen@blbglaw.com
adam.hollander@blbglaw.com

Attorneys for Appellant Jacksonville Police and Fire Pension Fund

J. STEPHEN PEEK
 ROBERT J. CASSITY
 HOLLAND & HART LLP
 9555 Hillwood Drive, 2nd Floor
 Las Vegas, NV 89134
 Phone: (702) 669-4600
 Fax: (702) 669-4650
S.Peek@hollandhart.com
BCassity@hollandhart.com

HOLLY STEIN SOLLOD
(pro hac vice)
 HOLLAND & HART LLP
 555 17th Street, Suite 3200
 Denver, CO 80202
 Phone: (303) 975-5395
 Fax: (303) 975-5395
hsteinsollod@hollandhart.com

DAVID C. MCBRIDE *(pro hac vice)*
 ROBERT S. BRADY *(pro hac vice)*
 C. BARR FLINN *(pro hac vice)*
 EMILY V. BURTON *(pro hac vice)*
 YOUNG, CONAWAY, STARGATT &
 TAYLOR, LLP
 Rodney Square, LLP
 1000 North King Street
 Wilmington, DE 19801
 Phone: (302) 571-6600
 Fax: (302) 571-1253
dmcbride@ycst.com
rbrady@ycst.com
bflinn@ycst.com
eburton@ycst.com

Attorneys for the Respondent Special Litigation Committee Dish Network Corporation

| Date | Document Description | Volume | Bates No. |
|------------|---|---------|----------------------------------|
| 2014-08-29 | Affidavit of Service re Second Amended Complaint Kyle Jason Kiser | Vol. 18 | JA004272 – JA004273 ¹ |
| 2014-08-29 | Affidavit of Service re Second Amended Complaint Stanton Dodge | Vol. 18 | JA004268 – JA004271 |
| 2014-08-29 | Affidavit of Service re Second Amended Complaint Thomas A. Cullen | Vol. 18 | JA004274 – JA004275 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000040 |

¹ JA = Joint Appendix

| Date | Document Description | Volume | Bates No. |
|-------------|---|---------------|---------------------|
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000041 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000042 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000043 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000044 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000045 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000046 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000047 |
| 2013-08-22 | Affidavit of Service re Verified Shareholder Complaint | Vol. 1 | JA000048 |
| 2016-01-27 | Amended Judgment | Vol. 43 | JA010725 – JA010726 |
| 2014-10-26 | Appendix, Volume 1 of the Appendix to the Report of the Special Litigation Committee of DISH Network Corporation (No exhibits attached) | Vol. 20 | JA004958 – JA004962 |
| 2014-10-27 | Appendix, Volume 2 of the Appendix to the Report of the Special Litigation Committee of DISH Network Corporation (No exhibits attached) | Vol. 20 | JA004963 – JA004971 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|--|--|
| 2014-10-27 | Appendix, Volume 3 of the Appendix to the Report of the Special Litigation Committee of DISH Network Corporation and Selected Exhibits to Special Litigation Committee's Report: Exhibit 162 (Omnibus Objection of the United States Trustee to Confirmation dated Nov. 22, 2013); Exhibit 172 (Hearing Transcript dated December 10, 2013); and Exhibit 194 (Transcript, Hearing: Bench Decision in Adv. Proc. 13-01390-scc., Hearing: Bench Decision on Confirmation of Plan of Debtors (12-12080-scc), In re LightSquared Inc., No. 12-120808-scc, Adv. Proc. No. 13-01390-scc (Bankr. S.D.N.Y. May 8, 2014)); Exhibit 195 (Post-Trial Findings of Fact and Conclusion of Law dated June 10, 2014 (In re LightSquared, No. 12-120808 (Bankr. S.D.N.Y.)); Exhibit 203 (Decision Denying Confirmation of Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code (In re LightSquared, No. 12-120808 (Bankr. S.D.N.Y.)) | Vol. 20 Vol. 21 Vol. 22 Vol. 23 | JA004972 – JA005001 JA005002 – JA005251 JA005252 – JA005501 JA005502 – JA005633 |
| 2014-10-27 | Appendix, Volume 4 of the Appendix to the Report of the Special Litigation Committee of DISH Network Corporation (No exhibits attached) | Vol. 23 | JA005634 – JA005642 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|---------------|---------------------|
| 2014-10-27 | Appendix, Volume 5 of the Appendix to the Report of the Special Litigation Committee of DISH Network Corporation and Selected Exhibits to Special Litigation Committee's Report: Exhibit 395 (Perella Fairness Opinion dated July 21, 2013); Exhibit 439 (Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation (December 9, 2013). (In re LightSquared, No. 12-120808 (Bankr. S.D.N.Y.)) (Filed Under Seal) | Vol. 23 | JA005643 – JA005674 |
| 2014-10-27 | Appendix, Volume 6 of the Appendix to the Report of the Special Litigation Committee of DISH Network Corporation (No exhibits attached) | Vol. 23 | JA005675 – JA005679 |
| 2014-06-18 | Defendant Charles W. Ergen's Response to Plaintiff's Status Report | Vol. 17 | JA004130 – JA004139 |
| 2014-08-29 | Director Defendants Motion to Dismiss the Second Amended Complaint | Vol. 18 | JA004276 – JA004350 |
| 2014-10-02 | Director Defendants Reply in Further Support of Their Motion to Dismiss the Second Amended Complaint | Vol. 19 | JA004540 – JA004554 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|--------------------|--|
| 2013-11-21 | Errata to Report to the Special Litigation Committee of Dish Network Corporation Regarding Plaintiff's Motion for Preliminary Injunction | Vol. 13 | JA003144 – JA003146 |
| 2013-08-12 | Errata to Verified Shareholder Complaint | Vol. 1 | JA000038 – JA000039 |
| 2013-11-27 | Findings of Fact and Conclusion of Law | Vol. 14 | JA003316 – JA003331 |
| 2015-09-18 | Findings of Fact and Conclusions of Law Regarding The Motion to Defer to the SLC's Determination That The Claims Should Be Dismissed | Vol. 41 | JA010074 – JA010105 |
| 2013-09-19 | Hearing Transcript re Motion for Expedited Discovery | Vol. 5 | JA001029 – JA001097 |
| 2013-11-25 | Hearing Transcript re Motion for Preliminary Injunction | Vol. 13 Vol. 14 | JA003147 – JA003251 JA003252 - JA003315 |
| 2013-12-19 | Hearing Transcript re Motion for Reconsideration | Vol. 14 | JA003332 – JA003367 |
| 2015-07-16 | Hearing Transcript re Motion to Defer | Vol. 41 | JA010049 – JA010071 |
| 2015-01-12 | Hearing Transcript re Motions including Motion to Defer to the Special Litigation Committee's Determination that the Claims Should be Dismissed and Motion to Dismiss (Filed Under Seal) | Vol. 25 Vol. 26 | JA006228 – JA006251 JA006252 – JA006311 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|--------------------|--|
| 2015-11-24 | Hearing Transcript re Plaintiff's Motion to Retax | Vol. 43 | JA010659 – JA010689 |
| 2013-10-04 | Minute Order | Vol. 7 | JA001555 – JA001556 |
| 2015-08-07 | Minute Order | Vol. 41 | JA010072 – JA010073 |
| 2015-10-12 | Notice of Appeal | Vol. 41 | JA010143 – JA010184 |
| 2016-02-02 | Notice of Appeal | Vol. 43 | JA010734 – JA010746 |
| 2016-02-09 | Notice of Appeal | Vol. 43 Vol. 44 | JA010747 – JA010751 JA010752 – JA010918 |
| 2016-01-28 | Notice of Entry of Amended Judgment | Vol. 43 | JA010727 – JA010733 |
| 2015-10-02 | Notice of Entry of Findings of Fact and Conclusions of Law re the SLC's Motion to Defer | Vol. 41 | JA010106 – JA010142 |
| 2016-01-12 | Notice of Entry of Order Granting in Part and Denying in Part Plaintiff's Motion to Retax | Vol. 43 | JA010716 – JA010724 |
| 2013-10-16 | Notice of Entry of Order Granting, in Part, Plaintiffs Ex Parte Motion for Order to Show Cause and Motion to (1) Expedite Discovery and (2) Set a Hearing on Motion for Preliminary Injunction on Order Shortening Time and Plaintiff's Motion for Preliminary Injunction and for Discovery on an Order Shortening Time | Vol. 7 | JA001562 – JA001570 |

| Date | Document Description | Volume | Bates No. |
|-------------|--|--|--|
| 2015-02-20 | Notice of Entry of Order Regarding Motion to Defer to The SLC's Determination that the Claims Should Be Dismissed | Vol. 26 | JA006315 – JA006322 |
| 2016-01-08 | Order Granting in Part and Denying in Part Plaintiff's Motion to Retax | Vol. 43 | JA010712 – JA010715 |
| 2013-10-15 | Order Granting, in Part, Plaintiffs Ex Parte Motion for Order to Show Cause and Motion to (1) Expedite Discovery and (2) Set a Hearing on Motion for Preliminary Injunction on Order Shortening Time and Plaintiff's Motion for Preliminary Injunction and for Discovery on an Order Shortening Time | Vol. 7 | JA001557 – JA001561 |
| 2015-02-19 | Order Regarding Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed | Vol. 26 | JA006312 – JA006314 |
| 2013-09-13 | Plaintiff's Appendix of Exhibits to Motion for Preliminary Injunction and For Discovery on an Order Shortening Time | Vol. 1 Vol. 2 Vol. 3 Vol. 4 Vol. 5 | JA00132 – JA00250 JA00251 – JA00501 JA00502 – JA00751 JA00752 – JA001001 JA001002 – JA001028 |
| 2013-10-03 | Plaintiff's Appendix of Exhibits to Status Report | Vol. 5 Vol. 6 | JA001115 – JA001251 JA001252 – JA001335 |
| 2014-06-06 | Plaintiff's Appendix of Exhibits to Status Report | Vol. 14 Vol. 15 Vol. 16 | JA03385 – JA003501 JA003502 – JA003751 JA003752 – JA003950 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|---|---|
| 2013-11-13 | Plaintiff's Appendix of Exhibits to Supplement to Motion for Preliminary Injunction Vol. 1 Part 1 (Filed Under Seal) | Vol. 7 Vol. 8 | JA001607 – JA001751 JA001752 – JA001955 |
| 2013-11-13 | Plaintiff's Appendix of Exhibits to Supplement to Motion for Preliminary Injunction Vol. 1 Part 2 (Filed Under Seal) | Vol. 8 Vol. 9 Vol. 10 | JA001956 – JA002001 JA002002 – JA002251 JA002252 – JA002403 |
| 2013-11-13 | Plaintiff's Appendix of Exhibits to Supplement to Motion for Preliminary Injunction Vol. 1 Part 3 (Filed Under Seal) | Vol. 10 Vol. 11 Vol. 12 Vol. 13 | JA002404 – JA002501 JA002502 – JA002751 JA002752 – JA003001 JA003002 – JA003065 |
| 2015-06-18 | Plaintiff's Appendix of Exhibits to their Supplemental Opposition to the SLC's Motion to Defer to its Determination that the Claims Should be Dismissed (Filed Under Seal) | Vol. 27 Vol. 28 Vol. 29 Vol. 30 Vol. 31 Vol. 32 Vol. 33 Vol. 34 Vol. 35 Vol. 36 Vol. 37 | JA006512 – JA006751 JA006752 – JA007001 JA007002 – JA007251 JA007252 – JA007501 JA007502 – JA007751 JA007752 – JA008251 JA008002 – JA008251 JA008252 – JA008501 JA008502 – JA008751 JA008752 – JA009001 JA009002 – JA009220 |
| 2013-09-13 | Plaintiff's Motion for Preliminary Injunction and for Discovery on an Order Shortening Time | Vol. 1 | JA000095 – JA000131 |
| 2015-11-03 | Plaintiff's Motion to Retax | Vol. 43 | JA010589 – JA010601 |

| Date | Document Description | Volume | Bates No. |
|-------------|--|--------------------|--|
| 2014-09-19 | Plaintiff's Opposition to the Director Defendants' Motion to Dismiss the Second Amended Complaint and Director Defendant's Motion to Dismiss the Second Amended Complaint (Filed Under Seal) | Vol. 18 Vol. 19 | JA004453 – JA004501 JA004502 – JA004508 |
| 2014-12-10 | Plaintiff's Opposition to the SLC's Motion to Defer to its Determination that the Claims Should be Dismissed (Filed Under Seal) | Vol. 24 | JA005868 – JA005993 |
| 2014-09-19 | Plaintiff's Opposition to the Special Litigation Committee's Motion to Dismiss for Failure to Plead Demand Futility | Vol. 19 | JA004509 – JA004539 |
| 2015-11-20 | Plaintiff's Reply in Further Support of its Motion to Retax | Vol. 43 | JA010644 – JA010658 |
| 2015-12-10 | Plaintiff's Response to SLC's Supplement to Opposition to Plaintiff's Motion to Retax | Vol. 43 | JA010700 – JA010711 |
| 2013-10-03 | Plaintiff's Status Report | Vol. 5 | JA001098 – JA001114 |
| 2014-06-06 | Plaintiff's Status Report | Vol. 14 | JA003368 – JA003384 |
| 2014-10-30 | Plaintiff's Status Report | Vol. 23 | JA005680 - JA005749 |
| 2015-04-03 | Plaintiff's Status Report | Vol. 26 | JA006323 – JA006451 |
| 2013-11-18 | Plaintiff's Supplement to its Supplement to its Motion for Preliminary Injunction | Vol. 13 | JA003066 – JA003097 |

| Date | Document Description | Volume | Bates No. |
|-------------|--|--------------------|--|
| 2013-11-08 | Plaintiff's Supplement to Motion for Preliminary Injunction (Filed Under Seal) | Vol. 7 | JA001571 – JA001606 |
| 2014-06-16 | Plaintiff's Supplement to the Status Report | Vol. 16 Vol. 17 | JA003951 – JA004001 JA004002 – JA004129 |
| 2014-12-15 | Plaintiff's Supplemental Authority to its Opposition to the SLC's Motion to Defer to its Determination that the Claims Should be Dismissed | Vol. 24 Vol. 25 | JA005994 – JA006001 JA006002 – JA006010 |
| 2015-06-18 | Plaintiff's Supplemental Opposition to the SLC's Motion to Defer to its Determination that the Claims Should be Dismissed (Filed Under Seal) | Vol. 26 Vol. 27 | JA006460 – JA006501 JA006502 – JA006511 |
| 2014-10-24 | Report of the Special Litigation Committee (Filed Under Seal) | Vol. 19 Vol. 20 | JA004613 – JA004751 JA004752 – JA004957 |
| 2014-07-25 | Second Amended Complaint (Filed Under Seal) | Vol. 17 Vol. 18 | JA004140 – JA004251 JA004252 – JA004267 |
| 2013-11-20 | Special Litigation Committee Report Regarding Plaintiff's Motion for Preliminary Injunction (Filed Under Seal) | Vol. 13 | JA003098 – JA003143 |
| 2015-01-06 | Special Litigation Committee's Appendix of Exhibits Referenced in their Reply In Support of their Motion to Defer to its Determination that the Claims Should Be Dismissed | Vol. 25 | JA006046 – JA006227 |

| Date | Document Description | Volume | Bates No. |
|-------------|--|-------------------------------|---|
| 2015-07-02 | Special Litigation Committee's Appendix of Exhibits to Supplemental Reply in Support of their Motion to Defer (Filed Under Seal) (Includes Exhibits: C, D, E, J and K) | Vol. 39 | JA009553 – JA009632 |
| 2015-07-02 | Special Litigation Committee's Appendix of Exhibits to their Supplemental Reply in Support of their Motion to Defer (Exhibits Filed Publicly) (Includes Exhibits: A, B, F, G, H, I, L and M) | Vol. 37 Vol. 38 | JA009921 – JA009251 JA009252 – JA009498 |
| 2015-07-02 | Special Litigation Committee's Appendix of SLC Report Exhibits Referenced in Supplemental Reply in Support of the Motion to Defer (Exhibits Filed Under Seal) (Includes SLC Report Exhibits 298, 394, 443, 444, 446, 447 and 454) | Vol. 41 | JA0010002 – JA010048 |
| 2015-07-02 | Special Litigation Committee's Appendix of SLC Report Exhibits Referenced in Supplemental Reply in Support of the Motion to Defer (Exhibits Filed Publicly) (Includes SLC Report Exhibits 5, 172, and 195) | Vol. 39 Vol. 40 | JA009633 – JA009751 JA009752 – JA010001 |
| 2015-10-19 | Special Litigation Committee's Memorandum of Costs | Vol. 41 Vol. 42 Vol. 43 | JA010185 – JA010251 JA010252 – JA010501 JA010502 – JA010588 |
| 2014-11-18 | Special Litigation Committee's Motion to Defer to its Determination that the Claims Should Be Dismissed | Vol. 23 Vol. 24 | JA005750 – JA005751 JA005751 – JA005867 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|--------------------|--|
| 2014-08-29 | Special Litigation Committee's Motion to Dismiss for Failure to Plead Demand Futility | Vol. 18 | JA004351 – JA004452 |
| 2015-11-16 | Special Litigation Committee's Opposition to Plaintiff's Motion to Retax | Vol. 43 | JA010602 – JA010643 |
| 2014-10-02 | Special Litigation Committee's Reply in Support of Their Motion to Dismiss for Failure to Plead Demand Futility | Vol. 19 | JA004555 – JA004612 |
| 2015-01-05 | Special Litigation Committee's Reply in Support of their Motion to Defer to its Determination that the Claims Should Be Dismissed | Vol. 25 | JA006011 – JA006045 |
| 2013-10-03 | Special Litigation Committee's Status Report | Vol. 6 Vol. 7 | JA001336 – JA001501 JA001502 – JA001554 |
| 2015-04-06 | Special Litigation Committee's Status Report | Vol. 26 | JA006452 – JA006459 |
| 2015-12-08 | Special Litigation Committee's Supplement to Opposition to Plaintiff's Motion to Retax | Vol. 43 | JA010690 – JA010699 |
| 2015-07-02 | Special Litigation Committee's Supplemental Reply in Support of the Motion to Defer to the SLC's Determination that the Claims Should Be Dismissed (Filed Under Seal) | Vol. 38 Vol. 39 | JA009499 – JA009501 JA009502 – JA009552 |
| 2013-09-12 | Verified Amended Derivative Complaint | Vol. 1 | JA000049 – JA000094 |

| Date | Document Description | Volume | Bates No. |
|-------------|---|---------------|---------------------|
| 2013-08-09 | Verified Shareholder Derivative Complaint | Vol. 1 | JA000001 – JA000034 |

FILED UNDER SEAL

FILED UNDER SEAL

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

IN RE DISH NETWORK CORPORATION .
DERIVATIVE LITIGATION .

CASE NO. A-686775

DEPT. NO. XI

**Transcript of
Proceedings**

.

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON MOTIONS

THURSDAY, JULY 16, 2015

COURT RECORDER:

TRANSCRIPTION BY:

JILL HAWKINS
District Court

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

APPEARANCES:

FOR THE PLAINTIFF:

BRIAN W. BOSCHÉE, ESQ.
MARK LEBOVITCH, ESQ.
WILLIAM MILLER, ESQ.
ADAM HOLLANDER, ESQ,
GREGORY ERIC DEL GAIZO, ESQ.

FOR THE DEFENDANTS:

JAMES J. PISANELLI, ESQ.
BRUCE BRAUN, ESQ.
BRIAN FRAWLEY, ESQ.
J. STEPHEN PEEK, ESQ.
ROBERT CASSITY, ESQ.
ROBERT BRADY, ESQ.
BARR FLINN, ESQ.
JOSHUA M. REISMAN, ESQ.
JEFFREY S. RUGG, ESQ.
TARIQ MUNDIYA, ESQ.
MAXIMILLIEN FETAZ, ESQ.
HOLLY STEIN SOLLOD, ESQ.
EMILY V. BURTON, ESQ.

1 LAS VEGAS, NEVADA, THURSDAY, JULY 16, 2015, 8:05 A.M.

2 (Court was called to order)

3 THE COURT: Good morning, counsel. I apologize for
4 being late. The only one who would understand why I'm late is
5 Steve Morris. He's not here. I had a dog who hid from me
6 this morning.

7 MR. PEEK: And Steve would understand that, Your
8 Honor.

9 THE COURT: If he doesn't understand, nobody else
10 would.

11 Have you decided how to split up your time?

12 MR. PEEK: We have, Your Honor. I was going to
13 actually address that.

14 THE COURT: Have you already identified yourselves
15 for the clerk?

16 MR. PEEK: Yes.

17 THE COURT: Okay. Tell me how you're splitting up
18 your time, Mr. Peek.

19 MR. PEEK: Yeah. Your Honor, we're going to -- the
20 Special Litigation Committee is going to take 10 minutes of
21 the 15 --

22 THE COURT: Okay.

23 MR. PEEK: And we're going to split it up first for
24 our opening with respect to the motion to defer and the motion
25 to dismiss, and then we're going to -- the Court I think will

1 probably let Mr. Lebovitch talk after that or Mr. Boschee.
2 And then the other group will take five minutes total for
3 their three different motions.

4 THE COURT: That's a lovely idea. You negotiated
5 well. Thank you.

6 MR. PEEK: They're all very well briefed, Your
7 Honor, so --

8 THE COURT: They are incredibly well briefed. I
9 spent several hours yesterday reading through stuff that's
10 over a year old.

11 MR. PEEK: I spent several hours trying to get down
12 to the 10-minute rule, Your Honor.

13 THE COURT: That's good for you.

14 MR. PEEK: It was. But I had a lot of help from my
15 friends.

16 THE COURT: Rex Jemison always used to tell me that
17 the shorter you can make it the better argument it is.

18 MR. PEEK: Well, I keep remembering Judge Pro's
19 little note on his lectern for many, many years about Senator
20 Everett and Abe Lincoln at Gettysburg. So we all remember
21 Abe, but we don't remember Senator Everett.

22 THE COURT: No, we don't. Ready?

23 MR. PEEK: I am, Your Honor, although I did want to
24 mention this before I started. At least the member of the
25 Special Litigation are here this morning.

1 THE COURT: Okay.

2 MR. PEEK: We have, of course, starting over here on
3 your far left, Your Honor, Mr. Ortolf, then Mr. Brokaw, and
4 Mr. Lillis.

5 THE COURT: Good morning.

6 MR. PEEK: Thank you, Your Honor.

7 Your Honor, as I said, as hard as you may find it to
8 believe, I am going to be brief, because Jacksonville's
9 supplemental opposition does not change the analysis set forth
10 in our papers on this motion. To suggest otherwise,
11 Jacksonville ignores the well-established law on independence
12 and badly misstates and overstates the record evidence.

13 We have addressed the issues on independence
14 carefully in our briefs, but I wanted to at least focus on and
15 highlight two issues so that we did not get lost with all of
16 the issues set forth in the motion. These are, one, the
17 significance of the requirement that Mr. Lillis approve any
18 action of the SLC, and, two, the beholden standard of review
19 on independence.

20 First, under the relevant board resolutions the SLC
21 could not approve any action without the approval of Mr.
22 Lillis. Mr. Lillis is an unquestionably independent director,
23 the former head of Media 1 and a trustee of the University of
24 Oregon. The SLC's determination that this litigation should
25 be dismissed was thus the product of Mr. Lillis's independent

1 business judgment.

2 At pages 13 and 14 of our supplemental reply at
3 Footnote 20 we cite the well-established authority that an SLC
4 is independent if its decision requires the approval of an
5 independent director. The cases we cited do address two-
6 person SLCs where one director was independent and the other
7 arguably was not. Any action by these two-person SLCs as set
8 forth in the cases required approval by both members, because
9 an action could not pass with only 50 percent of the vote. In
10 this context the courts have consistently held that the SLCs
11 were independent because the SLC's decisions required the
12 approval of a director that the court had determined to be
13 independent.

14 The resolutions requiring Lillis's approval for any
15 SLC determination here create the same dynamic with respect to
16 this SLC. Because Mr. Lillis is independent and any SLC
17 action required his approval, the SLC was independent on that
18 basis alone.

19 But we don't stop there, because as for Messrs.
20 Brokaw and Ortolf Jacksonville simply ignores the relevant
21 legal standard. For a director to lack independence he must
22 be beholden to the interested person. There's no evidence
23 that Brokaw and Ortolf are beholden to Ergen or any other
24 defendant. All members of the SLC are independent under this
25 correct legal standard.

1 Jacksonville proceeds as if good friendship suffices
2 to establish a lack of independence. But, as well detailed in
3 our brief, its evidence on this point does not matter, because
4 friendship, even close friendship does not suggest a lack of
5 independence under the law of Nevada and most every other
6 state. And Jacksonville again mangles and distorts the
7 evidence that it cites to support its inapposite argument
8 without ever addressing the legal standard of beholdenness.

9 Turning now to the issue of the SLCs good faith and
10 thorough investigation, Jacksonville's arguments again are
11 just wrong. Although we have covered these arguments in our
12 brief and set forth the wrongness of their arguments, here are
13 three examples demonstrating just how wrong Jacksonville is in
14 its argument and how much it distorts the evidence.

15 First, Jacksonville claims that the DISH board
16 authorized Ergen to use the DISH bid as a poker chip to obtain
17 a release. The board did no such thing. The plain language
18 of the resolution of December 23rd that authorized management
19 to negotiate with LightSquared to try to resolve the technical
20 issue and to terminate the bid if the technical issue could
21 not be resolved. That language is not ambiguous and is
22 confirmed unambiguously by the parties' later conduct.

23 Here after the adoption of the resolution DISH
24 rejected a LightSquared counteroffer and opposed a motion to
25 enforce a bid that would have paid Ergen in full and would

1 have given him a release, as well, because neither option
2 presented in that motion and in that offer would have resolved
3 the technical issue. In fact, by its action DISH prevented
4 Ergen from obtaining a release, because LightSquared would not
5 agree to shield DISH from the risk of the technical issue.

6 Two, Jacksonville claims that the SLC concealed
7 statements that Wilke made to the Bankruptcy Court. Not only
8 did the report quote such statements, but they revealed that
9 Wilke was not conditioning the bid on the receipt of a release
10 of Ergen.

11 Three, Jacksonville claimed that the SLC misled the
12 Court with respect to the subject of Kaiser's consultation of
13 Sullivan & Cromwell. But in fact the SLC report states
14 verbatim exactly the statements that Jacksonville admits are
15 true.

16 In conclusion, Jacksonville's inability after
17 voluminous discovery to find beholdenness or any real defect
18 in the thoroughness of the SLC's investigation and its stretch
19 to gin up such issues underscores the appropriateness of
20 deferring to the SLC's determination.

21 The SLC determined that the claims that Jacksonville
22 wants DISH to litigate or that it wants to litigate each
23 suffer at least one or more fatal defects as explained in the
24 report. DISH does not benefit from pursuing meritless,
25 burdensome claims against its officers and directors.

1 Jacksonville's push for this litigation to proceed reflects
2 its calculation that this litigation would inflict so much
3 harm on DISH that Ergen, DISH's 50 percent stockholder and
4 chairman, would be willing to pay the plaintiff to avoid that
5 harm to DISH. DISH has no interest in using itself as a
6 hostage in that manner.

7 Thank you, Your Honor. And I reserve whatever time
8 I have left.

9 THE COURT: Thank you, Mr. Peek. Do you want to
10 know how much?

11 THE LAW CLERK: You have 2 minutes and 27 seconds.

12 MR. PEEK: Thank you.

13 THE COURT: Fifteen minutes or less for all your
14 things today.

15 MR. BOSCHEE: Got it.

16 MR. LEBOVITCH: Yes, Your Honor. Your Honor, I'll
17 try not to use my full 15. If it's all right, I'll keep a
18 stopwatch so I can even pace myself.

19 THE COURT: Okay.

20 MR. BOSCHEE: Mark, are you going to reference these
21 slides?

22 MR. LEBOVITCH: Yeah. Your Honor, and also in terms
23 of efficiency so there's no -- if I can approach with just
24 some basic slides that I may refer to.

25 THE COURT: Sure. Make sure you give a copy to

1 defense counsel.

2 MR. LEBOVITCH: How many copies for the Court,
3 three?

4 MR. PEEK: Did I hear you say use the full 15 for
5 this?

6 MR. LEBOVITCH: No. I said I don't intend to use
7 the full 15. I'm going to use the clock to pace myself.

8 THE COURT: Can I have one to mark as an exhibit.

9 MR. LEBOVITCH: Yes.

10 THE COURT: Thanks.

11 MR. PEEK: Do I get one, or not?

12 MR. BOSCHEE: Yes.

13 (Pause in the proceedings)

14 THE COURT: All right. Let's go.

15 MR. LEBOVITCH: Go ahead?

16 THE COURT: We're ready.

17 MR. LEBOVITCH: Okay. Your Honor, I do want to make
18 for about two, three minutes some big picture points, and I
19 will deal with the specific points Mr. Peek raised.

20 This case really is -- it is unlike anything that
21 any party has cited to the Court. And I hope for the sake of
22 public investors it's not something that will ever repeat
23 itself. Most of these motions come to courts early in a case.
24 It's a paper record. Here, I mean, Your Honor has seen and
25 known how this case has been litigated and how the SLC has

1 handled itself for almost two years. I complained on day one,
2 Your Honor, that this SLC was not independent and was created
3 as a litigation tactic. At injunction hearing when I
4 complained that the SLC was passing on the merits and making
5 the arguments for the defendants before their investigation
6 Your Honor said, "You think maybe they're working together? I
7 recognize that, too. I don't think you need to go much
8 further." The fact is over two years we've gone a lot
9 further, okay. The evidence is unprecedented.

10 I think before getting to the specific legal
11 standards the Court should ask itself some big-picture
12 questions. Is it really pro business to let this SLC shut
13 down this case, or is it just pro Ergen? Is it okay to let an
14 SLC conceal from the Court so much information about its
15 relationships with the interested insiders and then when
16 caught argue no harm, no foul? Is it okay for an SLC to spin
17 the evidence and sweep so much under the rug and then when
18 they're caught holding the broom say that it wouldn't have
19 mattered anyway? I think beyond the corporate law questions,
20 Your Honor, there is a question about the integrity of the
21 judicial process. Because ultimately the core question that's
22 being asked of Your Honor is how does the Court feel about
23 handing over its own jurisdiction of a case that really does
24 matter, that is significant to DISH and its public
25 shareholders, handing over that jurisdiction to this SLC.

1 And I think Your Honor said to us early on that
2 Nevada is very deferential and understands conflicts if
3 they're disclosed. That's a point Your Honor made right away.
4 Well, disclosure to the Court does have to matter, okay. What
5 happens if, as the record shows here, the facts about the
6 relationships from the beginning of the case all the way up
7 until the end are not disclosed? Because I think it's not
8 just to look at the record of independence, which we firmly
9 believe satisfies the Schoen II standard for independence,
10 which I'll get to, but the fact is they didn't come clean on
11 it. That goes to the overall story, because I think with
12 respect to the SLC a court has to look at the totality of the
13 circumstances.

14 I think factually when you read -- and Your Honor
15 said you read last year's briefing. There are kind of three
16 pillars of all that briefing, okay, and I don't think any of
17 it still holds up. Pillars DISH could not have bought --
18 well, independence, now we have a different story on
19 independence. DISH could not have bought the debt is what the
20 defendants all said. We now know that it could, and we now
21 know they knew exactly how it could have bought the debt.
22 They say, no damages because there's no profits. We know
23 that's not true, although maybe they didn't know that at the
24 time. And then they insisted repeatedly that, A, Ergen did
25 not condition DISH's bid on being paid and getting a release;

1 and, in any event, the board took the release issue away from
2 him by terminating the bid because of the technical issue.

3 Your Honor, in 330 pages the SLC didn't think to
4 give you the November 20th letter that was sent to
5 LightSquared which I think very bluntly conditions the bid.
6 They talk about the November 25th transcript, but they don't
7 give it to Your Honor. All we had to do was ask for it. They
8 could have given it to Your Honor. They didn't want to. We
9 just asked for it, okay.

10 On December 23rd the board did not terminate the
11 bid, not because of a technical issue or any other issue.
12 Four days after Your Honor made clear who has to take the
13 laboring oar and after learning about the technical issue two
14 things happened, and we now know that from the evidence. One,
15 they gave Ergen discretion to terminate the bid if he's not
16 satisfied. They didn't give him any parameters to that. Two,
17 they discussed the July 21st resolution allowing a bid of
18 above 2.2 billion. And, Your Honor, if the technical issue is
19 such a severe issue that they're saying, we don't want the
20 spectrum anymore, not only do you terminate the bid there and
21 then, you do not reaffirm that the prior bid is still in
22 place. Because, Your Honor, if you're concerned about the
23 technical issue, why would you say, oh, terminate and by the
24 way if you're satisfied you can actually go ahead and
25 reinstate the bid at a higher price? You can't reconcile that

1 with words that they used to Your Honor a year ago. Now
2 they're backtracking, okay.

3 I think looking at the totality of the
4 circumstances, which is the real question in all these cases
5 involving SLCs, is that an SLC that hides evidence from the
6 Court and then avoids investigating key parts of the story is
7 not entitled to deference.

8 Now, if you look at the slides, Slide 2, I asked Mr.
9 Ortolf what does he think should happen if the Court
10 selectively ignores allegations and evidence. And you can see
11 his answers. For the interest of time we're not going to go
12 through the video of it.

13 Now, on evidence, to get to Mr. Peek's specific
14 points, they've shifted. They know, okay, A, you have to look
15 at a majority of the board. That was a heading in the SLC's
16 motion to dismiss brief. They said that you have to look at
17 the majority of the board and whether they're independent.
18 They've now backtracked. They also say that "beholden"
19 somehow means something other than what Schoen II says. In
20 Schoen II five directors were found to have lacked
21 independence, okay, which is different from being held
22 monetarily liable, and the relationships listed in Schoen II
23 are friendships and prior support of the insider, prior help
24 from the insider, and clearly the history of the controller's
25 retribution against those who defied him. Those were the

1 facts in Schoen II. That's the standard. It goes to any
2 extraneous considerations or influence. That's what we think
3 we've shown.

4 Your Honor, if there's three cases that you're going
5 to read in all these cases that have been found, I would
6 suggest Schoen II, which Your Honor knows inside and out; the
7 Blake case from Massachusetts, it's not Delaware law, it's
8 Massachusetts law; and for the standard for loyalty claim and
9 the standard for independence it cites Schoen II before
10 anything else, okay. That I think is a thoughtful application
11 of the SLC standards. They have no answer to that. And the
12 Booth Family Trust case, where the Sixth Circuit Federal Court
13 of Appeals gives a very thoughtful analysis.

14 Now, if you look at Slide 3, you can be reminded of
15 what Ortolf and the SLC told the Court about the relationship
16 initially. And then when you turn to Slide 4 you can see the
17 evidence, okay. And we cited it in greater detail in the
18 briefs. But, "To thee, my favorite group of friends," to have
19 the kids calling you "Uncle Tom," to have a quarter of the
20 people at your son's bachelor party be part of the Ergen
21 family, that doesn't happen in these cases. The dismissals
22 and motions to dismiss on SLCs happen on bare bones
23 allegations, not based on evidence like this, not at a summary
24 judgment standard where there's this much evidence, okay.

25 I'm going to skip Slide 5. Slide 6 is the email.

1 If you have the defendant, the wife of the principal defendant
2 being the pillar of strength for you in your time of need and
3 you express the things that are expressed in this email, Your
4 Honor, it's inconsistent with then suing that family for
5 \$800 million in lost profits plus damages to the company.
6 Relationships like this, Your Honor, is exactly why the law
7 does not make such close friends, such close relations have to
8 decide between their loyalties to each other and the welfare
9 of anonymous public investors. I asked Mr. Ortolf, "You
10 didn't disclose this. How did you not disclose to Judge
11 Gonzalez?" And that's Slide 7. And I think that the
12 testimony there does speak for itself. There's no good
13 answer.

14 Mr. Brokaw. You can take a look at Slide 8, what
15 Brokaw and the SLC told the Court about the relationships.
16 They say that this godmother relationship, it doesn't create
17 anything special, this is a relic of history, okay. But you
18 look at Slide 9 and 10, and I ask you -- I mean, there's
19 friends, there's relationships; but if you would rather sleep
20 on an air bed in someone's apartment than stay in the comfort
21 of a hotel room, doesn't that really mean you love each other
22 so much you're not going to sue them? It seems frankly
23 ridiculous if you're sending each other report cards and
24 you're having the family dinners and exchange having weekends
25 in your homes. It doesn't make sense. And in fact when I

1 asked Mr. Brokaw, why didn't you disclose these facts to the
2 Court, he was very glib. I wish I could show the video of
3 this, but you can see on Slide 11 his answer. He says, "I
4 didn't even think about it."

5 Now, getting to Lillis, okay, I want to highlight.
6 In their brief they said that the plaintiff has not met its
7 burden to allege particularized facts showing that a majority
8 of the SLC was not independent, okay. They've now
9 backtracked. And, Your Honor, the whole idea of an SLC is to
10 come in place when you don't have a majority of the board,
11 okay, being independent. The purpose of the SLC, okay, is the
12 Court has a more skeptical look, because you are going to be
13 giving up jurisdiction even though there's not a majority of
14 the board. It's absurd to say that you can have just one.
15 The cases they cited in that footnote do not involve a finding
16 that those other people lack independence. It says the
17 plaintiff attacks independence but it doesn't matter because
18 in the end.... There's no findings in those cases.

19 The Booth Family Trust case the court clearly says,
20 "If the facts combine to give rise to a perception of an
21 inability to proceed independently for an SLC, the shareholder
22 need not even show that the committee was in fact not
23 independent." You don't have to make a final finding. It's,
24 question, is there a dispute of fact, Your Honor.

25 Now, the demand and SLC cases routinely speak of the

1 committee being independent, not of one person; because, if
2 they're right, then let's just be honest, let's have Cante and
3 Charlie and Lillis as the SLC. That's their version of the
4 law. It's not true, okay. And in fact the law says if you
5 had just Lillis at the beginning, who we don't believe is
6 independent, that's where you clearly -- and every party
7 agrees you have to have -- be above reproach, like Caesar's
8 wife. That's the standard. It's been applied everywhere.

9 And take a look at Slide 12, what Your Honor was
10 told about the relationship between Lillis and Cullen, and now
11 take a look at Slide 13, okay. They just went on vacation
12 together. While investigating on what may be a multibillion-
13 dollar claim they go on vacation together. They clearly help
14 each other. The defendants' effort to say, we get credit --
15 Booth Family Trust is different, because there the guy recused
16 himself. Your Honor, you should applaud someone who recuses
17 himself when they have relationships like Lillis had, because
18 the relationships in Booth Family Trust are identical to those
19 involved here.

20 Now, I will go through the slides very quickly, and
21 then I want to close with two main points. The Miller-Kaiser
22 email, again, I'm not going to talk about what's in there,
23 but, Your Honor, they made clear, they made clear trying to
24 impress the Court that Ergen didn't do anything he was sure
25 DISH couldn't buy. We know what's in that email. You cannot

1 reconcile it, okay.

2 Going beyond that, if you go to Slide --

3 THE COURT: Hold on a second.

4 (Pause in the proceedings)

5 MR. LEBOVITCH: Your Honor, I'm going to jump up to

6 Slide 18.

7 THE COURT: Hold on a second.

8 MR. LEBOVITCH: Oh. Okay.

9 THE COURT: I'm not going to count this time against

10 you.

11 MR. LEBOVITCH: Thank you, Your Honor. Pick up at

12 Slide 18, Your Honor.

13 THE COURT: Thank you, Kevin.

14 You can resume his time.

15 You have 3 minutes, 39 seconds left.

16 MR. LEBOVITCH: I know. I'm going to try to do

17 this in a minute and a half, if possible. Was Your Honor on

18 Slide 18 when I pressed the clock?

19 THE COURT: I was.

20 MR. LEBOVITCH: Thank you. Much appreciated.

21 Slide 18. This thing about November 25th, Your

22 Honor, was a big deal. And Your Honor, you know, you granted

23 an injunction, and in paragraphs 20 to 22 of your injunction

24 order highlighted the importance of that release. And you

25 know what, you hit it on the head, and they were misleading to

1 you. You cannot defer to an SLC that does that. The quotes
2 from Ms. Strickland at the November 25th transcript that we
3 provided put the lie to that.

4 On December 23rd, Slide 20, these are the notes that
5 we got. We got testimony about this, as well. They tried to
6 hide it under privilege assertions. We fought it. Your
7 Honor, you do not talk about a bit above 2.2 billion if what
8 you're doing is terminating because of the technical issue
9 that you already know about. What they did is exactly as we
10 allege, empowering Ergen to do what he wanted to get leverage.
11 He played the game, and in the end he's getting his
12 \$800 million, DISH is left without the spectrum.

13 Last point I'll make, obviously the failure to
14 review the STC we think is a big deal. Their excuse is lame
15 on that. Your Honor said those are loyalty claims that would
16 survive a motion to dismiss and summary judgment. That's why
17 they avoided.

18 And last is unjust enrichment. The Schoen II case
19 itself upholds an unjust enrichment claim on a different
20 analysis than the fiduciary duty claim. They say it's a
21 Rule 8 standard. There's no finding by the SLC about unjust
22 enrichment because they didn't apply the standard in any way.

23 And what you have is our last slide, 22, talks about
24 -- talks about the unjust enrichment standard. We submit,
25 Your Honor, the SLC is not making a finding on that. If

1 nothing else, you could say that we survive the motion to
2 dismiss on the unjust enrichment standard. That claim at the
3 very least goes forward, because they have not adequately
4 addressed the standard correctly. Clearly not an adequate
5 investigation on that. We go forward on that at the very
6 minimum. With that....

7 THE COURT: Thank you.

8 Here Nevada gives strong preference to honoring the
9 business judgment of boards and their committees and
10 recognizes that disclosed conflicts do not necessarily prevent
11 that business judgment being exercised.

12 Here the Court has to focus on two issues, the
13 thoroughness and the independence of the SLC. Given the
14 unusual voting structure of this SLC, the fact that one
15 director -- or one member, Mr. Lillis, is clearly not beholden
16 and is therefore independent and is not conflicted creates for
17 the Court a presumption that the SLC is independent given all
18 the evidence it has been presented.

19 The issue related to thoroughness is more difficult
20 given the number of claims and issues that are presented here
21 and the breadth of other litigation that was pending. I may
22 have, if I was directing the SLC, investigated this
23 differently. But that's not the standard. The standard is
24 whether the SLC made a thorough and good-faith investigation.
25 They did. And for that reason the motion to defer is granted.

1 MR. PEEK: Thank you, Your Honor.

2 THE COURT: Okay. Now we have some other motions?

3 Okay. Does anybody want to say anything?

4 MR. RUGG: Based on Your Honor's ruling I don't

5 think there's a --

6 THE COURT: I think they're moot, but I'm waiting

7 for somebody to say they don't.

8 MR. RUGG: I just wanted to make sure I didn't

9 misunderstand.

10 THE COURT: Okay.

11 MR. LEBOVITCH: Your Honor, may I have a minute to

12 just --

13 THE COURT: No.

14 MR. LEBOVITCH: I mean, I know --

15 THE COURT: So, Mr. Peek, I need you to draft the

16 findings of fact, conclusions of law, send them over to Mr.

17 Boschee so he can look at them and anybody else on your team

18 that you'd like. Once you guys have circulated, I'll sign

19 them, and then you can all go visit the people Carson City,

20 who I'm sure will be able to address this issue for you.

21 MR. PEEK: Thank you, Your Honor. We'll do so.

22 THE COURT: Okay.

23 MR. LEBOVITCH: Thank you, Your Honor.

24 THE COURT: Okay. Have a nice day. 'Bye.

25 THE PROCEEDINGS CONCLUDED AT 8:32 A.M.

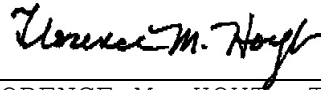
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**

A handwritten signature in black ink, appearing to read "Florence M. Hoyt", written in a cursive style.

FLORENCE M. HOYT, TRANSCRIBER

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

August 07, 2015

A-13-686775-B Jacksonville Police and Fire Pension Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

August 07, 2015 3:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea

PARTIES None. Minute order only - no hearing held.
PRESENT:

JOURNAL ENTRIES

- 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 SLCS DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...

...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...

...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 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 SLCS DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...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: COURT ORDERED, Plaintiff's Motion to Seal is DENIED IN PART. Given the redacted opposition filed, the Motion to Redact the Opposition is GRANTED. The request to seal all of the exhibits in support of the opposition is DENIED WITHOUT PREJUDICE for the Plaintiff to provide an identification of the specific exhibits to be sealed. The exhibits will REMAIN SEALED for FIVE (5) judicial days. At the conclusion of that time if no new motion to seal is filed, all of the exhibits filed in support of the

PRINT DATE: 08/10/2015

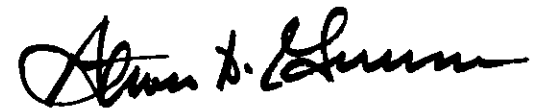
Page 1 of 2

Minutes Date: August 07, 2015

opposition will be unsealed.

THE SPECIAL LITIGATION COMMITTEE'S MOTION TO SEAL SUPPLEMENTAL REPLY IN SUPPORT OF ITS MOTION TO DEFER AND CERTAIN EXHIBITS THERETO: The Special Litigation Committee's Motion to Redact the Reply is GRANTED. The request to seal all of the exhibits in support of the reply is DENIED WITHOUT PREJUDICE for the Special Litigation Committee to provide an identification of the specific exhibits to be sealed and any redactions proposed for the declarations in support of the reply. The exhibits will REMAIN SEALED for FIVE (5) judicial days. At the conclusion of that time if no new motion to seal is filed, all of the exhibits filed in support of the reply will be unsealed.

CLERK'S NOTE: A copy of the above minute order was distributed to parties via electronic mail. / dr
8-7-15



CLERK OF THE COURT

1 **FFCL**

2 J. Stephen Peek

3 Nevada Bar No. 1758

4 Robert J. Cassity

5 Nevada Bar No. 9779

6 HOLLAND & HART LLP

7 9555 Hillwood Drive, 2nd Floor

8 Las Vegas, NV 89134

9 Phone: (702) 669-4600

10 Fax: (702) 669-4650

11 Holly Stein Sollod (*pro hac vice*)

12 HOLLAND & HART LLP

13 555 17th Street Suite 3200

14 Denver, CO 80202

15 Phone (303) 295-8000

16 Fax: (303) 975-5395

17 David C. McBride (*pro hac vice*)

18 Robert S. Brady (*pro hac vice*)

19 C. Barr Flinn (*pro hac vice*)

20 Emily V. Burton (*pro hac vice*)

21 YOUNG, CONAWAY, STARGATT & TAYLOR, LLP

22 Rodney Square

23 1000 North King Street

24 Wilmington, DE 19801

25 Phone: (302) 571-6600

26 Fax: (302) 571-1253

27 *Attorneys for the Special Litigation Committee*
28 *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

Consolidated with A688882

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW REGARDING
THE MOTION TO DEFER TO THE
SLC'S DETERMINATION THAT THE
CLAIMS SHOULD BE DISMISSED**

This matter came before the Court for hearing on the Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed (the "Motion to Defer") on January 12, 2015 at 8:00 a.m. During oral argument, Plaintiff Jacksonville Police and Fire Pension Fund

1 (“Plaintiff” or “Jacksonville”) presented a motion and affidavit pursuant to Nevada Rule 56(f)
2 requesting certain discovery. The Court granted Plaintiff discovery regarding the independence
3 of the Special Litigation Committee of DISH Network Corporation (the “SLC”) and the
4 thoroughness of its investigation. The Court also scheduled supplemental briefing following
5 discovery and supplemental oral argument.

6 After Plaintiff completed its requested discovery, it filed a Supplemental Opposition to
7 the Motion to Defer and the SLC filed a Supplemental Reply in support of the Motion to Defer.
8 On July 16, 2015 at 8:00 a.m., the Court entertained supplemental oral argument on the SLC’s
9 Motion to Defer. Plaintiff appeared by and through its counsel of record, Brian W. Boschee,
10 Esq. and William N. Miller, Esq. of Cotton, Driggs, Walch, Holley, Woloson & Thompson,
11 Mark Lebovitch, Esq. and Adam Hollander, Esq. of Bernstein Litowitz Berger & Grossman LLP,
12 and Gregory Eric Del Gaizo, Esq. of Robbins Arroyo LLP; Defendants James DeFranco, David
13 K. Moskowitz, and Carl E. Vogel (together the “Director Defendants”) appeared by and through
14 their counsel of record Jeffrey S. Rugg, Esq. and Maximilien D. Fetaz, Esq. of Brownstein Hyatt
15 Farber Schreck, LLP and Brian T. Frawley, Esq. of Sullivan & Cromwell LLP; Defendants
16 Charles W. Ergen and Cantey M. Ergen (together the “Ergen Defendants” or the “Ergens”)
17 appeared by and through their counsel of record Joshua H. Reisman, Esq. of Reisman Sorokac
18 and Tariq Mundiya, Esq. of Willkie Farr & Gallagher LLP; Defendants R. Stanton Dodge,
19 Thomas A. Cullen, and Jason Kiser (together the “Officer Defendants”) appeared by and through
20 their counsel of record James J. Pisanelli, Esq. of Pisanelli Bice PLLC and Bruce Braun, Esq. of
21 Sidley Austin LLP; and the SLC, consisting of Charles M. Lillis, George R. Brokaw, and Tom
22 A. Ortolf, appeared by and through its counsel of record J. Stephen Peek, Esq., Holly Stein
23 Sollod, Esq., telephonically, and Robert J. Cassity, Esq. of Holland & Hart LLP and C. Barr
24 Flinn, Esq. and Emily V. Burton, Esq. of Young, Conaway, Stargatt & Taylor, LLP.

25 The Court, having reviewed and considered the pleadings and briefing submitted by the
26 parties and the evidence attached thereto or introduced during hearings with respect to the SLC’s
27 Motion to Dismiss for Failure to Plead Demand Futility, the Director Defendants’ Motion to
28 Dismiss the Second Amended Complaint, the Officer Defendants’ Motion to Dismiss the Second

1 Amended Complaint, Defendants Charles W. Ergen and Cantey M. Ergen's Motion to Dismiss
2 the Second Amended Derivative Complaint of Jacksonville Police and Fire Pension Fund, and
3 the SLC's Motion to Defer and having reviewed and considered the Report of the Special
4 Litigation Committee of DISH Network Corporation, dated October 24, 2014 (the "SLC
5 Report") and the arguments of counsel with respect to the SLC's Motion to Defer, makes the
6 following findings of fact and conclusions of law.

7 **FINDINGS OF FACT**

8 1. Through this action, Plaintiff seeks to assert, derivatively on behalf of DISH
9 Network Corporation ("DISH" or the "Company"), certain claims arising from, among other
10 things, (a) purchases by the Chairman of DISH's Board of Directors, Charles W. Ergen
11 ("Ergen"), through SP Special Opportunities, LLC ("SPSO"), of secured debt of LightSquared
12 L.P. ("LightSquared") in 2012 and 2013, (b) the termination of the special transaction committee
13 (the "STC") established by the DISH Board of Directors (the "Board") to consider a bid for
14 wireless spectrum and related assets of LightSquared (the "LightSquared Assets"), (c) the
15 subsequent bid by DISH (the "DISH Bid") for the LightSquared Assets, (d) the withdrawal of the
16 DISH Bid in early 2014, and (e) the establishment of the SLC.

17 **I. General Background**

18 2. DISH is a Nevada corporation in good standing.

19 3. The Ergens, along with James DeFranco ("DeFranco"), founded DISH in 1980.
20 During the time addressed by Plaintiff's claims, Ergen served as the Chairman of DISH's Board.
21 He and certain family trusts control more than 50% of the Company's outstanding equity and
22 90% of DISH's voting power. DISH's filings with the United States Securities and Exchange
23 Commission describe DISH as a "controlled company" within the meaning of the NASDAQ
24 Marketplace Rules.

25 **II. Ergen's Purchases of Secured Debt and the DISH Bid**

26 4. On May 14, 2012, LightSquared and various of its affiliates filed for bankruptcy
27 protection (the "LightSquared Bankruptcy").
28

1 5. Certain secured debt issued by LightSquared (the “Secured Debt”) is governed by
2 a credit agreement (the “Credit Agreement”). Among other things, the Credit Agreement limits
3 the entities that may acquire the Secured Debt. As found by the Court overseeing the
4 LightSquared Bankruptcy (the “LightSquared Bankruptcy Court”), “each of DISH and [EchoStar
5 Corporation (“EchoStar”)] is a ‘Disqualified Company’ under the Credit Agreement, and thus
6 neither can be an ‘Eligible Assignee’ [of Secured Debt].” Memorandum Decision Granting
7 Motions to Dismiss Complaint at 5, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc.
8 No. 13-1390 (SCC) (Bankr. S.D.N.Y. Nov. 21, 2013) (Adversary Docket No. 68) (Nov. 21, 2013
9 decision at 5). Under the LightSquared Bankruptcy Court ruling, DISH was not permitted to
10 acquire the LightSquared Secured Debt directly under the Credit Agreement.

11 6. Between the spring of 2012 and May 2013, Ergen, through SPSO, an entity that
12 he owns and controls, agreed to acquire approximately \$1 billion of Secured Debt at prices
13 discounted from face value. One of Ergen’s purchases of Secured Debt was prevented from
14 closing. As a result, Ergen ultimately acquired approximately \$850 million in face amount of
15 Secured Debt, for a total purchase price of approximately \$690 million, using funds provided
16 from Ergen’s personal assets.

17 7. On May 2, 2013, Ergen informed the DISH Board about the potential future
18 availability of the LightSquared Assets for purchase through the LightSquared Bankruptcy and
19 invited the DISH Board to consider whether DISH was interested in pursuing an acquisition of
20 the LightSquared Assets. At that time, Ergen also affirmatively told the Board that he owned a
21 substantial stake in LightSquared Secured Debt, and he recused himself from the Board’s further
22 consideration of whether DISH should pursue the LightSquared opportunity. Ergen also
23 informed EchoStar, a separate publicly traded Nevada corporation controlled by Ergen, of the
24 LightSquared opportunity.

25 8. On May 8, 2013, at a meeting of the DISH Board held without the Ergens, the
26 Board formed the STC, a committee of directors who were independent of Ergen and EchoStar,
27 to consider a possible transaction between DISH and LightSquared. The STC consisted of Gary
28

1 S. Howard (“Howard”) and Steven R. Goodbarn (“Goodbarn”). The STC thereafter retained
2 independent counsel and financial advisors.

3 9. On May 15, 2013, Ergen personally bid \$2 billion for the LightSquared Assets.
4 Approximately two weeks later, on May 28, 2013, Ergen created an entity called L-Band
5 Acquisition LLC (“LBAC”). LBAC, under Ergen’s ownership and control, became the bidder
6 for the LightSquared Assets. This bid (the “LBAC Bid” or “LBAC’s Bid”)¹ was not subject to a
7 due diligence out or to FCC approval. The LBAC Bid specifically noted that the buyer under the
8 bid would be “owned by one or more of Charles Ergen, affiliated companies and/or other third
9 parties.” Letter from Rachel Strickland to LightSquared LP (May 15, 2013) (attaching
10 LightSquared Summary of Principal Terms of Proposed Sale Transaction, at 1) (SLC Report Ex.
11 337).

12 10. On or about May 22, 2013, after learning of the formation of the STC, Ergen
13 informed the STC of the LBAC Bid. Ergen offered to permit DISH to acquire LBAC or assume
14 the LBAC Bid, if DISH chose to do so.

15 11. In connection with the LBAC Bid, during July of 2013, counsel for LBAC and
16 Ergen began negotiating various documents related to the LBAC Bid with representatives of a
17 group of LightSquared secured creditors (the “Ad Hoc Secured Group”). These documents
18 included a joint plan for the reorganization of LightSquared (the “Ad Hoc Secured Group Plan”).
19 The Ad Hoc Secured Group Plan provided for an auction of the LightSquared Assets, and
20 provided for LBAC to act as a so-called “stalking horse” bidder, such that the LBAC Bid would
21 be qualified to serve as the initial bid subject to higher offers from other bidders, and subject to
22 various negotiated rights protecting LBAC’s Bid.

23 12. Counsel for LBAC, Ergen, and the Ad Hoc Secured Group also negotiated a plan
24 support agreement (the “PSA”), which set forth the terms and conditions upon which the parties
25 would support the Ad Hoc Secured Group Plan after it was filed in the LightSquared
26 Bankruptcy. The PSA included a timeline for milestones towards Plan confirmation. If these

27 ¹ Although LBAC did not exist when Ergen initially submitted his personal bid, that bid, which
28 LBAC was formed to consummate, is referred to herein consistently as the LBAC Bid.

1 milestones were not met by the timeline set forth in the PSA, the parties to the PSA had the right
2 to withdraw their support for the Ad Hoc Secured Group Plan.

3 13. Finally, counsel for LBAC, Ergen, and the Ad Hoc Secured Group also negotiated
4 a proposed form of draft asset purchase agreement (the "APA") between LightSquared and
5 LBAC governing the sale by LightSquared to LBAC of the LightSquared Assets, the final terms
6 of which would be subject to further negotiation and agreement between LightSquared and
7 LBAC. The draft form of APA included a footnote (the "Release Footnote") indicating that a
8 broad release (the "Release") would be included in the agreement and would cover the purchaser
9 and its affiliates. If LBAC acquired the LightSquared Assets pursuant to the APA, the Release
10 would, among other things, release any claims that LightSquared had against LBAC and its
11 affiliates, including, among others, Ergen, DISH, and SPSO.

12 14. Counsel for DISH and the STC were provided with advance copies of, reviewed,
13 and commented on drafts of the Ad Hoc Secured Group Plan, the PSA, and the APA, although
14 the STC had not then determined whether DISH should acquire LBAC from Ergen or pursue an
15 acquisition of the LightSquared Assets.

16 15. On July 17, 2013, while negotiation of the Ad Hoc Secured Group Plan, the PSA,
17 and the APA remained ongoing, the Ad Hoc Secured Group sent a letter to LBAC's counsel
18 asking LBAC to increase the cash component of the LBAC Bid in order to obtain the Ad Hoc
19 Secured Group's support for the LBAC Bid.

20 16. On July 21, 2013, after receipt of a fairness opinion from its financial advisor and
21 advice of its counsel, the STC determined that a bid by DISH for the LightSquared Assets in an
22 amount up to \$2.4 billion was in the best interests of DISH.

23 17. At a Board meeting on July 21, 2013, without the Ergen Defendants present, the
24 STC recommended to the Board that DISH bid up to \$2.4 billion to acquire the LightSquared
25 Assets on terms consistent with the draft APA. The STC further recommended that, if such bid
26 were made through LBAC, DISH acquire LBAC from Ergen for a nominal fee and assume only
27 LBAC's counsel fees associated with preparation of a bid for the LightSquared Assets. The
28 DISH Board, among other things, resolved to accept the STC's recommendation. The DISH

1 Board authorized DISH to acquire LBAC for a nominal payment, and to submit the DISH Bid
2 for the LightSquared Assets, at a price of up to \$2.4 billion, on terms substantially consistent
3 with the terms set forth in the draft APA.

4 18. Further, at the same July 21, 2013 meeting, the DISH Board resolved to dissolve
5 the STC, but reserved the right to reinstate the STC or another committee should the
6 circumstances warrant. With the exception of STC members Howard and Goodbarn, all
7 members of the Board present at the meeting voted in favor of terminating the STC. Howard and
8 Goodbarn, the members of the STC, abstained.

9 19. On July 22, 2013, Ergen and DISH entered into a purchase and sale agreement
10 under which Ergen sold all of the units in LBAC to DISH for nominal consideration, consistent
11 with the STC's recommendation.

12 20. Contemporaneously, LBAC completed negotiations with the Ad Hoc Secured
13 Group with respect to the Ad Hoc Secured Group Plan, a draft APA supported by the Ad Hoc
14 Secured Group, and the PSA. Among other things, these documents memorialized the DISH
15 Bid, made through LBAC, of \$2.22 billion for the LightSquared Assets, which did not include a
16 due diligence out and was not conditioned upon FCC approval. The DISH Bid was increased to
17 \$2.22 billion, from the \$2 billion LBAC Bid, based on the Ad Hoc Secured Group's July 17
18 letter.

19 21. On July 23, 2013, the Ad Hoc Secured Group and SPSO filed the Ad Hoc
20 Secured Group Plan in the LightSquared Bankruptcy.

21 22. LBAC and SPSO also entered into the PSA at or around the time the Ad Hoc
22 Secured Group Plan was filed. Under the PSA, LBAC committed to support the Ad Hoc
23 Secured Group Plan. LBAC was permitted to terminate the PSA and withdraw the bid if the Ad
24 Hoc Secured Group Plan was not consummated in the LightSquared Bankruptcy on or before
25 December 31, 2013.

26 23. On July 24, 2013, the members of the STC sent a letter to the DISH Board
27 outlining various conditions to its approval of the DISH Bid and open matters that it believed
28 should have been addressed by the STC before the committee was terminated by the Board. On

1 July 25, 2013, Howard resigned from the DISH Board, effective July 31, 2015. The issues raised
2 in the July 24 letter from the STC, to the extent not moot, were investigated by the SLC and
3 addressed in the SLC Report.

4 24. On October 1, 2013, the LightSquared Bankruptcy Court entered an agreed order
5 designating LBAC as a stalking horse bidder for the LightSquared Assets under the Ad Hoc
6 Secured Group Plan.

7 **III. The Adversary Proceedings in the LightSquared Bankruptcy**

8 25. On August 6, 2013, LightSquared's controlling shareholder, Harbinger Capital
9 Partners, LLC and various funds under its control (collectively "Harbinger"), initiated an
10 adversary proceeding against DISH, LBAC, Ergen, and others (the "Adversary Proceeding") in
11 the LightSquared Bankruptcy.

12 26. Harbinger alleged that SPSO misrepresented that it was an "Eligible Assignee"
13 under the Credit Agreement when purchasing the Secured Debt. *See* Complaint, *In re*
14 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC) (Bankr. S.D.N.Y. Aug.
15 6, 2013) (Adversary Docket No. 15) ("Harbinger Complaint"). It further alleged that Ergen,
16 DISH, and other entities owned by Ergen "fraudulently infiltrated the senior-most tranche of
17 LightSquared's capital structure, secretly amassing, based on knowing misrepresentations of
18 fact, a position as the single largest holder of [Secured Debt]." *Id.* Harbinger alleged that "the
19 DISH/EchoStar Defendants and Sound Point [then] disrupted Harbinger's efforts to negotiate a
20 plan of reorganization[,] and to obtain exit financing for LightSquared by intentionally
21 prolonging the closing of numerous trades for Secured Debt. *Id.* at ¶¶ 7-8. Finally, Harbinger
22 alleged that DISH was trying to unfairly profit from this misconduct (1) by submitting a bid that
23 undervalued the LightSquared Assets and (2) by having an unfair advantage in any sale of the
24 LightSquared Assets, because, Harbinger contended, Ergen purchased and held the Secured Debt
25 for the benefit of DISH. Harbinger Complaint ¶ 11. Based on this alleged misconduct,
26 Harbinger asserted claims for fraud, tortious interference, and civil conspiracy.

27 27. On August 22, 2013, LightSquared intervened and partially joined in Harbinger's
28 claims in the Adversary Proceeding. *See* LightSquared's Notice of Intervention, *In re*

1 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC) (Bankr. S.D.N.Y. Aug.
2 22, 2013) (Adversary Docket No. 15).

3 28. On September 9, 2013, the defendants named in the Harbinger Complaint moved
4 to dismiss for, among other things, failure to state a claim. Notice of Motion to Dismiss
5 Complaint, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC)
6 (Bankr. S.D.N.Y. Sept. 9, 2013) (Adversary Docket No. 29). On September 30, 2013, Harbinger
7 amended the Harbinger Complaint. The defendants named in the amended Harbinger Complaint
8 also moved to dismiss the Amended Complaint between October 3 and October 5, 2013.

9 29. On October 29, 2013, the LightSquared Bankruptcy Court dismissed the
10 Harbinger Complaint. The LightSquared Bankruptcy Court gave LightSquared leave to re-plead
11 the claims for itself on or before November 15, 2013, but only granted Harbinger “leave to file a
12 Second Amended Complaint in the . . . adversary proceeding, setting forth an objection pursuant
13 to Section 502 of the Bankruptcy Code.” Transcript, at 127-31, *In re LightSquared Inc.*, No. 12-
14 12080-scc, Adv. Proc. No. 13-01390-scc (Bankr. S.D.N.Y. Oct. 29, 2013) (Adversary Docket
15 No. 64).

16 30. On November 15, 2013, the special committee of LightSquared’s board formed to
17 oversee its bankruptcy filed a Status Report in which it announced that it intended to pursue the
18 adversary claims identified in the Harbinger Complaint against DISH, SPSO, and Ergen. The
19 LightSquared special committee noted that pursuing these claims may prevent LightSquared
20 from satisfying the milestones for plan confirmation set forth in the PSA and the Ad Hoc
21 Secured Group Plan.

22 31. LightSquared then brought its own complaint (the “LightSquared Adversary
23 Complaint”) in the Adversary Proceeding against Ergen, DISH, EchoStar, and SPSO. The
24 LightSquared Adversary Complaint raised essentially the same claims as the Harbinger
25 Complaint. LightSquared alleged, among other things, that Ergen’s purchases of Secured Debt
26 were effectively purchases by DISH for DISH’s benefit. LightSquared also alleged that these
27 purchases improved DISH’s ability to acquire the LightSquared Assets by forcing
28 LightSquared’s creditors to support a plan under which DISH would acquire the LightSquared

Assets and by deterring any competing bidders. See Complaint-in-Intervention ¶¶ 3-6, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-01390 (SCC) (Bankr. S.D.N.Y. Nov. 15, 2013) (Adversary Docket No. 66).

IV. The Jacksonville Action

32. On August 9, 2013, Plaintiff commenced this action by filing its Verified Derivative Complaint (the “Complaint”) in the Eighth Judicial District Court of Nevada, alleging that it was a stockholder of DISH and asserting claims derivatively allegedly on behalf of DISH against DISH Board members Ergen, Joseph P. Clayton (“Clayton”), DeFranco, Cantey M. Ergen (“Cantey Ergen”), Goodbarn, David K. Moskowitz (“Moskowitz”), Ortolf (“Ortolf”), and Carl E. Vogel (“Vogel”). Among other things, the Complaint alleged that (1) Ergen usurped a corporate opportunity belonging to DISH to acquire the Secured Debt, (2) Ergen’s acquisition of the Secured Debt and actions in the LightSquared Bankruptcy risked causing the LightSquared Bankruptcy Court to preclude DISH from participating in any auction for the LightSquared Assets, (3) Ergen breached fiduciary duties owed to DISH by causing DISH to submit the DISH Bid at an inflated price, and (4) Ergen would be unjustly enriched by this misconduct. Plaintiff also alleged in the Complaint that the other defendants breached fiduciary duties by “failing to require Ergen to fully recuse himself from the process resulting in the Board’s purported approval of the [DISH Bid].”

33. Shortly thereafter, Plaintiff filed an Ex Parte Motion for Order to Show Cause and Motion to (1) Expedite Discovery and (2) Set a hearing on a proposed Motion for Preliminary Injunction and a Memorandum of Points and Authorities in support thereof. Plaintiff sought a preliminary injunction to prevent “Ergen and his loyalists on the [Board] from interfering with or impairing DISH’s efforts to acquire LightSquared.”

34. On September 12, 2013, Plaintiff filed an Amended Verified Derivative Complaint (the “Amended Complaint”). Among other things, the Amended Complaint alleged that (1) the defendants named in the Amended Complaint breached their fiduciary duties to DISH by permitting Ergen to interfere with the DISH Bid for the LightSquared Assets and by permitting Ergen to remain involved in DISH’s efforts to acquire the LightSquared Assets

1 because Ergen's involvement led to an inflated DISH Bid, increased the cost of the DISH Bid,
2 and threatened DISH's ability to pursue the DISH Bid, (2) Ergen usurped DISH's corporate
3 opportunity to acquire the Secured Debt and, in doing so, imperiled DISH's future, allegedly
4 foreseeable, efforts to acquire the LightSquared Assets, and (3) Ergen would be unjustly
5 enriched as a result of this misconduct.

6 35. On September 13, 2013, Plaintiff filed its Motion for Preliminary Injunction.

7 **V. The Formation of the SLC**

8 36. On September 18, 2013, the Board, without the Ergens' participation, formed the
9 SLC, a special litigation committee, to investigate the claims asserted in the Amended Verified
10 Complaint and any amendments thereto and to determine whether it would be in DISH's best
11 interest to pursue the claims asserted in the Amended Complaint and any amendments.

12 37. The resolutions forming the SLC specifically empowered the SLC to:

13 (1) review, investigate and evaluate the claims asserted in the
14 Derivative Litigation; (2) file any and all pleadings and other
15 papers on behalf of the Corporation which the Special Litigation
16 Committee finds necessary or advisable in connection therewith;
17 (3) determine whether it is in the best interests of the Corporation
18 and/or to what extent it is advisable for the Corporation to pursue
19 any or all of the claims asserted in the Derivative Litigation taking
20 into consideration all relevant factors as determined by the Special
21 Litigation Committee; (4) prosecute or dismiss on behalf of the
22 Corporation any claims asserted in the Derivative Litigation; and
(5) direct the Corporation to formulate and file any and all
pleadings and other papers on behalf of the Corporation which the
Special Litigation Committee finds necessary or advisable in
connection therewith, including without limitation, the filing of
other litigation and counterclaims or cross complaints, or motions
to dismiss or stay the proceedings if the Special Litigation
Committee determines that such action is advisable and in the best
interests of the Corporation[.]

23 Status Report, at Ex. A (Oct. 3, 2013) (attaching Resolutions Forming SLC (Sept. 18, 2013)).

24 38. The resolutions forming the SLC also "authorized and empowered" the SLC to
25 "retain and consult with such advisors, consultants and agents, including, without limitation,
26 legal counsel and other experts or consultants, as the Special Litigation Committee deems
27 necessary or advisable to perform such services, reach conclusions or otherwise advise and assist
28 the Special Litigation Committee in connection with carrying out its duties," and to enter into

1 “contracts providing for the retention, compensation, reimbursement of expenses and
2 indemnification of such legal counsel, accountants and other experts or consultants as the Special
3 Litigation Committee deems necessary or advisable[.]” *Id.* The resolutions further directed
4 DISH to “pay, on behalf of the Special Litigation Committee, all fees, expenses and
5 disbursements of such legal counsel, experts and consultants on presentation of statements
6 approved by the Special Litigation Committee[.]” *Id.*

7 39. The SLC initially consisted of George R. Brokaw (“Brokaw”), who joined the
8 Board effective October 7, 2013, and long-standing Board member Ortolf.

9 40. The SLC retained Holland & Hart LLP and Young Conaway Stargatt & Taylor,
10 LLP (“SLC Counsel”) as its attorneys. SLC Counsel are free of conflicts with any parties in this
11 matter and are competent attorneys with experience handling and investigating claims of the type
12 asserted in this litigation and also with respect to complex bankruptcy matters.

13 **VI. Plaintiff’s Motion for Preliminary Injunction**

14 41. On September 23, 2013, at the Court’s direction, Plaintiff made a demand upon
15 the SLC. Among other things, Plaintiff demanded that the SLC take immediate action to obtain
16 the relief that Plaintiff sought in its Motion for Preliminary Injunction.

17 42. On October 3, 2013, the SLC responded to Plaintiff’s demand. The SLC noted
18 that “it t[ook] seriously the claims in the Complaint, would investigate them thoroughly and
19 would decide whether they should be pursued, stayed or dismissed in the best interest of DISH
20 and its stockholders.” Status Report, at 3 (Oct. 3, 2013). The SLC provided an anticipated
21 timeline for its investigation. The SLC refused to take immediate action to obtain the relief
22 sought by Plaintiff’s Motion for Preliminary Injunction because “the SLC [did] not believe that
23 the requested relief, if granted, would serve the best interest of DISH.” Status Report, at 4-5
24 (Oct. 3, 2013).

25 43. On October 4, 2013, this Court granted Plaintiff expedited discovery for purposes
26 of Plaintiff’s Motion for Preliminary Injunction and set the Motion for hearing on November 25,
27 2013.

1 44. On October 8, 2013, Plaintiff stipulated to the dismissal of its claims against
2 Goodbarn. This Court granted the dismissal on October 10, 2013.

3 45. Between September 25, 2013 and November 20, 2013, the SLC investigated
4 Jacksonville's assertion that a mandatory injunction should be imposed to require DISH to
5 reconstitute a special transaction committee to control all aspects of the DISH Bid for the
6 LightSquared Assets. In connection with that investigation, the SLC's counsel reviewed over
7 20,000 pages of documents collected from members of the DISH Board, including Ergen,
8 Goodbarn, and Howard, including all documents collected and produced in connection with
9 Plaintiff's Preliminary Injunction Motion, concerning DISH's decision to submit the DISH Bid
10 for the LightSquared Assets, the work of the STC, and Ergen's conflict of interest with respect to
11 DISH's Bid. The SLC interviewed Clayton, DeFranco, Goodbarn, Ergen, Moskowitz, Vogel,
12 and Rachel Strickland ("Strickland"), Andrew Sorkin, and Tariq Mundiya of Willkie Farr &
13 Gallagher LLP about these topics and attended the depositions of Ergen, Ihsan Essaid, Goodbarn,
14 and Howard taken in connection with the Motion for Preliminary Injunction. The SLC also
15 received legal advice concerning a variety of topics, including the LightSquared Bankruptcy, the
16 Board's fiduciary duties, and controlling stockholder fiduciary duties.

17 46. On November 20, 2013, the SLC filed its Report of the Special Litigation
18 Committee of DISH Network Corporation Regarding Plaintiff's Motion for Preliminary
19 Injunction (the "Interim Report"). The Interim Report advised that Plaintiff's Motion for
20 Preliminary Injunction was not necessary to protect DISH from irreparable harm and may itself
21 harm DISH. The SLC reasoned that entrusting DISH's efforts to purchase the LightSquared
22 Assets to only one director and possibly a newly added director (as Plaintiff requested) created a
23 substantial risk of irreparable harm to DISH. In contrast to Plaintiff's assertions in support of its
24 Motion, the SLC determined that Ergen no longer had a conflict of interest with respect to any
25 increase in the amount of the DISH Bid, and any other risk of a conflict of interest between
26 DISH and Ergen was speculative.

27 47. This Court held a hearing on Plaintiff's Motion for Preliminary Injunction on
28 November 25, 2013.

48. On November 27, 2013, based on the pleadings, the SLC's Interim Report, and the November 25, 2013 hearing on the Motion for Preliminary Injunction, this Court issued findings of fact and conclusions of law, denying in part and granting in part Plaintiff's Motion for Preliminary Injunction. The Court denied the Motion to the extent that it sought to prevent directors other than Goodbarn and possibly Charles M. Lillis ("Lillis"), who joined the DISH Board on November 5, 2013, from "interfering" with DISH's efforts to acquire the LightSquared Assets. The Court however enjoined "Charles Ergen or anyone acting on his behalf . . . from participation, including any review, comment, or negotiations related to the [R]elease contained in the Ad Hoc LP Secured Group Plan pending before the Bankruptcy Court for any conduct which was outside or beyond the scope of his activities related to DISH and LBAC." Findings of Fact and Conclusions of Law, at 15 (Nov. 27, 2013).

VII. Lillis's Addition to the SLC

49. On December 9, 2013, the Board resolved to add Lillis to the SLC.

50. The resolutions adding Lillis to the SLC provided that "any and all actions or determinations of the Special Litigation Committee following the date of these resolutions must include the affirmative vote of Mr. Lillis and at least one (1) other committee member in order to constitute a valid and final action or determination of the Special Litigation Committee" (the "Required Vote Resolution"). Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation, at 6-7 (Dec. 9, 2013).

VIII. The Members of the SLC

51. Lillis is a member of the Board's Audit Committee and of the Board's Compensation Committee. Lillis is considered independent under the independence requirements of NASDAQ and the SEC's rules and regulations.

52. Lillis was formerly the CEO of MediaOne Group, Inc. ("MediaOne"). He has served on multiple corporate boards, including Agilera, Inc., Ascent Entertainment Grp., Charter Communications, Inc. ("Charter") and various affiliates, Medco Health Solutions, Inc., MediaOne, On Command Corporation, SUPERVALU Inc., Time Warner Entertainment Company, L.P., Williams Companies, Inc., and Washington Mutual Inc. and affiliated entities.

1 53. Lillis also has a distinguished record of public service in the academic arena. The
2 Governor of Oregon appointed Lillis Chair of the Board of Trustees of the University of Oregon.
3 He previously served on the University of Washington Business Advisory Board, the University
4 of Washington Foundation Board, and the University of Colorado Foundation Board. Lillis was
5 also the Dean of the University of Colorado's college of business and a professor at Washington
6 State University.

7 54. During the time periods at issue, Lillis had no financial or business connection to
8 any Defendant other than his service on the DISH Board and his ownership of DISH common
9 stock.

10 55. Brokaw is a member of the DISH Board, a member of the Board's Audit
11 Committee, and the Chair of the Board's Nominating Committee. Brokaw is considered
12 independent under the independence requirements of NASDAQ and the SEC rules and
13 regulations.

14 56. From 1996 to 2005, Brokaw worked at Lazard Freres & Co. LLC, where he
15 ultimately became a Managing Director. Thereafter, Brokaw served as Managing Partner and
16 Head of Private Equity at Perry Capital, L.L.C. for six years and as a Managing Director of
17 Highbridge Principal Strategies, LLC until September 30, 2013. Brokaw is currently a
18 Managing Partner in Trafelet Brokaw & Co., LLC.

19 57. Brokaw has served on the boards of directors of multiple other companies,
20 including Alico, Inc. and North American Energy Partners Inc.

21 58. During the time periods at issue, Brokaw had no financial or business connection
22 to any Defendant other than his service on the DISH Board and his ownership of options to
23 acquire DISH common stock.

24 59. Ortolf is the Chair of the Board's Audit Committee, a member of the Board's
25 Compensation Committee, and a member of the Board's Nominating Committee. Ortolf is
26 considered independent under the independence requirements of NASDAQ and the SEC rules
27 and regulations.

28

60. Ortolf was the President and Chief Operating Officer of Echosphere L.L.C. (“Echosphere”) from 1988 to 1991. Echosphere is a current DISH subsidiary, which predated DISH. Ortolf has been the President of Colorado Meadowlark Corp., a privately held investment management firm for over twenty years. Ortolf has been a member of the DISH Board of Directors since 2005.

61. During the time periods at issue, Ortolf had no financial or business connection to any Defendant other than his service on the DISH Board, service on the board of EchoStar, and his ownership of DISH common stock.

IX. The SLC Begins its Investigation

62. The SLC began its investigation of the merits of the claims and issues raised in the Amended Complaint in early December 2013, following Lillis’s addition to the SLC.

63. The SLC and its counsel began collecting and reviewing tens of thousands of documents, including the documents produced in connection with the Motion for Preliminary Injunction in this action, documents produced by SPSO, DISH, Ergen, LBAC and others in the LightSquared Bankruptcy, and additional documents collected from DISH officers and directors specifically for the purposes of the SLC investigation, some dating back to 2005.

64. The SLC also requested and reviewed briefing, transcripts and opinions from the LightSquared Bankruptcy.

65. The full scope of the SLC’s investigation is discussed in detail in paragraphs [[74]]-[[79]] *infra*.

X. The Termination of the DISH Bid

66. After LBAC made the DISH Bid, DISH engaged in due diligence with respect to the LightSquared Assets. When the DISH Bid was submitted, the DISH Board was aware of interference between LightSquared’s downlink spectrum and the wireless spectrum used by GPS devices. According to the SLC, following due diligence, DISH management informed the DISH Board of an additional potential interference issue with LightSquared’s uplink spectrum (the “Technical Issue”). If not resolved, this Technical Issue might, among other things, reduce the anticipated value of the LightSquared Assets, increase regulatory uncertainty surrounding

1 DISH's use of the LightSquared Assets, and impair or prevent DISH's contemplated use of
2 LightSquared's spectrum.²

3 67. After considering the Technical Issue at several prior meetings, on December 23,
4 2013, as reflected in the minutes, the DISH Board:

5 RESOLVED, that . . . (i) the Corporation and LBAC should
6 continue to endeavor to address the above-described concerns,
7 including without limitation negotiating with the LightSquared LP
8 Lenders to add appropriate conditions or other terms to the PSA
9 and LBAC Bid to address the potential technical issue regarding
10 LightSquared's uplink spectrum; and (ii) in the event that the
11 Corporation and LBAC are unsuccessful, the Corporation and
12 LBAC shall be, and they hereby are, authorized to terminate the
13 PSA and LBAC Bid[.]

14 Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation, at 3-4
15 (Dec. 23, 2013) (SLC Report Ex. 443).

16 68. On January 7, 2014, after efforts to modify the DISH bid to address the risk
17 associated with the Technical Issue failed, and after the milestones provision in the PSA had
18 been breached, DISH withdrew the DISH Bid and terminated the PSA. The Ad Hoc Secured
19 Group opposed the termination and sought to compel DISH to specifically perform the DISH

20 ² Following both trial in the Adversary Proceeding and plan confirmation proceedings in the
21 LightSquared Bankruptcy (the "Plan Confirmation Proceeding"), the LightSquared Bankruptcy
22 Court observed: "Whether LBAC terminated its bid because it 'believed' there was a technical
23 issue (even though the record does not support a finding that there was or is such an issue), or
24 because it wanted to make a lower conditional bid, or because Mr. Ergen decided to direct DISH
25 and its capital elsewhere, or because of negative implications for DISH in connection with the
26 Nevada shareholder litigation, remain[ed] unclear." See Decision Denying Confirmation of
27 Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code, at 65, *In re*
28 *LightSquared Inc.*, No. 12-12080 (SCC) (Bankr. S.D.N.Y. July 11, 2014). The SLC
acknowledged the LightSquared Bankruptcy Court's findings in the SLC Report. However, the
SLC determined, consistent with Nevada law, that the issue raised by the DISH Board was the
financial risk to DISH from the uncertainties posed by the Technical Issue, and the DISH Board
was entitled to rely on DISH's managements' well-informed recommendations as to the
implications of the Technical Issue when determining whether it was in DISH's best interest to
withdraw the DISH Bid. NRS 78.138(2)(a) ("In performing their respective duties, directors and
officers are entitled to rely on information, opinions, [and] reports . . . that are prepared or
presented by . . . [o]ne or more directors, officers or employees of the corporation reasonably
believed to be reliable and competent in the matters prepared or presented."). According to the
SLC, the DISH Board's determination to withdraw the DISH Bid is protected by the business
judgment rule. As such, the SLC's determination that it would not be in DISH's best interest to
pursue claims related to the termination of the DISH Bid is not inconsistent with the
LightSquared Bankruptcy Court's ruling with respect to the Technical Issue.

1 Bid. DISH opposed the Ad Hoc Secured Group's Motion. The Bankruptcy Court held that
2 DISH "was free to terminate the PSA and then terminate its bid for any reason once any of those
3 milestones [in the PSA] was missed." Transcript, Hearing: Bench Decision in Adv. Proc. 13-
4 01390-scc., at 151, *In re LightSquared Inc.*, No. 12-120808-scc, Adv. Proc. No. 13-01390-scc
5 (Bankr. S.D.N.Y. May 8, 2014).

6 **XI. Conclusion of the LightSquared Bankruptcy Adversary Proceeding**

7 69. On June 10, 2014, following a full trial on the merits of the claims raised in the
8 Adversary Proceeding, the LightSquared Bankruptcy Court issued an opinion determining that,
9 although technically permissible, Ergen's purchases of the Secured Debt (through SPSO) in
10 April 2013 "violated the spirit and purpose of the Credit Agreement restrictions designed to
11 prevent competitors from purchasing Secured Debt and breached the Credit Agreement's implied
12 covenant of good faith and fair dealing[.]" because it violated the purpose of the provisions of
13 the Credit Agreement restricting which entities were permitted to acquire the Secured Debt.
14 Post-Trial Findings of Fact and Conclusions of Law, at 154, *LightSquared LP v. Special*
15 *Opportunities LLC (In re LightSquared Inc.)*, No. 12-12080 (SCC), Adv. Pro. No. 13-01390
16 (Bankr. S.D.N.Y. June 10, 2014) (Bankruptcy Docket No. 165). The LightSquared Bankruptcy
17 Court did, however, dismiss all of the claims against DISH. *Id.* at 99 n.48.

18 70. On July 25, 2014, Plaintiff filed the Verified Second Amended Shareholder
19 Derivative Complaint of Jacksonville Police and Fire Pension Fund Pursuant to Rule 23.1 of the
20 Nevada Rules of Civil Procedure (the "Second Amended Complaint"), in which Plaintiff
21 asserted additional and modified derivative claims based upon the withdrawal of the DISH Bid.
22 Plaintiff replaced its claim that Ergen had caused DISH to overpay for the LightSquared Assets
23 through the DISH Bid with a claim that Ergen had deprived DISH of the beneficial ability to
24 acquire the LightSquared Assets at the price of the DISH Bid. The Second Amended Complaint
25 added Brokaw, Lillis, Cullen, Kiser, and Dodge as defendants.

71. Through the Second Amended Complaint, Plaintiff sought derivatively to compel DISH to pursue claims generally falling into eight categories:³ First, Plaintiff claimed that Ergen or the Board breached fiduciary duties in connection with the termination of the DISH Bid (the “Bid Termination Claims”). Second, Plaintiff claimed that the inclusion of the Release in the APA caused LightSquared to refuse to proceed with the DISH Bid and to cancel the LightSquared Bankruptcy Auction, to the detriment of DISH. Plaintiff claimed that Ergen and the DISH Board breached fiduciary duties owed to DISH by including or by failing to remove the Release from the DISH Bid (the “Auction Cancellation Claims”). Third, Plaintiff claimed that by purchasing the Secured Debt, Ergen usurped a corporate opportunity of DISH and was unjustly enriched thereby (the “Corporate Opportunity Claims”). Fourth, Plaintiff claimed that in purchasing the Secured Debt, Ergen misused confidential DISH information concerning a strategy for DISH to acquire the LightSquared Assets and was unjustly enriched thereby (the “Confidential Information Claims”). Fifth, Plaintiff claimed that Ergen and the Officer Defendants breached fiduciary duties by failing to notify the Board of Ergen’s purchases of Secured Debt immediately, or upon learning of the purchases (the “Disclosure Claims”). Sixth, Plaintiff claimed that in purchasing the Secured Debt, Ergen and Kiser acted disloyally to DISH in using DISH resources for Ergen’s Secured Debt Purchases and that Ergen was unjustly enriched thereby (the “Corporate Resources Claims”). Seventh, Plaintiff claimed that Ergen breached fiduciary duties by exposing DISH to increased legal risk and legal fees in the LightSquared Bankruptcy by acquiring the Secured Debt, that the Board breached fiduciary duties by paying Ergen’s legal fees, and that Ergen was unjustly enriched as a result (the “Legal Fee Claims”). Eighth, Plaintiff alleged that the Board improperly terminated the STC (the “STC Termination Claim”).

³ The Second Amended Complaint included five Counts, many of which raised multiple legal issues. The SLC Report organized the issues differently than the Second Amended Complaint did. The SLC Report addressed each of the issues raised through the Second Amended Complaint. This Court refers to the claims based on the SLC’s organization, as the parties have generally done in their briefing, for ease of reference.

XII. The SLC Expanded its Investigation to Address the New Claims Raised in the Second Amended Complaint

72. In July of 2014, when Plaintiff filed the Second Amended Complaint, the SLC had been investigating the claims in Jacksonville's Amended Complaint since December 9, 2013. After Plaintiff filed the Second Amended Complaint, the SLC expanded the scope of its investigation to include the additional claims raised in the Second Amended Complaint concerning the termination of the DISH Bid.

73. After receiving the Second Amended Complaint, the SLC and its counsel requested and reviewed additional documents from DISH, DISH's officers, and DISH's directors relevant to the new claims asserted.

74. In the full course of its investigation, the SLC's counsel reviewed more than 39,000 documents, (more than 357,000 pages) from the following custodians: Michael Abatemarco, Jeffrey Blum ("Blum"), Brokaw, Kenneth Carroll, Clayton, Cullen, DeFranco, Dodge, Mike Dugan, Brandon Ehrhart, Cantey Ergen, Ergen, Kevin Gerlitz, Goodbarn, Howard, Anders Johnson, Stephen Ketchum ("Ketchum"), John Kim, Kiser, Lillis, Jennifer Manner, Moskowitz, Ortolf, David Rayner, Rick Richert, Mariam Sorond ("Sorond"), Brad Schneider, Strickland, Vogel, David Zufall, and Sound Point Capital Management LP ("Sound Point"). These documents included all documents produced in this action, the materials produced by DISH, SPSO, Ergen, and Sound Point in the LightSquared Bankruptcy, and additional documents requested by the SLC from all DISH Board members, members of DISH management, and counsel to LBAC, the entity that made the DISH Bid. The members of the SLC personally reviewed the documents that were most pertinent to the SLC's investigation.

75. The SLC and its counsel monitored proceedings in the LightSquared Bankruptcy from the formation of the SLC through the completion of the SLC Report, and thereafter. Among other things, the SLC attended oral arguments in the Adversary Proceeding and monitored telephonically or reviewed transcripts of other substantive hearings, including telephonically monitoring or reviewing transcripts of the open portions of the entire trial on the Adversary Proceeding and the Plan Confirmation hearing.

1 76. Counsel for the SLC reviewed extensive briefing submitted in the LightSquared
2 Bankruptcy, including the briefing concerning the Adversary Proceeding, the scheduling of the
3 auction of the LightSquared Assets and certain other assets of LightSquared, the proceeding
4 seeking confirmation of LightSquared's plan of reorganization (the "Confirmation Proceeding"),
5 and the termination of the DISH Bid. Counsel for the SLC monitored significant hearings and
6 reviewed testimony within the LightSquared Bankruptcy to the extent available under the
7 confidentiality stipulation governing LightSquared's Bankruptcy, including reviewing all
8 available transcripts concerning the submission of DISH's Bid, the auction scheduling, the
9 termination of DISH's Bid, the Adversary Proceeding, and the Confirmation Proceeding.
10 Counsel for the SLC also attended many of the aforementioned proceedings telephonically or in
11 person. The SLC or its counsel reviewed transcripts of every deposition taken in the
12 LightSquared Bankruptcy available for use in this proceeding under the confidentiality
13 stipulation in the LightSquared Bankruptcy, including transcripts of the LightSquared
14 Bankruptcy depositions of Cullen, Ergen, Howard, Ketchum, Kiser, Joseph Roddy, and Sorond.

15 77. The SLC interviewed numerous people including conducting formal interviews of
16 present and former defendants: Clayton, Cullen, DeFranco, Dodge, Cantey Ergen, Ergen,
17 Goodbarn, Howard, Kiser, Moskowitz, and Vogel; DISH senior executives and regulatory and
18 technical experts: Blum and Sorond; and counsel for Ergen, LBAC and SPSO: Mundiya, Sorkin,
19 and Strickland. Several people were interviewed both in connection with the SLC's
20 investigation of Plaintiff's Motion for Preliminary Injunction and the SLC's investigation of
21 Plaintiff's substantive claims. As a result, the SLC conducted a total of 21 interviews, of 16
22 different people. In most cases, all three members of the SLC attended these interviews.

23 78. The SLC also requested interviews from Plaintiff, LightSquared, and the Ad Hoc
24 Secured Group. However, each of these requests, including the request to interview Plaintiff,
25 was refused.

26 79. Finally, the SLC received extensive legal advice on the issues raised by the
27 matters under investigation at numerous points throughout its investigation.
28

XIII. Motions to Dismiss the Second Amended Complaint

80. On August 29, 2014 the SLC moved to dismiss the Second Amended Complaint, pursuant to Rule 23.1, for failure to plead demand futility; the Director Defendants moved to dismiss the Second Amended Complaint, pursuant to NRCP 12(b)(5), for failure to state a claim upon which relief can be granted; and the Ergen Defendants moved to dismiss the Second Amended Complaint for failure to state a claim upon which relief can be granted.

81. On September 15, 2014, the Officer Defendants moved to dismiss the Second Amended Complaint, pursuant to NRCP 12(b)(5) and Rule 23.1, for failure to state a claim upon which relief can be granted and failure to plead demand futility.

XIV. The SLC's Report and Subsequent Motion to Defer

82. On October 24, 2014, the SLC filed with this Court the SLC Report, which detailed its investigation of the claims asserted in the Second Amended Complaint.

83. In its 330-page SLC Report, the SLC extensively described the scope and depth of its investigation and the facts that it found to be true based on that investigation. The SLC also analyzed the factual and legal bases for each of the claims asserted in the Second Amended Complaint. The SLC ultimately concluded that "it would not be in the best interests of DISH to pursue the claims asserted by Jacksonville in the Nevada Litigation." SLC Report, at 333.

84. It is beyond the scope of this opinion to capture the SLC's full reasoning, set forth in detail in the SLC Report. The SLC Report provides extensive factual, legal, and practical reasons why pursuit of each one of Plaintiff's claims would not be in the best interests of DISH. Among the reasons set forth in the SLC Report, the SLC determined that certain claims advanced by Plaintiff were foreclosed by DISH's certificate of incorporation, certain claims lacked a cognizable damages theory, certain claims were not meritorious as a matter of law, and certain claims could not be proven in light of uncontroversial factual determinations. The Court finds that each of the SLC's determinations is reasonable and neither egregious nor irrational.

85. On November 17, 2014, the SLC filed its Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed (the "Motion to Defer"). In connection

1 with the Motion to Defer, each SLC member filed a declaration addressing his independence
2 from Defendants under the relevant legal standards.

3 86. Oral argument was initially held on the Motion to Defer on January 12, 2015. At
4 oral argument, Plaintiff for the first time requested discovery pursuant to Nevada Rule 56(f).

5 87. This Court granted Plaintiff's request for discovery. The Court also scheduled
6 supplemental briefing following discovery and supplemental oral argument.

7 88. Plaintiff was permitted to take, and did take, discovery into the independence of
8 the SLC and the thoroughness of its investigation. The SLC gathered and produced documents
9 from the files of the individual SLC members covering a six-year period, documents from the
10 files of SLC counsel, and documents from the files of DISH Board members. Pursuant to a
11 stipulation and order preserving the SLC's work product protection, the SLC also produced
12 certain work product prepared in the course of its investigation, including summaries of the
13 interviews that it conducted and the documents received by the SLC members in the course of
14 the investigation. Plaintiff also deposed each of the SLC members: Lillis, Brokaw, and Ortolfo.

15 89. On July 16, 2015, the supplemental oral argument was held on the SLC's Motion
16 to Defer.

17 90. If any findings of fact are properly conclusions of law, they shall be treated as if
18 appropriately identified and designated.

19 **CONCLUSIONS OF LAW**

20 1. This Court has subject matter jurisdiction over all claims asserted in the Second
21 Amended Complaint and personal jurisdiction over all the parties.

22 2. "[U]nder Nevada's corporations laws, a corporation's 'board of directors has full
23 control over the affairs of the corporation.'" *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 632,
24 137 P.3d 1171, 1178 (2006) (quoting NRS 78.120(1)). Therefore, in "managing the
25 corporation's affairs, the board of directors may generally decide whether to take legal action on
26 the corporation's behalf." *Id.*, 122 Nev. at 632, 137 P.3d at 1179; *see also In re Amerco*
27 *Derivative Litig.*, 127 Nev. Adv. Op. 17, 252 P.3d 681, 705 (Nev. 2011) ("Among the matters
28 entrusted to a corporation's directors is the decision to litigate -- or not to litigate -- a claim by

1 the corporation against third parties.”) (citing *In re Citigroup S’holder Derivative Litig.*, 964
2 A.2d 106, 120 (Del. Ch. 2009)). Nevada law gives strong preference to honoring the business
3 judgment of the boards of directors of Nevada corporations. *See Shoen*, 122 Nev. at 621, 137
4 P.3d at 1181; NRS 78.138(3) (“Directors and officers, in deciding upon matters of business, are
5 presumed to act in good faith, on an informed basis and with a view to the interests of the
6 corporation.”).

7 3. Under Nevada law, a stockholder may pursue litigation on a corporation’s behalf
8 only where the stockholder both alleges and proves “particularized factual statements . . . that
9 making a demand [for the Board to cause the corporation to pursue the litigation] would be futile
10 or otherwise inappropriate.” *Id.*, 122 Nev. at 634, 137 P.3d at 1179-80; *see also* NRS 41.520;
11 NRCP 23.1.

12 4. If a stockholder makes this showing, the board nonetheless may properly delegate
13 to a special litigation committee of the board authority to control the litigation and, if the
14 committee determines that the litigation is not in the best interests of the corporation, to
15 terminate the litigation. NRS 78.125; 13 William Meade Fletcher, *Fletcher Cyclopedia of the*
16 *Law of Corporations* (“Fletcher Cyclopedia”) § 6019.50 (West 2014).

17 **I. Standard of Review for a Special Litigation Committee Motion Under Nevada Law**

18 5. No Nevada court has ruled on the standard by which to review a special litigation
19 committee’s determination on behalf of the corporation as to whether or in what respect it is in
20 the corporation’s best interest to pursue litigation. Most jurisdictions outside of Nevada follow a
21 form of either the majority *Auerbach* standard or the minority *Zapata* standard. *See Auerbach v.*
22 *Bennett*, 393 N.E.2d 994 (N.Y. 1979); *Zapata Corp. v. Maldonado*, 430 A.2d 779 (Del. 1981).

23 6. Under the *Auerbach* standard, a court defers to the business judgment of a special
24 litigation committee if (a) the special litigation committee is independent and (b) its procedures
25 and methodologies were not so deficient as to demonstrate a lack of good faith in the
26 investigation. *See Auerbach*, 393 N.E.2d at 1003.

27 7. Under the *Zapata* standard, the Court applies these same considerations, but the
28 *Zapata* standard also includes an optional “second step.” *See Carlton Invs. v. Tlc Beatrice Int’l*

1 *Holdings*, No. 13950, 1997 WL 305829, at *2 (Del. Ch. May 30, 1997). If “the court could not
2 consciously determine on the first leg of the analysis that there was no want of independence or
3 good faith, [but] it nevertheless ‘felt’ that the result reached was ‘irrational’ or ‘egregious’ or
4 some other such extreme word[,]” the second step of the *Zapata* standard permits the Court to
5 apply its own business judgment review to determine whether the litigation is in the best interests
6 of the corporation. *Id.* Delaware courts, which developed the *Zapata* standard, have noted that
7 “courts should not make such judgments but for reasons of legitimacy and for reasons of
8 shareholder welfare.” *Id.*

9 8. In this case, the determination of whether *Auerbach* or *Zapata* is the appropriate
10 standard under Nevada law is not dispositive. If *Zapata* were to apply, the SLC’s determination
11 is not “irrational” or “egregious” so as to merit review under the optional second step of a *Zapata*
12 analysis. This Court therefore need not determine which standard of review is appropriate.

13 9. Nevada gives strong preference to honoring the business judgment of boards and
14 their committees. NRS 78.125, 78.138. Nevada further recognizes that disclosed conflicts do not
15 necessarily prevent business judgment from being exercised. NRS 78.140. Here, in considering
16 the Motion to Defer, the Court focuses on two issues: thoroughness and independence of the
17 SLC. This is consistent with the standards adopted outside of Nevada, which generally defer to
18 the business judgment of a special committee that is independent and investigated the claims in
19 good faith, even where the court may have approached the investigation differently. *In re*
20 *Consumers Power Co. Derivative Litig.*, No. 87-CV-60103-AA, 132 F.R.D. 455, 483 (E.D.
21 Mich. 1990) (“[F]or the business judgment rule to apply, a corporation is not required to
22 undertake the ideal or perfect investigation[.]”); *see also Hirsch v. Jones Intercable, Inc.*, 984
23 P.2d 629, 637-38 (Colo. 1999) (“[B]ecause most courts are ill equipped and infrequently called
24 on to evaluate what are and must be essentially business judgments, . . . the role of a . . . trial
25 court in reviewing an SLC’s decision regarding derivative litigation should be limited to
26 inquiring into the independence and good faith of the committee.”) (citation omitted).

II. The SLC Is Independent.⁴

10. A director lacks independence if the director is “beholden” to an interested person. *See, e.g., Jacobi v. Ergen*, 2:12-CV-2075-JAD-GWF, 2015 WL 1442223, at *5 (D. Nev. Mar. 30, 2015). Beholdenness is generally shown through financial dependence. *See La. Mun. Police Emples. Ret. Sys. v. Wynn*, 2:12-CV-509 JCM GWF, 2014 WL 994616, at *5 (D. Nev. Mar. 13, 2013), *appeal docketed*, No. 14-15695 (9th Cir. April 11, 2014).⁵

11. It is well-settled that “long-standing personal and business ties” are insufficient to “overcome the presumption of independence that all directors . . . are afforded.” *In re Walt Disney Co. Derivative Litig.*, 731 A.2d 342, 355 (Del. Ch. 1998), *aff’d in part, rev’d in part on other grounds sub nom. Brehm v. Eisner*, 746 A.2d 244 (Del. 2000); *see also Wynn*, 2014 WL 994616, at *6-7, *18 (“Allegations of a lengthy friendship are not enough” to find a director “beholden[,]” including allegations that directors had “been close . . . since they were young” as a result of their fathers’ business together and the interested director’s past employment of the other director and the other director’s siblings); *Highland Legacy Ltd. v. Singer*, No. 1566-N, 2006 WL 741939, at *5 (Del. Ch. Mar. 17, 2006) (“It is well settled that the naked assertion of a previous business relationship is not enough to overcome the presumption of a director’s independence.”) (internal quotation marks omitted); *Ankerson v. Epik Corp.*, 2005 WI App 1, at

⁴ The parties disagree as to whether the burden on these issues lies with the SLC or Plaintiff. Nevada courts have not addressed this question previously. In most jurisdictions, the special litigation committee bears the burden to establish its own independence and the good faith, thoroughness of its investigation. The SLC however argues that, due to the statutory presumption of N.R.S. 78.138(3), the members of the SLC are presumed to have acted in good faith and on a fully informed basis, and that shifting the burden to the SLC would be inconsistent with this presumption. The Court need not address this issue because it concludes that the SLC was independent and conducted a good faith, thorough investigation and that the motion should be granted, irrespective of which party bears the burden.

⁵ The substantive test for special litigation committee independence is no different from the substantive test for director independence generally. *See In re ITT Derivative Litig.*, 932 N.E.2d 664, 666 (Ind. 2010) (“[T]he same standard [applies] for showing ‘lack of disinterestedness’ both as to the composition of special board committees . . . and to the requirement that a shareholder must make a demand.”); *see also St. Clair Shores Gen. Emps. Ret. Sys. v. Eibeler*, No. 06 Civ. 688(SWK), 2008 WL 2941174, at *8 n.7 (S.D.N.Y. July 30, 2008) (stating that demand futility cases are “relevant to the [SLC] context” in terms of their “treatment of director independence” and explaining that the “formula for evaluating independence of special litigation committees is consistent with that which pertains in demand excusal cases”) (citing *In re Oracle Corp. Derivative Litig.*, 824 A.2d 917, 938-39 (Del. Ch. 2003)). Thus, this Court cites authority from both contexts interchangeably.

*3, 690 N.W.2d 885 (Wis. Ct. App. 2004) (TABLE) (“A director may be independent even if he or she has had some personal or business relation with an individual director accused of wrongdoing.”); *Jacobi*, 2015 WL 1442223, at *5 (“Even allegations of friendship or affinity are insufficient to rebut the presumption that a director acts independently.”); *Freedman v. Redstone*, No. CV 12-1052-SLR, 2013 WL 3753426, at *8 (D. Del. July 16, 2013) *aff’d*, 753 F.3d 416 (3d Cir. 2014) (“Standing alone, plaintiff’s allegation that Greenberg is a close friend and advisor to an interested director defendant does not create a reasonable doubt that Greenberg would have been ‘beholden’ to another director.”) (emphasis added).

12. Plaintiff argues that Lillis lacks independence from Cullen because Lillis and Cullen were both employed at MediaOne during the same time period, Lillis worked with Cullen at LoneTree Capital Partners, and Lillis and Cullen continue to see each other socially perhaps twice per year, including attending occasional football games together. Plaintiff also argues that Lillis lacks independence from Vogel because Vogel was the President and Chief Executive Officer of Charter when Lillis served on Charter’s board.

13. There is no evidence that Lillis is beholden to Cullen, Vogel, or any other defendant. During the relevant time period, Lillis had no financial or business connection to any defendant other than his service on the DISH Board. As detailed above, professional relationships and friendships do not suffice to negate independence. The relationships between Lillis and Cullen and Vogel do not undermine Lillis’s independence. Based upon all of the evidence presented, including Lillis’s declaration, exhibits provided by Plaintiff, briefing on the subject, and oral argument, the Court finds that there is no genuine issue of material fact as to Lillis’ independence. Lillis is clearly not beholden and therefore is clearly independent under the relevant legal authority.

14. A special litigation committee is generally independent if the committee cannot lawfully act without the approval of at least one director who is independent. *See Johnson v. Hui*, 811 F.Supp. 479, 486-87 (N.D. Cal. 1991); *see also Struogo ex rel. Brazil Fund v. Padegs*, 27 F. Supp. 2d 442, 450 n.3 (S.D.N.Y. 1998); *In re Oracle Sec’s Litig.*, 852 F. Supp. 1437, 1442

(N.D. Cal. 1994).⁶ This is true even if there is reason to doubt the independence of another member or other members of the special litigation committee.

15. The voting structure of the SLC requires that Lillis vote affirmatively in favor of any resolution of the SLC in order for it to have effect. The evidence of the independence of Messrs. Brokaw and Ortolf coupled with the unusual voting structure of the SLC demonstrates that the SLC is independent.

16. Plaintiff makes numerous assertions concerning the independence of the other members of the SLC, Messrs. Brokaw and Ortolf,⁷ the significance of which the SLC disputes.⁸ In all events, after considering the evidence concerning the independence of Messrs. Brokaw and Ortolf, together with the evidence concerning the independence of Mr. Lillis and his voting power, the Court is persuaded that the SLC as a whole was independent and acted independently.

17. Plaintiff's assertions, which follow expansive discovery into the SLC's independence, do not raise any genuine issue of material fact with respect to whether the SLC as a whole acted independently.⁹

18. The Court thus concludes that there is no genuine issue of material fact with respect to whether the SLC's business judgment is independent as a matter of Nevada law. *See Johnson v. Hui*, 811 F.Supp. 479, 486-87 (N.D. Cal. 1991) (special litigation committee is generally independent if the committee cannot lawfully act without the approval of at least one director who is independent); *see also Struogo ex rel. Brazil Fund v. Padeys*, 27 F. Supp. 2d 442,

⁶ The same might not hold if the independent director was overcome by a director who lacks independence. Such was not this case here.

⁷ Generally, with respect to Brokaw, Plaintiff argues that Brokaw lacks independence because Brokaw has a social relationship with the Ergens, in which Cantey Ergen is godmother to one of Brokaw's children. Generally, with respect to Ortolf, Plaintiff argues that Ortolf lacks independence because Ortolf has a close friendship with the Ergens.

⁸ Numerous courts considering facts similar to those raised by Plaintiff have determined that such social relationships, even close friendships, do not render a director lacking independence. *See, e.g., Jacobi*, 2015 WL 1442223, at *5 ("Even allegations of friendship or affinity are insufficient to rebut the presumption that a director acts independently.").

⁹ Moreover, Plaintiff has not identified any genuine issue of material fact with respect to whether the issues that it raises with respect to Brokaw and Ortolf were disclosed. The disclosure of all potential challenges to the SLC members' independence provides an additional basis to find the SLC as a whole independent in light of Lillis' independence.

1 450 n.3 (S.D.N.Y. 1998); *In re Oracle Sec's Litig.*, 852 F. Supp. 1437, 1442 (N.D. Cal. 1994).

2 The SLC as a whole is independent given all of the evidence presented.

3 19. Plaintiff also argues that the SLC members lack independence because the Second
4 Amended Complaint asserts claims against them.¹⁰ Allowing a putative derivative plaintiff to
5 disqualify members of an independent committee simply by asserting claims against those
6 members, regardless of the merits of the claims, would give a putative derivative plaintiff the
7 power to unilaterally nullify the strong presumption of the business judgement rule under
8 Nevada law and, *a fortiori*, replace the business judgement of any board or committee thereof
9 with that of the plaintiff in every putative derivative action. Asserting claims against a director
10 neutralizes the director's ability to objectively assess the merits of the litigation for the
11 corporation only "in those 'rare case[s] . . . where defendants' actions were so egregious that a
12 substantial likelihood of director liability exists'" as a result of the claim. *Shoen*, 122 Nev. at
13 639-40, 137 P.3d at 1184 (quoting *Seminaris v. Landa*, 662 A.2d 1350, 1354 (Del. Ch. 1995)).

14 20. DISH's articles of incorporation indemnify and exculpate DISH's Board of
15 Directors (the "Board") from liability for any breach of the fiduciary duty of care.

16 21. Particularly in light of the exculpation and indemnification provision in DISH's
17 articles of incorporation — and the fact that Lillis joined the DISH Board four months after this
18 action was filed — the challenged actions of the SLC members, even if they might potentially
19 give rise to liability, were not so "egregious that a substantial likelihood of director liability
20 exists." Thus, there is no genuine issue of material fact with respect to whether the claims
21 asserted against the SLC members undermine the independence of the SLC.

22 22. Based upon the above and all the evidence and legal authority presented, the
23 Court is persuaded that there is no genuine issue of material fact as to the independence of the
24 SLC. The SLC is independent.

25
26 ¹⁰ Often courts frame the analysis of whether claims asserted against a director neutralize that
27 director's exercise of business judgment as a question of interest, rather than of independence.
28 This opinion addresses the issue as one of independence because Plaintiff frames the issue in that
manner. The question would be analyzed in the same manner and with the same outcome if
framed as a question of the SLC members' disinterest.

1 **III. The SLC Conducted a Good Faith, Thorough Investigation.**

2 23. Both *Auerbach* and *Zapata* establish the same standard by which a court should
3 analyze the good faith, thoroughness of a special litigation committee's investigation:

4 What has been uncovered and the relative weight accorded in
5 evaluating and balancing the several factors and considerations are
6 beyond the scope of judicial concern. Proof, however, that the
7 investigation has been so restricted in scope, so shallow in
8 execution, or otherwise so pro forma or halfhearted as to constitute
a pretext or sham, consistent with the principles underlying the
application of the business judgment doctrine, would raise
questions of good faith or conceivably fraud which would never be
shielded by that doctrine.

9 *Auerbach*, 393 N.E.2d at 1002-03. See also *Stein v. Bailey*, 531 F. Supp. 684, 691, 695
10 (S.D.N.Y. 1982) (under the *Zapata* standard, "[p]roof . . . that the investigation has been so
11 restricted in scope, so shallow in execution, or otherwise so pro forma or halfhearted as to
12 constitute a pretext or sham . . . would raise questions of good faith") (internal quotation marks
13 omitted); *Hasan v. CleveTrust Realty Investors*, 729 F.2d 372, 378 (6th Cir. 1984) (*Auerbach*
14 and *Zapata* "are convergent in their approach to the issues of good faith and thoroughness.").

15 24. Regardless of which standard applies, the Court finds that the SLC conducted a
16 good faith, thorough investigation. As detailed above, the SLC reviewed thousands of
17 documents, interviewed numerous witnesses and thoroughly analyzed each of the claims in its
18 330-page Report. See *supra*, paragraphs [[74]] – [[86]] and [[83]] – [[84]]. The SLC Report
19 addressed each of the significant concerns raised by the Second Amended Complaint.

20 25. Although Plaintiff makes numerous assertions concerning supposed deficiencies
21 or bad faith of the SLC's investigation, none of the assertions has merit:

22 26. Among other assertions, Plaintiff asserts that the SLC failed to address or
23 concealed evidence concerning compliance by Ergen and his counsel with this Court's partial
24 preliminary injunction. Contrary to Plaintiff's assertion, the SLC disclosed the comments that
25 counsel for SPSO made concerning the Release to the LightSquared Bankruptcy Court and
26 addressed the implications of those statements, based upon the full record. Furthermore, there is
27 no evidence that Ergen or his counsel failed to comply with this Court's partial preliminary
28 injunction.

27. Plaintiff also asserts that the SLC failed to analyze the STC Termination Claim. Contrary to Plaintiff's assertion, the SLC Report addressed this issue at pages 325 to 327 of the SLC Report.

28. Plaintiff also asserts that the SLC failed to address Plaintiff's derivative claim for unjust enrichment. Contrary to Plaintiff's assertion, the SLC addressed Plaintiff's claim for unjust enrichment in connection with the SLC's consideration of Plaintiff's other claims as set forth at pages 301-02, 312-13, 321-22, and 324-25 of the SLC Report.

29. Regardless of whether Plaintiff may have preferred that its claims be investigated differently, Plaintiff has not identified a genuine issue of material fact with respect to whether the SLC's investigation of the claims set forth in the Second Amended Complaint was thorough and conducted in good faith.

30. The Court concludes that there is no genuine issue of material fact as to the thoroughness or good faith of the SLC's extensive investigation. The SLC is independent and conducted a good faith, thorough investigation. For this reason, the Court grants the SLC's Motion and dismisses this action with prejudice. The Court does so based upon the independence of the SLC and thoroughness and good faith of its investigation.

31. If this Court were to adopt the *Zapata* standard, this Court likewise would find that standard met, for, among other reasons, the conclusions in the SLC Report were neither irrational nor egregious.

IV. The Remaining Motions to Dismiss Are Moot.

32. The SLC's Motion to Dismiss under Rule 23.1 and the Director Defendants', Officer Defendants', and Ergen Defendants' Motions to Dismiss are moot at this time.

33. If any conclusions of law are properly findings of fact, they shall be treated as if appropriately identified and designated.

THEREFORE, having made the foregoing Findings of Fact and Conclusions of Law, and good cause appearing,


1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the SLC's Motion to
2 Defer to the SLC's Determination That the Claims Should Be Dismissed is hereby GRANTED
3 and this action is dismissed with prejudice.

4 IT IS FURTHER ORDERED that in light of the Court's ruling on the SLC's Motion to
5 Defer, the Court need not rule upon the SLC's Motion to Dismiss for Failure to Plead Demand
6 Futility, the Director Defendants' Motion to Dismiss the Second Amended Complaint, The
7 Officer Defendants' Motion to Dismiss the Second Amended Complaint, and Defendants
8 Charles W. Ergen and Cantey M. Ergen's Motion to Dismiss the Second Amended Derivative
9 Complaint of Jacksonville Police and Fire Pension Fund. These and any other pending motions
10 are hereby denied without prejudice as moot.

11 DATED this 19th day of September 2015.

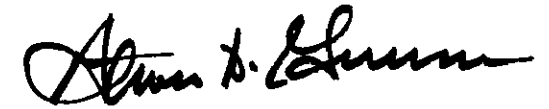
12
13 
14 DISTRICT COURT JUDGE

15 Respectfully submitted by:

16 
17 J. Stephen Peek
18 Robert J. Cassity
19 HOLLAND & HART LLP
20 9555 Hillwood Drive, 2nd Floor
21 Las Vegas, NV 89134

22 Holly Stein Sollod (*pro hac vice*)
23 HOLLAND & HART LLP
24 555 17th Street Suite 3200
25 Denver, CO 80202

26 David C. McBride (*pro hac vice*)
27 Robert S. Brady (*pro hac vice*)
28 C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801
*Attorneys for the Special Litigation Committee
of DISH Network Corporation*



CLERK OF THE COURT

NEOJ

J. Stephen Peek
Nevada Bar No. 1758
Robert J. Cassity
Nevada Bar No. 9779
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 669-4600
Fax: (702) 669-4650

Holly Stein Sollod (*pro hac vice*)
HOLLAND & HART LLP
555 17th Street Suite 3200
Denver, CO 80202
Phone (303) 295-8000
Fax: (303) 975-5395

David C. McBride (*pro hac vice*)
Robert S. Brady (*pro hac vice*)
C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801
Phone: (302) 571-6600
Fax: (302) 571-1253

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

DISTRICT COURT

CLARK COUNTY, NEVADA

IN RE DISH NETWORK DERIVATIVE
LITIGATION

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

Consolidated with A688882

**NOTICE OF ENTRY OF FINDINGS OF
FACT AND CONCLUSIONS OF LAW
REGARDING THE MOTION TO DEFER
TO THE SLC'S DETERMINATION
THAT THE CLAIMS SHOULD BE
DISMISSED**

PLEASE TAKE NOTICE that Findings of Fact and Conclusions of Law Regarding the
Motion to Defer to the SLC's Determination that the Claims Should be Dismissed were entered

on the 18th day of September 2015. A copy is attached.

DATED this 2nd day of October 2015

/s/ Robert J. Cassity

J. Stephen Peek
Nevada Bar No. 1758
Holly Stein Sollod
Robert J. Cassity
Nevada Bar No. 9779
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Holly Stein Sollod (*pro hac vice*)
HOLLAND & HART LLP
555 17th Street Suite 3200
Denver, CO 80202

David C. McBride (*pro hac vice*)
Robert S. Brady (*pro hac vice*)
C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801

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

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 2nd day of October 2015, a true and correct copy of the
3 foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF**
4 **LAW REGARDING THE MOTION TO DEFER TO THE SLC'S DETERMINATION**
5 **THAT THE CLAIMS SHOULD BE DISMISSED** was served by the following method(s):

6 × Electronic: by submitting electronically for filing and/or service with the Eighth
7 Judicial District Court's e-filing system and served on counsel electronically in
accordance with the E-service list to the following email addresses:

8 See the attached E-Service Master List

9 ☐ U.S. Mail: by depositing same in the United States mail, first class postage fully
10 prepaid to the persons and addresses listed below:

11 ☐ Email: by electronically delivering a copy via email to the following e-mail address:

12 ☐ Facsimile: by faxing a copy to the following numbers referenced below:

13 /s/ Valerie Larsen
14 An Employee of Holland & Hart LLP

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

**E-Service Master List
For Case****null - Jacksonville Police and Fire Pension Fund, Plaintiff(s) vs. Charles Ergen, Defendant(s)****Bernstein Litowitz Berger & Grossmann LLP****Contact**Adam D. Hollander
Jeroen Van Kwawegen
Mark Lebovitch**Email**adam.hollander@blbqlaw.com
jeroen@blbqlaw.com
markl@blbqlaw.com**Brownstein Hyatt Farber Schreck, LLP****Contact**Jeffrey S. Rugg
Karen Mandall
Maximilien "Max" D. Fetaz**Email**jrugg@bhfs.com
kmandall@bhfs.com
MFetaz@BHFS.com**Cadwalader Wickersham****Contact**Brittany Schulman
Gregory Beaman
William Foley**Email**brittany.schulman@cwt.com
Gregory.Beamen@cwt.com
William.Foley@cwt.com**Greenberg Traurig, LLP****Contact**6085 Joyce Heilich
7132 Andrea Rosehill
IOM Mark Ferrario
LVGTDocketing
RRW Randolph Westbrook**Email**heilichj@gtlaw.com
rosehilla@gtlaw.com
lvitdock@gtlaw.com
lvitdock@gtlaw.com
westbrookr@gtlaw.com**Holland & Hart****Contact**

Steve Peek

Emailspeek@hollandhart.com**Holland & Hart LLP****Contact**Robert Cassity
Valerie Larsen**Email**bcassity@hollandhart.com
vlarsen@hollandhart.com**Holley Driggs Walch Fine Wray Puzey & Thompson****Contact**

Dawn Dudas

Emailddudas@nevadafirm.com**Holley Driggs Walch Puzey Thompson****Contact**

William N. Miller

Emailwmiller@nevadafirm.com**Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson****Contact**

Brian W. Boschee

Emailbboschee@nevadafirm.com**Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson****Contact**

Brian W. Boschee, Esq.

Emailbboschee@nevadafirm.com**Holley, Driggs, Walch, Puzey & Thompson****Contact**

William N. Miller

Emailwmiller@nevadafirm.com**Pisanelli Bice PLLC****Contact**Debra L. Spinelli
Paul Garcia
PB Lit**Email**dls@pisanellibice.com
pg@pisanellibice.com
lit@pisanellibice.com

Reisman Sorokac**Contact**

Joshua H. Reisman, Esq.
Kelly Wood

Email

JReisman@rsnvlaw.com
kwood@rsnvlaw.com

Sullivan & Cromwell, LLP**Contact**

Andrew L. Van Houter
Brian T. Frawley
Heather Celeste Mitchell

Email

vanhoutera@sullcrom.com
frawleyb@sullcrom.com
MITCHELLH@SULLCROM.COM

Willkie, Farr & Gallagher LLP**Contact**

Tariq Mundiya

Email

tmundiya@willkie.com

Winston & Strawn**Contact**

Bruce R. Braun

Email

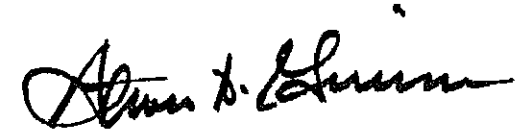
BBraun@winston.com

Young, Conway, Stargatt & Taylor, LLP**Contact**

C. Barr Flinn

Email

bflinn@ycst.com



CLERK OF THE COURT

1 **FFCL**

J. Stephen Peek

2 Nevada Bar No. 1758

Robert J. Cassity

3 Nevada Bar No. 9779

HOLLAND & HART LLP

4 9555 Hillwood Drive, 2nd Floor

Las Vegas, NV 89134

5 Phone: (702) 669-4600

Fax: (702) 669-4650

6 Holly Stein Sollod (*pro hac vice*)

7 HOLLAND & HART LLP

555 17th Street Suite 3200

8 Denver, CO 80202

Phone (303) 295-8000

9 Fax: (303) 975-5395

10 David C. McBride (*pro hac vice*)

Robert S. Brady (*pro hac vice*)

11 C. Barr Flinn (*pro hac vice*)

Emily V. Burton (*pro hac vice*)

12 YOUNG, CONAWAY, STARGATT & TAYLOR, LLP

Rodney Square

13 1000 North King Street

Wilmington, DE 19801

14 Phone: (302) 571-6600

Fax: (302) 571-1253

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

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 **IN RE DISH NETWORK CORPORATION**
20 **DERIVATIVE LITIGATION**

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

Consolidated with A688882

21
22 **FINDINGS OF FACT AND**
23 **CONCLUSIONS OF LAW REGARDING**
24 **THE MOTION TO DEFER TO THE**
25 **SLC'S DETERMINATION THAT THE**
26 **CLAIMS SHOULD BE DISMISSED**

26 This matter came before the Court for hearing on the Motion to Defer to the SLC's
27 Determination That the Claims Should Be Dismissed (the "Motion to Defer") on January 12,
28 2015 at 8:00 a.m. During oral argument, Plaintiff Jacksonville Police and Fire Pension Fund

1 (“Plaintiff” or “Jacksonville”) presented a motion and affidavit pursuant to Nevada Rule 56(f)
2 requesting certain discovery. The Court granted Plaintiff discovery regarding the independence
3 of the Special Litigation Committee of DISH Network Corporation (the “SLC”) and the
4 thoroughness of its investigation. The Court also scheduled supplemental briefing following
5 discovery and supplemental oral argument.

6 After Plaintiff completed its requested discovery, it filed a Supplemental Opposition to
7 the Motion to Defer and the SLC filed a Supplemental Reply in support of the Motion to Defer.
8 On July 16, 2015 at 8:00 a.m., the Court entertained supplemental oral argument on the SLC’s
9 Motion to Defer. Plaintiff appeared by and through its counsel of record, Brian W. Boschee,
10 Esq. and William N. Miller, Esq. of Cotton, Driggs, Walch, Holley, Woloson & Thompson,
11 Mark Lebovitch, Esq. and Adam Hollander, Esq. of Bernstein Litowitz Berger & Grossman LLP,
12 and Gregory Eric Del Gaizo, Esq. of Robbins Arroyo LLP; Defendants James DeFranco, David
13 K. Moskowitz, and Carl E. Vogel (together the “Director Defendants”) appeared by and through
14 their counsel of record Jeffrey S. Rugg, Esq. and Maximilien D. Fetaz, Esq. of Brownstein Hyatt
15 Farber Schreck, LLP and Brian T. Frawley, Esq. of Sullivan & Cromwell LLP; Defendants
16 Charles W. Ergen and Cantey M. Ergen (together the “Ergen Defendants” or the “Ergens”)
17 appeared by and through their counsel of record Joshua H. Reisman, Esq. of Reisman Sorokac
18 and Tariq Mundiya, Esq. of Willkie Farr & Gallagher LLP; Defendants R. Stanton Dodge,
19 Thomas A. Cullen, and Jason Kiser (together the “Officer Defendants”) appeared by and through
20 their counsel of record James J. Pisanelli, Esq. of Pisanelli Bice PLLC and Bruce Braun, Esq. of
21 Sidley Austin LLP; and the SLC, consisting of Charles M. Lillis, George R. Brokaw, and Tom
22 A. Ortolf, appeared by and through its counsel of record J. Stephen Peek, Esq., Holly Stein
23 Sollod, Esq., telephonically, and Robert J. Cassity, Esq. of Holland & Hart LLP and C. Barr
24 Flinn, Esq. and Emily V. Burton, Esq. of Young, Conaway, Stargatt & Taylor, LLP.

25 The Court, having reviewed and considered the pleadings and briefing submitted by the
26 parties and the evidence attached thereto or introduced during hearings with respect to the SLC’s
27 Motion to Dismiss for Failure to Plead Demand Futility, the Director Defendants’ Motion to
28 Dismiss the Second Amended Complaint, the Officer Defendants’ Motion to Dismiss the Second

1 Amended Complaint, Defendants Charles W. Ergen and Cantey M. Ergen's Motion to Dismiss
2 the Second Amended Derivative Complaint of Jacksonville Police and Fire Pension Fund, and
3 the SLC's Motion to Defer and having reviewed and considered the Report of the Special
4 Litigation Committee of DISH Network Corporation, dated October 24, 2014 (the "SLC
5 Report") and the arguments of counsel with respect to the SLC's Motion to Defer, makes the
6 following findings of fact and conclusions of law.

7 **FINDINGS OF FACT**

8 1. Through this action, Plaintiff seeks to assert, derivatively on behalf of DISH
9 Network Corporation ("DISH" or the "Company"), certain claims arising from, among other
10 things, (a) purchases by the Chairman of DISH's Board of Directors, Charles W. Ergen
11 ("Ergen"), through SP Special Opportunities, LLC ("SPSO"), of secured debt of LightSquared
12 L.P. ("LightSquared") in 2012 and 2013, (b) the termination of the special transaction committee
13 (the "STC") established by the DISH Board of Directors (the "Board") to consider a bid for
14 wireless spectrum and related assets of LightSquared (the "LightSquared Assets"), (c) the
15 subsequent bid by DISH (the "DISH Bid") for the LightSquared Assets, (d) the withdrawal of the
16 DISH Bid in early 2014, and (e) the establishment of the SLC.

17 **I. General Background**

18 2. DISH is a Nevada corporation in good standing.

19 3. The Ergens, along with James DeFranco ("DeFranco"), founded DISH in 1980.
20 During the time addressed by Plaintiff's claims, Ergen served as the Chairman of DISH's Board.
21 He and certain family trusts control more than 50% of the Company's outstanding equity and
22 90% of DISH's voting power. DISH's filings with the United States Securities and Exchange
23 Commission describe DISH as a "controlled company" within the meaning of the NASDAQ
24 Marketplace Rules.

25 **II. Ergen's Purchases of Secured Debt and the DISH Bid**

26 4. On May 14, 2012, LightSquared and various of its affiliates filed for bankruptcy
27 protection (the "LightSquared Bankruptcy").
28

1 5. Certain secured debt issued by LightSquared (the “Secured Debt”) is governed by
2 a credit agreement (the “Credit Agreement”). Among other things, the Credit Agreement limits
3 the entities that may acquire the Secured Debt. As found by the Court overseeing the
4 LightSquared Bankruptcy (the “LightSquared Bankruptcy Court”), “each of DISH and [EchoStar
5 Corporation (“EchoStar”)] is a ‘Disqualified Company’ under the Credit Agreement, and thus
6 neither can be an ‘Eligible Assignee’ [of Secured Debt].” Memorandum Decision Granting
7 Motions to Dismiss Complaint at 5, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc.
8 No. 13-1390 (SCC) (Bankr. S.D.N.Y. Nov. 21, 2013) (Adversary Docket No. 68) (Nov. 21, 2013
9 decision at 5). Under the LightSquared Bankruptcy Court ruling, DISH was not permitted to
10 acquire the LightSquared Secured Debt directly under the Credit Agreement.

11 6. Between the spring of 2012 and May 2013, Ergen, through SPSO, an entity that
12 he owns and controls, agreed to acquire approximately \$1 billion of Secured Debt at prices
13 discounted from face value. One of Ergen’s purchases of Secured Debt was prevented from
14 closing. As a result, Ergen ultimately acquired approximately \$850 million in face amount of
15 Secured Debt, for a total purchase price of approximately \$690 million, using funds provided
16 from Ergen’s personal assets.

17 7. On May 2, 2013, Ergen informed the DISH Board about the potential future
18 availability of the LightSquared Assets for purchase through the LightSquared Bankruptcy and
19 invited the DISH Board to consider whether DISH was interested in pursuing an acquisition of
20 the LightSquared Assets. At that time, Ergen also affirmatively told the Board that he owned a
21 substantial stake in LightSquared Secured Debt, and he recused himself from the Board’s further
22 consideration of whether DISH should pursue the LightSquared opportunity. Ergen also
23 informed EchoStar, a separate publicly traded Nevada corporation controlled by Ergen, of the
24 LightSquared opportunity.

25 8. On May 8, 2013, at a meeting of the DISH Board held without the Ergens, the
26 Board formed the STC, a committee of directors who were independent of Ergen and EchoStar,
27 to consider a possible transaction between DISH and LightSquared. The STC consisted of Gary
28

1 S. Howard ("Howard") and Steven R. Goodbarn ("Goodbarn"). The STC thereafter retained
2 independent counsel and financial advisors.

3 9. On May 15, 2013, Ergen personally bid \$2 billion for the LightSquared Assets.
4 Approximately two weeks later, on May 28, 2013, Ergen created an entity called L-Band
5 Acquisition LLC ("LBAC"). LBAC, under Ergen's ownership and control, became the bidder
6 for the LightSquared Assets. This bid (the "LBAC Bid" or "LBAC's Bid")¹ was not subject to a
7 due diligence out or to FCC approval. The LBAC Bid specifically noted that the buyer under the
8 bid would be "owned by one or more of Charles Ergen, affiliated companies and/or other third
9 parties." Letter from Rachel Strickland to LightSquared LP (May 15, 2013) (attaching
10 LightSquared Summary of Principal Terms of Proposed Sale Transaction, at 1) (SLC Report Ex.
11 337).

12 10. On or about May 22, 2013, after learning of the formation of the STC, Ergen
13 informed the STC of the LBAC Bid. Ergen offered to permit DISH to acquire LBAC or assume
14 the LBAC Bid, if DISH chose to do so.

15 11. In connection with the LBAC Bid, during July of 2013, counsel for LBAC and
16 Ergen began negotiating various documents related to the LBAC Bid with representatives of a
17 group of LightSquared secured creditors (the "Ad Hoc Secured Group"). These documents
18 included a joint plan for the reorganization of LightSquared (the "Ad Hoc Secured Group Plan").
19 The Ad Hoc Secured Group Plan provided for an auction of the LightSquared Assets, and
20 provided for LBAC to act as a so-called "stalking horse" bidder, such that the LBAC Bid would
21 be qualified to serve as the initial bid subject to higher offers from other bidders, and subject to
22 various negotiated rights protecting LBAC's Bid.

23 12. Counsel for LBAC, Ergen, and the Ad Hoc Secured Group also negotiated a plan
24 support agreement (the "PSA"), which set forth the terms and conditions upon which the parties
25 would support the Ad Hoc Secured Group Plan after it was filed in the LightSquared
26 Bankruptcy. The PSA included a timeline for milestones towards Plan confirmation. If these

27 _____
28 ¹ Although LBAC did not exist when Ergen initially submitted his personal bid, that bid, which
LBAC was formed to consummate, is referred to herein consistently as the LBAC Bid.

1 milestones were not met by the timeline set forth in the PSA, the parties to the PSA had the right
2 to withdraw their support for the Ad Hoc Secured Group Plan.

3 13. Finally, counsel for LBAC, Ergen, and the Ad Hoc Secured Group also negotiated
4 a proposed form of draft asset purchase agreement (the "APA") between LightSquared and
5 LBAC governing the sale by LightSquared to LBAC of the LightSquared Assets, the final terms
6 of which would be subject to further negotiation and agreement between LightSquared and
7 LBAC. The draft form of APA included a footnote (the "Release Footnote") indicating that a
8 broad release (the "Release") would be included in the agreement and would cover the purchaser
9 and its affiliates. If LBAC acquired the LightSquared Assets pursuant to the APA, the Release
10 would, among other things, release any claims that LightSquared had against LBAC and its
11 affiliates, including, among others, Ergen, DISH, and SPSO.

12 14. Counsel for DISH and the STC were provided with advance copies of, reviewed,
13 and commented on drafts of the Ad Hoc Secured Group Plan, the PSA, and the APA, although
14 the STC had not then determined whether DISH should acquire LBAC from Ergen or pursue an
15 acquisition of the LightSquared Assets.

16 15. On July 17, 2013, while negotiation of the Ad Hoc Secured Group Plan, the PSA,
17 and the APA remained ongoing, the Ad Hoc Secured Group sent a letter to LBAC's counsel
18 asking LBAC to increase the cash component of the LBAC Bid in order to obtain the Ad Hoc
19 Secured Group's support for the LBAC Bid.

20 16. On July 21, 2013, after receipt of a fairness opinion from its financial advisor and
21 advice of its counsel, the STC determined that a bid by DISH for the LightSquared Assets in an
22 amount up to \$2.4 billion was in the best interests of DISH.

23 17. At a Board meeting on July 21, 2013, without the Ergen Defendants present, the
24 STC recommended to the Board that DISH bid up to \$2.4 billion to acquire the LightSquared
25 Assets on terms consistent with the draft APA. The STC further recommended that, if such bid
26 were made through LBAC, DISH acquire LBAC from Ergen for a nominal fee and assume only
27 LBAC's counsel fees associated with preparation of a bid for the LightSquared Assets. The
28 DISH Board, among other things, resolved to accept the STC's recommendation. The DISH

1 Board authorized DISH to acquire LBAC for a nominal payment, and to submit the DISH Bid
2 for the LightSquared Assets, at a price of up to \$2.4 billion, on terms substantially consistent
3 with the terms set forth in the draft APA.

4 18. Further, at the same July 21, 2013 meeting, the DISH Board resolved to dissolve
5 the STC, but reserved the right to reinstate the STC or another committee should the
6 circumstances warrant. With the exception of STC members Howard and Goodbarn, all
7 members of the Board present at the meeting voted in favor of terminating the STC. Howard and
8 Goodbarn, the members of the STC, abstained.

9 19. On July 22, 2013, Ergen and DISH entered into a purchase and sale agreement
10 under which Ergen sold all of the units in LBAC to DISH for nominal consideration, consistent
11 with the STC's recommendation.

12 20. Contemporaneously, LBAC completed negotiations with the Ad Hoc Secured
13 Group with respect to the Ad Hoc Secured Group Plan, a draft APA supported by the Ad Hoc
14 Secured Group, and the PSA. Among other things, these documents memorialized the DISH
15 Bid, made through LBAC, of \$2.22 billion for the LightSquared Assets, which did not include a
16 due diligence out and was not conditioned upon FCC approval. The DISH Bid was increased to
17 \$2.22 billion, from the \$2 billion LBAC Bid, based on the Ad Hoc Secured Group's July 17
18 letter.

19 21. On July 23, 2013, the Ad Hoc Secured Group and SPSO filed the Ad Hoc
20 Secured Group Plan in the LightSquared Bankruptcy.

21 22. LBAC and SPSO also entered into the PSA at or around the time the Ad Hoc
22 Secured Group Plan was filed. Under the PSA, LBAC committed to support the Ad Hoc
23 Secured Group Plan. LBAC was permitted to terminate the PSA and withdraw the bid if the Ad
24 Hoc Secured Group Plan was not consummated in the LightSquared Bankruptcy on or before
25 December 31, 2013.

26 23. On July 24, 2013, the members of the STC sent a letter to the DISH Board
27 outlining various conditions to its approval of the DISH Bid and open matters that it believed
28 should have been addressed by the STC before the committee was terminated by the Board. On

1 July 25, 2013, Howard resigned from the DISH Board, effective July 31, 2015. The issues raised
2 in the July 24 letter from the STC, to the extent not moot, were investigated by the SLC and
3 addressed in the SLC Report.

4 24. On October 1, 2013, the LightSquared Bankruptcy Court entered an agreed order
5 designating LBAC as a stalking horse bidder for the LightSquared Assets under the Ad Hoc
6 Secured Group Plan.

7 **III. The Adversary Proceedings in the LightSquared Bankruptcy**

8 25. On August 6, 2013, LightSquared's controlling shareholder, Harbinger Capital
9 Partners, LLC and various funds under its control (collectively "Harbinger"), initiated an
10 adversary proceeding against DISH, LBAC, Ergen, and others (the "Adversary Proceeding") in
11 the LightSquared Bankruptcy.

12 26. Harbinger alleged that SPSO misrepresented that it was an "Eligible Assignee"
13 under the Credit Agreement when purchasing the Secured Debt. *See* Complaint, *In re*
14 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC) (Bankr. S.D.N.Y. Aug.
15 6, 2013) (Adversary Docket No. 15) ("Harbinger Complaint"). It further alleged that Ergen,
16 DISH, and other entities owned by Ergen "fraudulently infiltrated the senior-most tranche of
17 LightSquared's capital structure, secretly amassing, based on knowing misrepresentations of
18 fact, a position as the single largest holder of [Secured Debt]." *Id.* Harbinger alleged that "the
19 DISH/EchoStar Defendants and Sound Point [then] disrupted Harbinger's efforts to negotiate a
20 plan of reorganization[,] and to obtain exit financing for LightSquared by intentionally
21 prolonging the closing of numerous trades for Secured Debt. *Id.* at ¶¶ 7-8. Finally, Harbinger
22 alleged that DISH was trying to unfairly profit from this misconduct (1) by submitting a bid that
23 undervalued the LightSquared Assets and (2) by having an unfair advantage in any sale of the
24 LightSquared Assets, because, Harbinger contended, Ergen purchased and held the Secured Debt
25 for the benefit of DISH. Harbinger Complaint ¶ 11. Based on this alleged misconduct,
26 Harbinger asserted claims for fraud, tortious interference, and civil conspiracy.

27 27. On August 22, 2013, LightSquared intervened and partially joined in Harbinger's
28 claims in the Adversary Proceeding. *See* LightSquared's Notice of Intervention, *In re*

1 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC) (Bankr. S.D.N.Y. Aug.
2 22, 2013) (Adversary Docket No. 15).

3 28. On September 9, 2013, the defendants named in the Harbinger Complaint moved
4 to dismiss for, among other things, failure to state a claim. Notice of Motion to Dismiss
5 Complaint, *In re LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-1390 (SCC)
6 (Bankr. S.D.N.Y. Sept. 9, 2013) (Adversary Docket No. 29). On September 30, 2013, Harbinger
7 amended the Harbinger Complaint. The defendants named in the amended Harbinger Complaint
8 also moved to dismiss the Amended Complaint between October 3 and October 5, 2013.

9 29. On October 29, 2013, the LightSquared Bankruptcy Court dismissed the
10 Harbinger Complaint. The LightSquared Bankruptcy Court gave LightSquared leave to re-plead
11 the claims for itself on or before November 15, 2013, but only granted Harbinger "leave to file a
12 Second Amended Complaint in the . . . adversary proceeding, setting forth an objection pursuant
13 to Section 502 of the Bankruptcy Code." Transcript, at 127-31, *In re LightSquared Inc.*, No. 12-
14 12080-scc, Adv. Proc. No. 13-01390-scc (Bankr. S.D.N.Y. Oct. 29, 2013) (Adversary Docket
15 No. 64).

16 30. On November 15, 2013, the special committee of LightSquared's board formed to
17 oversee its bankruptcy filed a Status Report in which it announced that it intended to pursue the
18 adversary claims identified in the Harbinger Complaint against DISH, SPSO, and Ergen. The
19 LightSquared special committee noted that pursuing these claims may prevent LightSquared
20 from satisfying the milestones for plan confirmation set forth in the PSA and the Ad Hoc
21 Secured Group Plan.

22 31. LightSquared then brought its own complaint (the "LightSquared Adversary
23 Complaint") in the Adversary Proceeding against Ergen, DISH, EchoStar, and SPSO. The
24 LightSquared Adversary Complaint raised essentially the same claims as the Harbinger
25 Complaint. LightSquared alleged, among other things, that Ergen's purchases of Secured Debt
26 were effectively purchases by DISH for DISH's benefit. LightSquared also alleged that these
27 purchases improved DISH's ability to acquire the LightSquared Assets by forcing
28 LightSquared's creditors to support a plan under which DISH would acquire the LightSquared

1 Assets and by deterring any competing bidders. See Complaint-in-Intervention ¶¶ 3-6, *In re*
2 *LightSquared Inc.*, No. 12-12080 (SCC), Adv. Proc. No. 13-01390 (SCC) (Bankr. S.D.N.Y. Nov.
3 15, 2013) (Adversary Docket No. 66).

4 **IV. The Jacksonville Action**

5 32. On August 9, 2013, Plaintiff commenced this action by filing its Verified
6 Derivative Complaint (the “Complaint”) in the Eighth Judicial District Court of Nevada, alleging
7 that it was a stockholder of DISH and asserting claims derivatively allegedly on behalf of DISH
8 against DISH Board members Ergen, Joseph P. Clayton (“Clayton”), DeFranco, Cantey M.
9 Ergen (“Cantey Ergen”), Goodbarn, David K. Moskowitz (“Moskowitz”), Ortolf (“Ortolf”), and
10 Carl E. Vogel (“Vogel”). Among other things, the Complaint alleged that (1) Ergen usurped a
11 corporate opportunity belonging to DISH to acquire the Secured Debt, (2) Ergen’s acquisition of
12 the Secured Debt and actions in the LightSquared Bankruptcy risked causing the LightSquared
13 Bankruptcy Court to preclude DISH from participating in any auction for the LightSquared
14 Assets, (3) Ergen breached fiduciary duties owed to DISH by causing DISH to submit the DISH
15 Bid at an inflated price, and (4) Ergen would be unjustly enriched by this misconduct. Plaintiff
16 also alleged in the Complaint that the other defendants breached fiduciary duties by “failing to
17 require Ergen to fully recuse himself from the process resulting in the Board’s purported
18 approval of the [DISH Bid].”

19 33. Shortly thereafter, Plaintiff filed an Ex Parte Motion for Order to Show Cause and
20 Motion to (1) Expedite Discovery and (2) Set a hearing on a proposed Motion for Preliminary
21 Injunction and a Memorandum of Points and Authorities in support thereof. Plaintiff sought a
22 preliminary injunction to prevent “Ergen and his loyalists on the [Board] from interfering with or
23 impairing DISH’s efforts to acquire LightSquared.”

24 34. On September 12, 2013, Plaintiff filed an Amended Verified Derivative
25 Complaint (the “Amended Complaint”). Among other things, the Amended Complaint alleged
26 that (1) the defendants named in the Amended Complaint breached their fiduciary duties to
27 DISH by permitting Ergen to interfere with the DISH Bid for the LightSquared Assets and by
28 permitting Ergen to remain involved in DISH’s efforts to acquire the LightSquared Assets

1 because Ergen's involvement led to an inflated DISH Bid, increased the cost of the DISH Bid,
2 and threatened DISH's ability to pursue the DISH Bid, (2) Ergen usurped DISH's corporate
3 opportunity to acquire the Secured Debt and, in doing so, imperiled DISH's future, allegedly
4 foreseeable, efforts to acquire the LightSquared Assets, and (3) Ergen would be unjustly
5 enriched as a result of this misconduct.

6 35. On September 13, 2013, Plaintiff filed its Motion for Preliminary Injunction.

7 **V. The Formation of the SLC**

8 36. On September 18, 2013, the Board, without the Ergens' participation, formed the
9 SLC, a special litigation committee, to investigate the claims asserted in the Amended Verified
10 Complaint and any amendments thereto and to determine whether it would be in DISH's best
11 interest to pursue the claims asserted in the Amended Complaint and any amendments.

12 37. The resolutions forming the SLC specifically empowered the SLC to:

13 (1) review, investigate and evaluate the claims asserted in the
14 Derivative Litigation; (2) file any and all pleadings and other
15 papers on behalf of the Corporation which the Special Litigation
16 Committee finds necessary or advisable in connection therewith;
17 (3) determine whether it is in the best interests of the Corporation
18 and/or to what extent it is advisable for the Corporation to pursue
19 any or all of the claims asserted in the Derivative Litigation taking
20 into consideration all relevant factors as determined by the Special
21 Litigation Committee; (4) prosecute or dismiss on behalf of the
22 Corporation any claims asserted in the Derivative Litigation; and
23 (5) direct the Corporation to formulate and file any and all
24 pleadings and other papers on behalf of the Corporation which the
25 Special Litigation Committee finds necessary or advisable in
26 connection therewith, including without limitation, the filing of
27 other litigation and counterclaims or cross complaints, or motions
28 to dismiss or stay the proceedings if the Special Litigation
Committee determines that such action is advisable and in the best
interests of the Corporation[.]

23 Status Report, at Ex. A (Oct. 3, 2013) (attaching Resolutions Forming SLC (Sept. 18, 2013)).

24 38. The resolutions forming the SLC also "authorized and empowered" the SLC to
25 "retain and consult with such advisors, consultants and agents, including, without limitation,
26 legal counsel and other experts or consultants, as the Special Litigation Committee deems
27 necessary or advisable to perform such services, reach conclusions or otherwise advise and assist
28 the Special Litigation Committee in connection with carrying out its duties," and to enter into

1 “contracts providing for the retention, compensation, reimbursement of expenses and
2 indemnification of such legal counsel, accountants and other experts or consultants as the Special
3 Litigation Committee deems necessary or advisable[.]” *Id.* The resolutions further directed
4 DISH to “pay, on behalf of the Special Litigation Committee, all fees, expenses and
5 disbursements of such legal counsel, experts and consultants on presentation of statements
6 approved by the Special Litigation Committee[.]” *Id.*

7 39. The SLC initially consisted of George R. Brokaw (“Brokaw”), who joined the
8 Board effective October 7, 2013, and long-standing Board member Ortolf.

9 40. The SLC retained Holland & Hart LLP and Young Conaway Stargatt & Taylor,
10 LLP (“SLC Counsel”) as its attorneys. SLC Counsel are free of conflicts with any parties in this
11 matter and are competent attorneys with experience handling and investigating claims of the type
12 asserted in this litigation and also with respect to complex bankruptcy matters.

13 **VI. Plaintiff’s Motion for Preliminary Injunction**

14 41. On September 23, 2013, at the Court’s direction, Plaintiff made a demand upon
15 the SLC. Among other things, Plaintiff demanded that the SLC take immediate action to obtain
16 the relief that Plaintiff sought in its Motion for Preliminary Injunction.

17 42. On October 3, 2013, the SLC responded to Plaintiff’s demand. The SLC noted
18 that “it t[ook] seriously the claims in the Complaint, would investigate them thoroughly and
19 would decide whether they should be pursued, stayed or dismissed in the best interest of DISH
20 and its stockholders.” Status Report, at 3 (Oct. 3, 2013). The SLC provided an anticipated
21 timeline for its investigation. The SLC refused to take immediate action to obtain the relief
22 sought by Plaintiff’s Motion for Preliminary Injunction because “the SLC [did] not believe that
23 the requested relief, if granted, would serve the best interest of DISH.” Status Report, at 4-5
24 (Oct. 3, 2013).

25 43. On October 4, 2013, this Court granted Plaintiff expedited discovery for purposes
26 of Plaintiff’s Motion for Preliminary Injunction and set the Motion for hearing on November 25,
27 2013.

28

1 44. On October 8, 2013, Plaintiff stipulated to the dismissal of its claims against
2 Goodbarn. This Court granted the dismissal on October 10, 2013.

3 45. Between September 25, 2013 and November 20, 2013, the SLC investigated
4 Jacksonville's assertion that a mandatory injunction should be imposed to require DISH to
5 reconstitute a special transaction committee to control all aspects of the DISH Bid for the
6 LightSquared Assets. In connection with that investigation, the SLC's counsel reviewed over
7 20,000 pages of documents collected from members of the DISH Board, including Ergen,
8 Goodbarn, and Howard, including all documents collected and produced in connection with
9 Plaintiff's Preliminary Injunction Motion, concerning DISH's decision to submit the DISH Bid
10 for the LightSquared Assets, the work of the STC, and Ergen's conflict of interest with respect to
11 DISH's Bid. The SLC interviewed Clayton, DeFranco, Goodbarn, Ergen, Moskowitz, Vogel,
12 and Rachel Strickland ("Strickland"), Andrew Sorkin, and Tariq Mundiya of Willkie Farr &
13 Gallagher LLP about these topics and attended the depositions of Ergen, Ihsan Essaid, Goodbarn,
14 and Howard taken in connection with the Motion for Preliminary Injunction. The SLC also
15 received legal advice concerning a variety of topics, including the LightSquared Bankruptcy, the
16 Board's fiduciary duties, and controlling stockholder fiduciary duties.

17 46. On November 20, 2013, the SLC filed its Report of the Special Litigation
18 Committee of DISH Network Corporation Regarding Plaintiff's Motion for Preliminary
19 Injunction (the "Interim Report"). The Interim Report advised that Plaintiff's Motion for
20 Preliminary Injunction was not necessary to protect DISH from irreparable harm and may itself
21 harm DISH. The SLC reasoned that entrusting DISH's efforts to purchase the LightSquared
22 Assets to only one director and possibly a newly added director (as Plaintiff requested) created a
23 substantial risk of irreparable harm to DISH. In contrast to Plaintiff's assertions in support of its
24 Motion, the SLC determined that Ergen no longer had a conflict of interest with respect to any
25 increase in the amount of the DISH Bid, and any other risk of a conflict of interest between
26 DISH and Ergen was speculative.

27 47. This Court held a hearing on Plaintiff's Motion for Preliminary Injunction on
28 November 25, 2013.

48. On November 27, 2013, based on the pleadings, the SLC's Interim Report, and the November 25, 2013 hearing on the Motion for Preliminary Injunction, this Court issued findings of fact and conclusions of law, denying in part and granting in part Plaintiff's Motion for Preliminary Injunction. The Court denied the Motion to the extent that it sought to prevent directors other than Goodbarn and possibly Charles M. Lillis ("Lillis"), who joined the DISH Board on November 5, 2013, from "interfering" with DISH's efforts to acquire the LightSquared Assets. The Court however enjoined "Charles Ergen or anyone acting on his behalf . . . from participation, including any review, comment, or negotiations related to the [R]elease contained in the Ad Hoc LP Secured Group Plan pending before the Bankruptcy Court for any conduct which was outside or beyond the scope of his activities related to DISH and LBAC." Findings of Fact and Conclusions of Law, at 15 (Nov. 27, 2013).

VII. Lillis's Addition to the SLC

49. On December 9, 2013, the Board resolved to add Lillis to the SLC.

50. The resolutions adding Lillis to the SLC provided that "any and all actions or determinations of the Special Litigation Committee following the date of these resolutions must include the affirmative vote of Mr. Lillis and at least one (1) other committee member in order to constitute a valid and final action or determination of the Special Litigation Committee" (the "Required Vote Resolution"). Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation, at 6-7 (Dec. 9, 2013).

VIII. The Members of the SLC

51. Lillis is a member of the Board's Audit Committee and of the Board's Compensation Committee. Lillis is considered independent under the independence requirements of NASDAQ and the SEC's rules and regulations.

52. Lillis was formerly the CEO of MediaOne Group, Inc. ("MediaOne"). He has served on multiple corporate boards, including Agilera, Inc., Ascent Entertainment Grp., Charter Communications, Inc. ("Charter") and various affiliates, Medco Health Solutions, Inc., MediaOne, On Command Corporation, SUPERVALU Inc., Time Warner Entertainment Company, L.P., Williams Companies, Inc., and Washington Mutual Inc. and affiliated entities.

1 53. Lillis also has a distinguished record of public service in the academic arena. The
2 Governor of Oregon appointed Lillis Chair of the Board of Trustees of the University of Oregon.
3 He previously served on the University of Washington Business Advisory Board, the University
4 of Washington Foundation Board, and the University of Colorado Foundation Board. Lillis was
5 also the Dean of the University of Colorado's college of business and a professor at Washington
6 State University.

7 54. During the time periods at issue, Lillis had no financial or business connection to
8 any Defendant other than his service on the DISH Board and his ownership of DISH common
9 stock.

10 55. Brokaw is a member of the DISH Board, a member of the Board's Audit
11 Committee, and the Chair of the Board's Nominating Committee. Brokaw is considered
12 independent under the independence requirements of NASDAQ and the SEC rules and
13 regulations.

14 56. From 1996 to 2005, Brokaw worked at Lazard Freres & Co. LLC, where he
15 ultimately became a Managing Director. Thereafter, Brokaw served as Managing Partner and
16 Head of Private Equity at Perry Capital, L.L.C. for six years and as a Managing Director of
17 Highbridge Principal Strategies, LLC until September 30, 2013. Brokaw is currently a
18 Managing Partner in Trafelet Brokaw & Co., LLC.

19 57. Brokaw has served on the boards of directors of multiple other companies,
20 including Alico, Inc. and North American Energy Partners Inc.

21 58. During the time periods at issue, Brokaw had no financial or business connection
22 to any Defendant other than his service on the DISH Board and his ownership of options to
23 acquire DISH common stock.

24 59. Ortolf is the Chair of the Board's Audit Committee, a member of the Board's
25 Compensation Committee, and a member of the Board's Nominating Committee. Ortolf is
26 considered independent under the independence requirements of NASDAQ and the SEC rules
27 and regulations.

28

1 60. Ortolf was the President and Chief Operating Officer of Echosphere L.L.C.
2 ("Echosphere") from 1988 to 1991. Echosphere is a current DISH subsidiary, which predated
3 DISH. Ortolf has been the President of Colorado Meadowlark Corp., a privately held investment
4 management firm for over twenty years. Ortolf has been a member of the DISH Board of
5 Directors since 2005.

6 61. During the time periods at issue, Ortolf had no financial or business connection to
7 any Defendant other than his service on the DISH Board, service on the board of EchoStar, and
8 his ownership of DISH common stock.

9 **IX. The SLC Begins its Investigation**

10 62. The SLC began its investigation of the merits of the claims and issues raised in
11 the Amended Complaint in early December 2013, following Lillis's addition to the SLC.

12 63. The SLC and its counsel began collecting and reviewing tens of thousands of
13 documents, including the documents produced in connection with the Motion for Preliminary
14 Injunction in this action, documents produced by SPSO, DISH, Ergen, LBAC and others in the
15 LightSquared Bankruptcy, and additional documents collected from DISH officers and directors
16 specifically for the purposes of the SLC investigation, some dating back to 2005.

17 64. The SLC also requested and reviewed briefing, transcripts and opinions from the
18 LightSquared Bankruptcy.

19 65. The full scope of the SLC's investigation is discussed in detail in paragraphs
20 [[74]]-[[79]] *infra*.

21 **X. The Termination of the DISH Bid**

22 66. After LBAC made the DISH Bid, DISH engaged in due diligence with respect to
23 the LightSquared Assets. When the DISH Bid was submitted, the DISH Board was aware of
24 interference between LightSquared's downlink spectrum and the wireless spectrum used by GPS
25 devices. According to the SLC, following due diligence, DISH management informed the DISH
26 Board of an additional potential interference issue with LightSquared's uplink spectrum (the
27 "Technical Issue"). If not resolved, this Technical Issue might, among other things, reduce the
28 anticipated value of the LightSquared Assets, increase regulatory uncertainty surrounding

1 DISH's use of the LightSquared Assets, and impair or prevent DISH's contemplated use of
2 LightSquared's spectrum.²

3 67. After considering the Technical Issue at several prior meetings, on December 23,
4 2013, as reflected in the minutes, the DISH Board:

5 RESOLVED, that . . . (i) the Corporation and LBAC should
6 continue to endeavor to address the above-described concerns,
7 including without limitation negotiating with the LightSquared LP
8 Lenders to add appropriate conditions or other terms to the PSA
9 and LBAC Bid to address the potential technical issue regarding
10 LightSquared's uplink spectrum; and (ii) in the event that the
11 Corporation and LBAC are unsuccessful, the Corporation and
12 LBAC shall be, and they hereby are, authorized to terminate the
13 PSA and LBAC Bid[.]

14 Minutes of the Special Meeting of the Board of Directors of DISH Network Corporation, at 3-4
15 (Dec. 23, 2013) (SLC Report Ex. 443).

16 68. On January 7, 2014, after efforts to modify the DISH bid to address the risk
17 associated with the Technical Issue failed, and after the milestones provision in the PSA had
18 been breached, DISH withdrew the DISH Bid and terminated the PSA. The Ad Hoc Secured
19 Group opposed the termination and sought to compel DISH to specifically perform the DISH

20 ² Following both trial in the Adversary Proceeding and plan confirmation proceedings in the
21 LightSquared Bankruptcy (the "Plan Confirmation Proceeding"), the LightSquared Bankruptcy
22 Court observed: "Whether LBAC terminated its bid because it 'believed' there was a technical
23 issue (even though the record does not support a finding that there was or is such an issue), or
24 because it wanted to make a lower conditional bid, or because Mr. Ergen decided to direct DISH
25 and its capital elsewhere, or because of negative implications for DISH in connection with the
26 Nevada shareholder litigation, remain[ed] unclear." See Decision Denying Confirmation of
27 Debtors' Third Amended Joint Plan Pursuant to Chapter 11 of Bankruptcy Code, at 65, *In re*
28 *LightSquared Inc.*, No. 12-12080 (SCC) (Bankr. S.D.N.Y. July 11, 2014). The SLC
acknowledged the LightSquared Bankruptcy Court's findings in the SLC Report. However, the
SLC determined, consistent with Nevada law, that the issue raised by the DISH Board was the
financial risk to DISH from the uncertainties posed by the Technical Issue, and the DISH Board
was entitled to rely on DISH's managements' well-informed recommendations as to the
implications of the Technical Issue when determining whether it was in DISH's best interest to
withdraw the DISH Bid. NRS 78.138(2)(a) ("In performing their respective duties, directors and
officers are entitled to rely on information, opinions, [and] reports . . . that are prepared or
presented by . . . [o]ne or more directors, officers or employees of the corporation reasonably
believed to be reliable and competent in the matters prepared or presented."). According to the
SLC, the DISH Board's determination to withdraw the DISH Bid is protected by the business
judgment rule. As such, the SLC's determination that it would not be in DISH's best interest to
pursue claims related to the termination of the DISH Bid is not inconsistent with the
LightSquared Bankruptcy Court's ruling with respect to the Technical Issue.

1 Bid. DISH opposed the Ad Hoc Secured Group's Motion. The Bankruptcy Court held that
2 DISH "was free to terminate the PSA and then terminate its bid for any reason once any of those
3 milestones [in the PSA] was missed." Transcript, Hearing: Bench Decision in Adv. Proc. 13-
4 01390-scc., at 151, *In re LightSquared Inc.*, No. 12-120808-scc, Adv. Proc. No. 13-01390-scc
5 (Bankr. S.D.N.Y. May 8, 2014).

6 **XI. Conclusion of the LightSquared Bankruptcy Adversary Proceeding**

7 69. On June 10, 2014, following a full trial on the merits of the claims raised in the
8 Adversary Proceeding, the LightSquared Bankruptcy Court issued an opinion determining that,
9 although technically permissible, Ergen's purchases of the Secured Debt (through SPSO) in
10 April 2013 "violated the spirit and purpose of the Credit Agreement restrictions designed to
11 prevent competitors from purchasing Secured Debt and breached the Credit Agreement's implied
12 covenant of good faith and fair dealing[.]" because it violated the purpose of the provisions of
13 the Credit Agreement restricting which entities were permitted to acquire the Secured Debt.
14 Post-Trial Findings of Fact and Conclusions of Law, at 154, *LightSquared LP v. Special*
15 *Opportunities LLC (In re LightSquared Inc.)*, No. 12-12080 (SCC), Adv. Pro. No. 13-01390
16 (Bankr. S.D.N.Y. June 10, 2014) (Bankruptcy Docket No. 165). The LightSquared Bankruptcy
17 Court did, however, dismiss all of the claims against DISH. *Id.* at 99 n.48.

18 70. On July 25, 2014, Plaintiff filed the Verified Second Amended Shareholder
19 Derivative Complaint of Jacksonville Police and Fire Pension Fund Pursuant to Rule 23.1 of the
20 Nevada Rules of Civil Procedure (the "Second Amended Complaint"), in which Plaintiff
21 asserted additional and modified derivative claims based upon the withdrawal of the DISH Bid.
22 Plaintiff replaced its claim that Ergen had caused DISH to overpay for the LightSquared Assets
23 through the DISH Bid with a claim that Ergen had deprived DISH of the beneficial ability to
24 acquire the LightSquared Assets at the price of the DISH Bid. The Second Amended Complaint
25 added Brokaw, Lillis, Cullen, Kiser, and Dodge as defendants.

71. Through the Second Amended Complaint, Plaintiff sought derivatively to compel DISH to pursue claims generally falling into eight categories:³ First, Plaintiff claimed that Ergen or the Board breached fiduciary duties in connection with the termination of the DISH Bid (the “Bid Termination Claims”). Second, Plaintiff claimed that the inclusion of the Release in the APA caused LightSquared to refuse to proceed with the DISH Bid and to cancel the LightSquared Bankruptcy Auction, to the detriment of DISH. Plaintiff claimed that Ergen and the DISH Board breached fiduciary duties owed to DISH by including or by failing to remove the Release from the DISH Bid (the “Auction Cancellation Claims”). Third, Plaintiff claimed that by purchasing the Secured Debt, Ergen usurped a corporate opportunity of DISH and was unjustly enriched thereby (the “Corporate Opportunity Claims”). Fourth, Plaintiff claimed that in purchasing the Secured Debt, Ergen misused confidential DISH information concerning a strategy for DISH to acquire the LightSquared Assets and was unjustly enriched thereby (the “Confidential Information Claims”). Fifth, Plaintiff claimed that Ergen and the Officer Defendants breached fiduciary duties by failing to notify the Board of Ergen’s purchases of Secured Debt immediately, or upon learning of the purchases (the “Disclosure Claims”). Sixth, Plaintiff claimed that in purchasing the Secured Debt, Ergen and Kiser acted disloyally to DISH in using DISH resources for Ergen’s Secured Debt Purchases and that Ergen was unjustly enriched thereby (the “Corporate Resources Claims”). Seventh, Plaintiff claimed that Ergen breached fiduciary duties by exposing DISH to increased legal risk and legal fees in the LightSquared Bankruptcy by acquiring the Secured Debt, that the Board breached fiduciary duties by paying Ergen’s legal fees, and that Ergen was unjustly enriched as a result (the “Legal Fee Claims”). Eighth, Plaintiff alleged that the Board improperly terminated the STC (the “STC Termination Claim”).

³ The Second Amended Complaint included five Counts, many of which raised multiple legal issues. The SLC Report organized the issues differently than the Second Amended Complaint did. The SLC Report addressed each of the issues raised through the Second Amended Complaint. This Court refers to the claims based on the SLC’s organization, as the parties have generally done in their briefing, for ease of reference.

XII. The SLC Expanded its Investigation to Address the New Claims Raised in the Second Amended Complaint

72. In July of 2014, when Plaintiff filed the Second Amended Complaint, the SLC had been investigating the claims in Jacksonville's Amended Complaint since December 9, 2013. After Plaintiff filed the Second Amended Complaint, the SLC expanded the scope of its investigation to include the additional claims raised in the Second Amended Complaint concerning the termination of the DISH Bid.

73. After receiving the Second Amended Complaint, the SLC and its counsel requested and reviewed additional documents from DISH, DISH's officers, and DISH's directors relevant to the new claims asserted.

74. In the full course of its investigation, the SLC's counsel reviewed more than 39,000 documents, (more than 357,000 pages) from the following custodians: Michael Abatemarco, Jeffrey Blum ("Blum"), Brokaw, Kenneth Carroll, Clayton, Cullen, DeFranco, Dodge, Mike Dugan, Brandon Ehrhart, Cantey Ergen, Ergen, Kevin Gerlitz, Goodbarn, Howard, Anders Johnson, Stephen Ketchum ("Ketchum"), John Kim, Kiser, Lillis, Jennifer Manner, Moskowitz, Ortolf, David Rayner, Rick Richert, Mariam Sorond ("Sorond"), Brad Schneider, Strickland, Vogel, David Zufall, and Sound Point Capital Management LP ("Sound Point"). These documents included all documents produced in this action, the materials produced by DISH, SPSO, Ergen, and Sound Point in the LightSquared Bankruptcy, and additional documents requested by the SLC from all DISH Board members, members of DISH management, and counsel to LBAC, the entity that made the DISH Bid. The members of the SLC personally reviewed the documents that were most pertinent to the SLC's investigation.

75. The SLC and its counsel monitored proceedings in the LightSquared Bankruptcy from the formation of the SLC through the completion of the SLC Report, and thereafter. Among other things, the SLC attended oral arguments in the Adversary Proceeding and monitored telephonically or reviewed transcripts of other substantive hearings, including telephonically monitoring or reviewing transcripts of the open portions of the entire trial on the Adversary Proceeding and the Plan Confirmation hearing.

1 76. Counsel for the SLC reviewed extensive briefing submitted in the LightSquared
2 Bankruptcy, including the briefing concerning the Adversary Proceeding, the scheduling of the
3 auction of the LightSquared Assets and certain other assets of LightSquared, the proceeding
4 seeking confirmation of LightSquared's plan of reorganization (the "Confirmation Proceeding"),
5 and the termination of the DISH Bid. Counsel for the SLC monitored significant hearings and
6 reviewed testimony within the LightSquared Bankruptcy to the extent available under the
7 confidentiality stipulation governing LightSquared's Bankruptcy, including reviewing all
8 available transcripts concerning the submission of DISH's Bid, the auction scheduling, the
9 termination of DISH's Bid, the Adversary Proceeding, and the Confirmation Proceeding.
10 Counsel for the SLC also attended many of the aforementioned proceedings telephonically or in
11 person. The SLC or its counsel reviewed transcripts of every deposition taken in the
12 LightSquared Bankruptcy available for use in this proceeding under the confidentiality
13 stipulation in the LightSquared Bankruptcy, including transcripts of the LightSquared
14 Bankruptcy depositions of Cullen, Ergen, Howard, Ketchum, Kiser, Joseph Roddy, and Sorond.

15 77. The SLC interviewed numerous people including conducting formal interviews of
16 present and former defendants: Clayton, Cullen, DeFranco, Dodge, Cantey Ergen, Ergen,
17 Goodbarn, Howard, Kiser, Moskowitz, and Vogel; DISH senior executives and regulatory and
18 technical experts: Blum and Sorond; and counsel for Ergen, LBAC and SPSO: Mundiya, Sorkin,
19 and Strickland. Several people were interviewed both in connection with the SLC's
20 investigation of Plaintiff's Motion for Preliminary Injunction and the SLC's investigation of
21 Plaintiff's substantive claims. As a result, the SLC conducted a total of 21 interviews, of 16
22 different people. In most cases, all three members of the SLC attended these interviews.

23 78. The SLC also requested interviews from Plaintiff, LightSquared, and the Ad Hoc
24 Secured Group. However, each of these requests, including the request to interview Plaintiff,
25 was refused.

26 79. Finally, the SLC received extensive legal advice on the issues raised by the
27 matters under investigation at numerous points throughout its investigation.
28

XIII. Motions to Dismiss the Second Amended Complaint

80. On August 29, 2014 the SLC moved to dismiss the Second Amended Complaint, pursuant to Rule 23.1, for failure to plead demand futility; the Director Defendants moved to dismiss the Second Amended Complaint, pursuant to NRCP 12(b)(5), for failure to state a claim upon which relief can be granted; and the Ergen Defendants moved to dismiss the Second Amended Complaint for failure to state a claim upon which relief can be granted.

81. On September 15, 2014, the Officer Defendants moved to dismiss the Second Amended Complaint, pursuant to NRCP 12(b)(5) and Rule 23.1, for failure to state a claim upon which relief can be granted and failure to plead demand futility.

XIV. The SLC's Report and Subsequent Motion to Defer

82. On October 24, 2014, the SLC filed with this Court the SLC Report, which detailed its investigation of the claims asserted in the Second Amended Complaint.

83. In its 330-page SLC Report, the SLC extensively described the scope and depth of its investigation and the facts that it found to be true based on that investigation. The SLC also analyzed the factual and legal bases for each of the claims asserted in the Second Amended Complaint. The SLC ultimately concluded that "it would not be in the best interests of DISH to pursue the claims asserted by Jacksonville in the Nevada Litigation." SLC Report, at 333.

84. It is beyond the scope of this opinion to capture the SLC's full reasoning, set forth in detail in the SLC Report. The SLC Report provides extensive factual, legal, and practical reasons why pursuit of each one of Plaintiff's claims would not be in the best interests of DISH. Among the reasons set forth in the SLC Report, the SLC determined that certain claims advanced by Plaintiff were foreclosed by DISH's certificate of incorporation, certain claims lacked a cognizable damages theory, certain claims were not meritorious as a matter of law, and certain claims could not be proven in light of uncontroversial factual determinations. The Court finds that each of the SLC's determinations is reasonable and neither egregious nor irrational.

85. On November 17, 2014, the SLC filed its Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed (the "Motion to Defer"). In connection

1 with the Motion to Defer, each SLC member filed a declaration addressing his independence
2 from Defendants under the relevant legal standards.

3 86. Oral argument was initially held on the Motion to Defer on January 12, 2015. At
4 oral argument, Plaintiff for the first time requested discovery pursuant to Nevada Rule 56(f).

5 87. This Court granted Plaintiff's request for discovery. The Court also scheduled
6 supplemental briefing following discovery and supplemental oral argument.

7 88. Plaintiff was permitted to take, and did take, discovery into the independence of
8 the SLC and the thoroughness of its investigation. The SLC gathered and produced documents
9 from the files of the individual SLC members covering a six-year period, documents from the
10 files of SLC counsel, and documents from the files of DISH Board members. Pursuant to a
11 stipulation and order preserving the SLC's work product protection, the SLC also produced
12 certain work product prepared in the course of its investigation, including summaries of the
13 interviews that it conducted and the documents received by the SLC members in the course of
14 the investigation. Plaintiff also deposed each of the SLC members: Lillis, Brokaw, and Ortolfo.

15 89. On July 16, 2015, the supplemental oral argument was held on the SLC's Motion
16 to Defer.

17 90. If any findings of fact are properly conclusions of law, they shall be treated as if
18 appropriately identified and designated.

19 CONCLUSIONS OF LAW

20 1. This Court has subject matter jurisdiction over all claims asserted in the Second
21 Amended Complaint and personal jurisdiction over all the parties.

22 2. "[U]nder Nevada's corporations laws, a corporation's 'board of directors has full
23 control over the affairs of the corporation.'" *Shoen v. SAC Holding Corp.*, 122 Nev. 621, 632,
24 137 P.3d 1171, 1178 (2006) (quoting NRS 78.120(1)). Therefore, in "managing the
25 corporation's affairs, the board of directors may generally decide whether to take legal action on
26 the corporation's behalf." *Id.*, 122 Nev. at 632, 137 P.3d at 1179; *see also In re Amerco*
27 *Derivative Litig.*, 127 Nev. Adv. Op. 17, 252 P.3d 681, 705 (Nev. 2011) ("Among the matters
28 entrusted to a corporation's directors is the decision to litigate -- or not to litigate -- a claim by

1 the corporation against third parties.”) (citing *In re Citigroup S’holder Derivative Litig.*, 964
2 A.2d 106, 120 (Del. Ch. 2009)). Nevada law gives strong preference to honoring the business
3 judgment of the boards of directors of Nevada corporations. *See Shoen*, 122 Nev. at 621, 137
4 P.3d at 1181; NRS 78.138(3) (“Directors and officers, in deciding upon matters of business, are
5 presumed to act in good faith, on an informed basis and with a view to the interests of the
6 corporation.”).

7 3. Under Nevada law, a stockholder may pursue litigation on a corporation’s behalf
8 only where the stockholder both alleges and proves “particularized factual statements . . . that
9 making a demand [for the Board to cause the corporation to pursue the litigation] would be futile
10 or otherwise inappropriate.” *Id.*, 122 Nev. at 634, 137 P.3d at 1179-80; *see also* NRS 41.520;
11 NRCP 23.1.

12 4. If a stockholder makes this showing, the board nonetheless may properly delegate
13 to a special litigation committee of the board authority to control the litigation and, if the
14 committee determines that the litigation is not in the best interests of the corporation, to
15 terminate the litigation. NRS 78.125; 13 William Meade Fletcher, *Fletcher Cyclopedia of the*
16 *Law of Corporations* (“Fletcher Cyc. Corp.”) § 6019.50 (West 2014).

17 **I. Standard of Review for a Special Litigation Committee Motion Under Nevada Law**

18 5. No Nevada court has ruled on the standard by which to review a special litigation
19 committee’s determination on behalf of the corporation as to whether or in what respect it is in
20 the corporation’s best interest to pursue litigation. Most jurisdictions outside of Nevada follow a
21 form of either the majority *Auerbach* standard or the minority *Zapata* standard. *See Auerbach v.*
22 *Bennett*, 393 N.E.2d 994 (N.Y. 1979); *Zapata Corp. v. Maldonado*, 430 A.2d 779 (Del. 1981).

23 6. Under the *Auerbach* standard, a court defers to the business judgment of a special
24 litigation committee if (a) the special litigation committee is independent and (b) its procedures
25 and methodologies were not so deficient as to demonstrate a lack of good faith in the
26 investigation. *See Auerbach*, 393 N.E.2d at 1003.

27 7. Under the *Zapata* standard, the Court applies these same considerations, but the
28 *Zapata* standard also includes an optional “second step.” *See Carlton Invs. v. Tlc Beatrice Int’l*

1 *Holdings*, No. 13950, 1997 WL 305829, at *2 (Del. Ch. May 30, 1997). If “the court could not
2 consciously determine on the first leg of the analysis that there was no want of independence or
3 good faith, [but] it nevertheless ‘felt’ that the result reached was ‘irrational’ or ‘egregious’ or
4 some other such extreme word[,]” the second step of the *Zapata* standard permits the Court to
5 apply its own business judgment review to determine whether the litigation is in the best interests
6 of the corporation. *Id.* Delaware courts, which developed the *Zapata* standard, have noted that
7 “courts should not make such judgments but for reasons of legitimacy and for reasons of
8 shareholder welfare.” *Id.*

9 8. In this case, the determination of whether *Auerbach* or *Zapata* is the appropriate
10 standard under Nevada law is not dispositive. If *Zapata* were to apply, the SLC’s determination
11 is not “irrational” or “egregious” so as to merit review under the optional second step of a *Zapata*
12 analysis. This Court therefore need not determine which standard of review is appropriate.

13 9. Nevada gives strong preference to honoring the business judgment of boards and
14 their committees. NRS 78.125, 78.138. Nevada further recognizes that disclosed conflicts do not
15 necessarily prevent business judgment from being exercised. NRS 78.140. Here, in considering
16 the Motion to Defer, the Court focuses on two issues: thoroughness and independence of the
17 SLC. This is consistent with the standards adopted outside of Nevada, which generally defer to
18 the business judgment of a special committee that is independent and investigated the claims in
19 good faith, even where the court may have approached the investigation differently. *In re*
20 *Consumers Power Co. Derivative Litig.*, No. 87-CV-60103-AA, 132 F.R.D. 455, 483 (E.D.
21 Mich. 1990) (“[F]or the business judgment rule to apply, a corporation is not required to
22 undertake the ideal or perfect investigation[.]”); *see also Hirsch v. Jones Intercable, Inc.*, 984
23 P.2d 629, 637-38 (Colo. 1999) (“[B]ecause most courts are ill equipped and infrequently called
24 on to evaluate what are and must be essentially business judgments, . . . the role of a . . . trial
25 court in reviewing an SLC’s decision regarding derivative litigation should be limited to
26 inquiring into the independence and good faith of the committee.”) (citation omitted).

1 **II. The SLC Is Independent.**⁴

2 10. A director lacks independence if the director is “beholden” to an interested
3 person. *See, e.g., Jacobi v. Ergen*, 2:12-CV-2075-JAD-GWF, 2015 WL 1442223, at *5 (D. Nev.
4 Mar. 30, 2015). Beholdenness is generally shown through financial dependence. *See La. Mun.*
5 *Police Emples. Ret. Sys. v. Wynn*, 2:12-CV-509 JCM GWF, 2014 WL 994616, at *5 (D. Nev.
6 Mar. 13, 2013), *appeal docketed*, No. 14-15695 (9th Cir. April 11, 2014).⁵

7 11. It is well-settled that “long-standing personal and business ties” are insufficient to
8 “overcome the presumption of independence that all directors . . . are afforded.” *In re Walt*
9 *Disney Co. Derivative Litig.*, 731 A.2d 342, 355 (Del. Ch. 1998), *aff’d in part, rev’d in part on*
10 *other grounds sub nom. Brehm v. Eisner*, 746 A.2d 244 (Del. 2000); *see also Wynn*, 2014 WL
11 994616, at *6-7, *18 (“Allegations of a lengthy friendship are not enough” to find a director
12 “beholden[,]” including allegations that directors had “been close . . . since they were young” as
13 a result of their fathers’ business together and the interested director’s past employment of the
14 other director and the other director’s siblings); *Highland Legacy Ltd. v. Singer*, No. 1566-N,
15 2006 WL 741939, at *5 (Del. Ch. Mar. 17, 2006) (“It is well settled that the naked assertion of a
16 previous business relationship is not enough to overcome the presumption of a director’s
17 independence.”) (internal quotation marks omitted); *Ankerson v. Epik Corp.*, 2005 WI App 1, at

18 ⁴ The parties disagree as to whether the burden on these issues lies with the SLC or Plaintiff.
19 Nevada courts have not addressed this question previously. In most jurisdictions, the special
20 litigation committee bears the burden to establish its own independence and the good faith,
21 thoroughness of its investigation. The SLC however argues that, due to the statutory
22 presumption of N.R.S. 78.138(3), the members of the SLC are presumed to have acted in good
23 faith and on a fully informed basis, and that shifting the burden to the SLC would be inconsistent
24 with this presumption. The Court need not address this issue because it concludes that the SLC
25 was independent and conducted a good faith, thorough investigation and that the motion should
26 be granted, irrespective of which party bears the burden.

27 ⁵ The substantive test for special litigation committee independence is no different from the
28 substantive test for director independence generally. *See In re ITT Derivative Litig.*, 932 N.E.2d
664, 666 (Ind. 2010) (“[T]he same standard [applies] for showing ‘lack of disinterestedness’ both
as to the composition of special board committees . . . and to the requirement that a shareholder
must make a demand.”); *see also St. Clair Shores Gen. Emps. Ret. Sys. v. Eibeler*, No. 06 Civ.
688(SWK), 2008 WL 2941174, at *8 n.7 (S.D.N.Y. July 30, 2008) (stating that demand futility
cases are “relevant to the [SLC] context” in terms of their “treatment of director independence”
and explaining that the “formula for evaluating independence of special litigation committees is
consistent with that which pertains in demand excusal cases”) (citing *In re Oracle Corp.*
Derivative Litig., 824 A.2d 917, 938-39 (Del. Ch. 2003)). Thus, this Court cites authority from
both contexts interchangeably.

*3, 690 N.W.2d 885 (Wis. Ct. App. 2004) (TABLE) (“A director may be independent even if he or she has had some personal or business relation with an individual director accused of wrongdoing.”); *Jacobi*, 2015 WL 1442223, at *5 (“Even allegations of friendship or affinity are insufficient to rebut the presumption that a director acts independently.”); *Freedman v. Redstone*, No. CV 12-1052-SLR, 2013 WL 3753426, at *8 (D. Del. July 16, 2013) *aff’d*, 753 F.3d 416 (3d Cir. 2014) (“Standing alone, plaintiff’s allegation that Greenberg is a close friend and advisor to an interested director defendant does not create a reasonable doubt that Greenberg would have been ‘beholden’ to another director.”) (emphasis added).

12. Plaintiff argues that Lillis lacks independence from Cullen because Lillis and Cullen were both employed at MediaOne during the same time period, Lillis worked with Cullen at LoneTree Capital Partners, and Lillis and Cullen continue to see each other socially perhaps twice per year, including attending occasional football games together. Plaintiff also argues that Lillis lacks independence from Vogel because Vogel was the President and Chief Executive Officer of Charter when Lillis served on Charter’s board.

13. There is no evidence that Lillis is beholden to Cullen, Vogel, or any other defendant. During the relevant time period, Lillis had no financial or business connection to any defendant other than his service on the DISH Board. As detailed above, professional relationships and friendships do not suffice to negate independence. The relationships between Lillis and Cullen and Vogel do not undermine Lillis’s independence. Based upon all of the evidence presented, including Lillis’s declaration, exhibits provided by Plaintiff, briefing on the subject, and oral argument, the Court finds that there is no genuine issue of material fact as to Lillis’ independence. Lillis is clearly not beholden and therefore is clearly independent under the relevant legal authority.

14. A special litigation committee is generally independent if the committee cannot lawfully act without the approval of at least one director who is independent. *See Johnson v. Hui*, 811 F.Supp. 479, 486-87 (N.D. Cal. 1991); *see also Struogo ex rel. Brazil Fund v. Padegs*, 27 F. Supp. 2d 442, 450 n.3 (S.D.N.Y. 1998); *In re Oracle Sec’s Litig.*, 852 F. Supp. 1437, 1442

1 (N.D. Cal. 1994).⁶ This is true even if there is reason to doubt the independence of another
2 member or other members of the special litigation committee.

3 15. The voting structure of the SLC requires that Lillis vote affirmatively in favor of
4 any resolution of the SLC in order for it to have effect. The evidence of the independence of
5 Messrs. Brokaw and Ortolf coupled with the unusual voting structure of the SLC demonstrates
6 that the SLC is independent.

7 16. Plaintiff makes numerous assertions concerning the independence of the other
8 members of the SLC, Messrs. Brokaw and Ortolf,⁷ the significance of which the SLC disputes.⁸
9 In all events, after considering the evidence concerning the independence of Messrs. Brokaw and
10 Ortolf, together with the evidence concerning the independence of Mr. Lillis and his voting
11 power, the Court is persuaded that the SLC as a whole was independent and acted independently.

12 17. Plaintiff's assertions, which follow expansive discovery into the SLC's
13 independence, do not raise any genuine issue of material fact with respect to whether the SLC as
14 a whole acted independently.⁹

15 18. The Court thus concludes that there is no genuine issue of material fact with
16 respect to whether the SLC's business judgment is independent as a matter of Nevada law. *See*
17 *Johnson v. Hui*, 811 F.Supp. 479, 486-87 (N.D. Cal. 1991) (special litigation committee is
18 generally independent if the committee cannot lawfully act without the approval of at least one
19 director who is independent); *see also Struogo ex rel. Brazil Fund v. Padeys*, 27 F. Supp. 2d 442,

20
21 ⁶ The same might not hold if the independent director was overcome by a director who lacks
independence. Such was not this case here.

22 ⁷ Generally, with respect to Brokaw, Plaintiff argues that Brokaw lacks independence because
23 Brokaw has a social relationship with the Ergens, in which Cantey Ergen is godmother to one of
Brokaw's children. Generally, with respect to Ortolf, Plaintiff argues that Ortolf lacks
24 independence because Ortolf has a close friendship with the Ergens.

25 ⁸ Numerous courts considering facts similar to those raised by Plaintiff have determined that
such social relationships, even close friendships, do not render a director lacking independence.
26 *See, e.g., Jacobi*, 2015 WL 1442223, at *5 ("Even allegations of friendship or affinity are
insufficient to rebut the presumption that a director acts independently.").

27 ⁹ Moreover, Plaintiff has not identified any genuine issue of material fact with respect to whether
the issues that it raises with respect to Brokaw and Ortolf were disclosed. The disclosure of all
28 potential challenges to the SLC members' independence provides an additional basis to find the
SLC as a whole independent in light of Lillis' independence.

1 450 n.3 (S.D.N.Y. 1998); *In re Oracle Sec's Litig.*, 852 F. Supp. 1437, 1442 (N.D. Cal. 1994).

2 The SLC as a whole is independent given all of the evidence presented.

3 19. Plaintiff also argues that the SLC members lack independence because the Second
4 Amended Complaint asserts claims against them.¹⁰ Allowing a putative derivative plaintiff to
5 disqualify members of an independent committee simply by asserting claims against those
6 members, regardless of the merits of the claims, would give a putative derivative plaintiff the
7 power to unilaterally nullify the strong presumption of the business judgement rule under
8 Nevada law and, *a fortiori*, replace the business judgement of any board or committee thereof
9 with that of the plaintiff in every putative derivative action. Asserting claims against a director
10 neutralizes the director's ability to objectively assess the merits of the litigation for the
11 corporation only "in those 'rare case[s] . . . where defendants' actions were so egregious that a
12 substantial likelihood of director liability exists'" as a result of the claim. *Shoen*, 122 Nev. at
13 639-40, 137 P.3d at 1184 (quoting *Seminaris v. Landa*, 662 A.2d 1350, 1354 (Del. Ch. 1995)).

14 20. DISH's articles of incorporation indemnify and exculpate DISH's Board of
15 Directors (the "Board") from liability for any breach of the fiduciary duty of care.

16 21. Particularly in light of the exculpation and indemnification provision in DISH's
17 articles of incorporation — and the fact that Lillis joined the DISH Board four months after this
18 action was filed — the challenged actions of the SLC members, even if they might potentially
19 give rise to liability, were not so "egregious that a substantial likelihood of director liability
20 exists." Thus, there is no genuine issue of material fact with respect to whether the claims
21 asserted against the SLC members undermine the independence of the SLC.

22 22. Based upon the above and all the evidence and legal authority presented, the
23 Court is persuaded that there is no genuine issue of material fact as to the independence of the
24 SLC. The SLC is independent.

25
26 ¹⁰ Often courts frame the analysis of whether claims asserted against a director neutralize that
27 director's exercise of business judgment as a question of interest, rather than of independence.
28 This opinion addresses the issue as one of independence because Plaintiff frames the issue in that
manner. The question would be analyzed in the same manner and with the same outcome if
framed as a question of the SLC members' disinterest.

1 **III. The SLC Conducted a Good Faith, Thorough Investigation.**

2 23. Both *Auerbach* and *Zapata* establish the same standard by which a court should
3 analyze the good faith, thoroughness of a special litigation committee's investigation:

4 What has been uncovered and the relative weight accorded in
5 evaluating and balancing the several factors and considerations are
6 beyond the scope of judicial concern. Proof, however, that the
7 investigation has been so restricted in scope, so shallow in
8 execution, or otherwise so pro forma or halfhearted as to constitute
 a pretext or sham, consistent with the principles underlying the
 application of the business judgment doctrine, would raise
 questions of good faith or conceivably fraud which would never be
 shielded by that doctrine.

9 *Auerbach*, 393 N.E.2d at 1002-03. See also *Stein v. Bailey*, 531 F. Supp. 684, 691, 695
10 (S.D.N.Y. 1982) (under the *Zapata* standard, "[p]roof . . . that the investigation has been so
11 restricted in scope, so shallow in execution, or otherwise so pro forma or halfhearted as to
12 constitute a pretext or sham . . . would raise questions of good faith") (internal quotation marks
13 omitted); *Hasan v. CleveTrust Realty Investors*, 729 F.2d 372, 378 (6th Cir. 1984) (*Auerbach*
14 and *Zapata* "are convergent in their approach to the issues of good faith and thoroughness.").

15 24. Regardless of which standard applies, the Court finds that the SLC conducted a
16 good faith, thorough investigation. As detailed above, the SLC reviewed thousands of
17 documents, interviewed numerous witnesses and thoroughly analyzed each of the claims in its
18 330-page Report. See *supra*, paragraphs [[74]] – [[86]] and [[83]] – [[84]]. The SLC Report
19 addressed each of the significant concerns raised by the Second Amended Complaint.

20 25. Although Plaintiff makes numerous assertions concerning supposed deficiencies
21 or bad faith of the SLC's investigation, none of the assertions has merit:

22 26. Among other assertions, Plaintiff asserts that the SLC failed to address or
23 concealed evidence concerning compliance by Ergen and his counsel with this Court's partial
24 preliminary injunction. Contrary to Plaintiff's assertion, the SLC disclosed the comments that
25 counsel for SPSO made concerning the Release to the LightSquared Bankruptcy Court and
26 addressed the implications of those statements, based upon the full record. Furthermore, there is
27 no evidence that Ergen or his counsel failed to comply with this Court's partial preliminary
28 injunction.

1 27. Plaintiff also asserts that the SLC failed to analyze the STC Termination Claim.
2 Contrary to Plaintiff's assertion, the SLC Report addressed this issue at pages 325 to 327 of the
3 SLC Report.

4 28. Plaintiff also asserts that the SLC failed to address Plaintiff's derivative claim for
5 unjust enrichment. Contrary to Plaintiff's assertion, the SLC addressed Plaintiff's claim for
6 unjust enrichment in connection with the SLC's consideration of Plaintiff's other claims as set
7 forth at pages 301-02, 312-13, 321-22, and 324-25 of the SLC Report.

8 29. Regardless of whether Plaintiff may have preferred that its claims be investigated
9 differently, Plaintiff has not identified a genuine issue of material fact with respect to whether the
10 SLC's investigation of the claims set forth in the Second Amended Complaint was thorough and
11 conducted in good faith.

12 30. The Court concludes that there is no genuine issue of material fact as to the
13 thoroughness or good faith of the SLC's extensive investigation. The SLC is independent and
14 conducted a good faith, thorough investigation. For this reason, the Court grants the SLC's
15 Motion and dismisses this action with prejudice. The Court does so based upon the
16 independence of the SLC and thoroughness and good faith of its investigation.

17 31. If this Court were to adopt the *Zapata* standard, this Court likewise would find
18 that standard met, for, among other reasons, the conclusions in the SLC Report were neither
19 irrational nor egregious.

20 **IV. The Remaining Motions to Dismiss Are Moot.**

21 32. The SLC's Motion to Dismiss under Rule 23.1 and the Director Defendants',
22 Officer Defendants', and Ergen Defendants' Motions to Dismiss are moot at this time.

23 33. If any conclusions of law are properly findings of fact, they shall be treated as if
24 appropriately identified and designated.

25 THEREFORE, having made the foregoing Findings of Fact and Conclusions of Law, and
26 good cause appearing,

27

28


1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the SLC's Motion to
2 Defer to the SLC's Determination That the Claims Should Be Dismissed is hereby GRANTED
3 and this action is dismissed with prejudice.

4 IT IS FURTHER ORDERED that in light of the Court's ruling on the SLC's Motion to
5 Defer, the Court need not rule upon the SLC's Motion to Dismiss for Failure to Plead Demand
6 Futility, the Director Defendants' Motion to Dismiss the Second Amended Complaint, The
7 Officer Defendants' Motion to Dismiss the Second Amended Complaint, and Defendants
8 Charles W. Ergen and Cantey M. Ergen's Motion to Dismiss the Second Amended Derivative
9 Complaint of Jacksonville Police and Fire Pension Fund. These and any other pending motions
10 are hereby denied without prejudice as moot.

11 DATED this 19th day of September 2015.

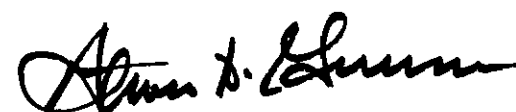
12
13 
14 DISTRICT COURT JUDGE

15 Respectfully submitted by:

16 
17 J. Stephen Peek
18 Robert J. Cassity
19 HOLLAND & HART LLP
20 9555 Hillwood Drive, 2nd Floor
21 Las Vegas, NV 89134

22 Holly Stein Sollod (*pro hac vice*)
23 HOLLAND & HART LLP
24 555 17th Street Suite 3200
25 Denver, CO 80202

26 David C. McBride (*pro hac vice*)
27 Robert S. Brady (*pro hac vice*)
28 C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, DE 19801
*Attorneys for the Special Litigation Committee
of DISH Network Corporation*



CLERK OF THE COURT

1 **NOAS**

JEFF SILVESTRI, ESQ. (NSBN 5997)

2 Email: jsilvestri@mcdonaldcarano.com

AMANDA C. YEN, ESQ. (NSBN 9726)

3 Email: ayen@mcdonaldcarano.com

DEBBIE LEONARD, ESQ. (NSBN 8620)

4 Email: dleonard@mcdonaldcarano.com

McDONALD CARANO WILSON LLP

5 2300 W. Sahara Avenue, Suite 1200

Las Vegas, NV 89102

6 Telephone: 702.873.4100

Facsimile: 702.873.9966

7 BRIAN W. BOSCHKEE, ESQ. (NSBN 7612)

8 E-mail: bboschkee@nevadafirm.com

9 WILLIAM N. MILLER, ESQ. (NSBN 11658)

E-mail: wmiller@nevadafirm.com

10 HOLLEY, DRIGGS, WALCH,

FINE, WRAY, PUZEY & THOMPSON

11 400 South Fourth Street, Third Floor

Las Vegas, Nevada 89101

12 Telephone: 702.791.0308

13 MARK LEOVITCH, ESQ. (*admitted pro hac vice*)

Email: markL@blbglaw.com

14 JEROEN VAN KWAWEGEN, ESQ. (*admitted pro hac vice*)

Email: jeroen@blbglaw.com

15 ADAM D. HOLLANDER, ESQ. (*admitted pro hac vice*)

Email: adam.hollander@blbglaw.com

16 BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

1285 Avenue of the Americas, 38th Floor

17 New York, NY 10019

Telephone: 212.554.1400

18 *Attorneys for Jacksonville Police and Fire Pension Fund*

19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 IN RE DISH NETWORK DERIVATIVE
22 LITIGATION,

CASE NO.: A-13-686775-B

DEPT. NO.: XI

Consolidated with
A-13-688862-B
A-14-693887-B

23 **NOTICE OF APPEAL**

The Jacksonville Police and Fire Pension Fund, by and through its attorneys of record, Bernstein Litowitz Berger & Grossmann LLP, McDonald Carano Wilson LLP, and Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson, hereby appeals to the Supreme Court of Nevada from the Findings of Fact and Conclusions of Law Regarding the Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed ("Findings of Fact") entered in this action on September 18, 2015, and upon which written notice of entry of the Findings of Fact was served on October 2, 2015. A copy of said Findings of Fact is attached hereto as **Exhibit A**.

RESPECTFULLY SUBMITTED this 12th day of October, 2015.

McDONALD CARANO WILSON

By: 

Jeff Silvestri, Esq. (NSBN 5997)
Email: jsilvestri@mcdonaldcarano.com
Amanda C. Yen, Esq. (NSBN 9726)
Email: ayen@mcdonaldcarano.com
Debbie Leonard, Esq. (NSBN 8620)
Email: dleonard@mcdonaldcarano.com
2300 W. Sahara Avenue, Suite 1200
Las Vegas, NV 89102
Telephone: 702.873.4100
Facsimile: 702.873.9966

Brian W. Boschee, Esq. (NSBN 7612)
E-mail: bboschee@nevadafirm.com
William N. Miller, Esq. (NSBN 11658)
E-mail: wmiller@nevadafirm.com
Holley, Driggs, Walch,
Fine, Wray, Puzey & Thompson
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702.791.0308

Mark Lebovitch, Esq. (*admitted pro hac vice*)
Email: markL@blbglaw.com
Jeroen Van Kwawegen, Esq.
(*admitted pro hac vice*)
Email: jeroen@blbglaw.com
Adam D. Hollander, Esq. (*admitted pro hac vice*)
Email: adam.hollander@blbglaw.com
Bernstein Litowitz Berger & Grossmann LLP
1285 Avenue of the Americas, 38th Floor
New York, NY 10019
Telephone: 212.554.1400

Attorneys for Jacksonville Police and Fire Pension Fund

CERTIFICATE OF SERVICE

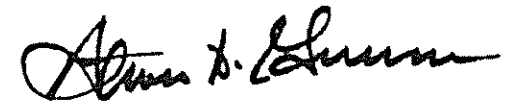
I HEREBY CERTIFY that I am an employee of McDonald Carano Wilson LLP and that on the 12th day of October, 2015, a true and correct copy of the foregoing **NOTICE OF APPEAL** was electronically filed with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.



An employee of McDonald Carano Wilson LLP

EXHIBIT A

EXHIBIT A



CLERK OF THE COURT

1 NEOJ

J. Stephen Peek

2 Nevada Bar No. 1758

Robert J. Cassity

3 Nevada Bar No. 9779

HOLLAND & HART LLP

4 9555 Hillwood Drive, 2nd Floor

Las Vegas, NV 89134

5 Phone: (702) 669-4600

Fax: (702) 669-4650

6 Holly Stein Sollod (*pro hac vice*)

7 HOLLAND & HART LLP

555 17th Street Suite 3200

8 Denver, CO 80202

Phone (303) 295-8000

9 Fax: (303) 975-5395

10 David C. McBride (*pro hac vice*)

Robert S. Brady (*pro hac vice*)

11 C. Barr Flinn (*pro hac vice*)

Emily V. Burton (*pro hac vice*)

12 YOUNG, CONAWAY, STARGATT & TAYLOR, LLP

Rodney Square

13 1000 North King Street

Wilmington, DE 19801

14 Phone: (302) 571-6600

Fax: (302) 571-1253

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

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 IN RE DISH NETWORK DERIVATIVE
20 LITIGATION

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

21 *Consolidated with A688882*

22 **NOTICE OF ENTRY OF FINDINGS OF**
23 **FACT AND CONCLUSIONS OF LAW**
24 **REGARDING THE MOTION TO DEFER**
25 **TO THE SLC'S DETERMINATION**
26 **THAT THE CLAIMS SHOULD BE**
27 **DISMISSED**

28 PLEASE TAKE NOTICE that Findings of Fact and Conclusions of Law Regarding the
Motion to Defer to the SLC's Determination that the Claims Should be Dismissed were entered

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

1 on the 18th day of September 2015. A copy is attached.

2 DATED this 2nd day of October 2015

3

4

/s/ Robert J. Cassity

5

J. Stephen Peek

Nevada Bar No. 1758

6

Holly Stein Sollod

Robert J. Cassity

Nevada Bar No. 9779

7

HOLLAND & HART LLP

9555 Hillwood Drive, 2nd Floor

8

Las Vegas, NV 89134

9

Holly Stein Sollod (*pro hac vice*)

10

HOLLAND & HART LLP

555 17th Street Suite 3200

11

Denver, CO 80202

12

David C. McBride (*pro hac vice*)

Robert S. Brady (*pro hac vice*)

13

C. Barr Flinn (*pro hac vice*)

Emily V. Burton (*pro hac vice*)

14

YOUNG, CONAWAY, STARGATT & TAYLOR, LLP

Rodney Square

15

1000 North King Street

Wilmington, DE 19801

16

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

17

18

19

20

21

22

23

24

25

26

27

28

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October 2015, a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE MOTION TO DEFER TO THE SLC'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED** was served by the following method(s):

× Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

See the attached E-Service Master List

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:

/s/ Valerie Larsen
An Employee of Holland & Hart LLP

**E-Service Master List
For Case****null - Jacksonville Police and Fire Pension Fund, Plaintiff(s) vs. Charles Ergen, Defendant(s)****Bernstein Litowitz Berger & Grossmann LLP****Contact**Adam D. Hollander
Jeroen Van Kwawegen
Mark Lebovitch**Email**adam.hollander@blbglaw.com
jeroen@blbglaw.com
markl@blbglaw.com**Brownstein Hyatt Farber Schreck, LLP****Contact**Jeffrey S. Rugg
Karen Mandall
Maximilien "Max" D. Fetaz**Email**jruqq@bhfs.com
kmandall@bhfs.com
MFetaz@BHFS.com**Cadwalader Wickersham****Contact**Brittany Schulman
Gregory Beaman
William Foley**Email**brittany.schulman@cwt.com
Gregory.Beamen@cwt.com
William.Foley@cwt.com**Greenberg Traurig, LLP****Contact**6085 Joyce Heilich
7132 Andrea Rosehill
IOM Mark Ferrario
LVGTDocketing
RRW Randolph Westbrook**Email**heilichj@qtlaw.com
rosehilla@qtlaw.com
lvitdock@qtlaw.com
lvitdock@qtlaw.com
westbrookr@qtlaw.com**Holland & Hart****Contact**

Steve Peek

Emailspeek@hollandhart.com**Holland & Hart LLP****Contact**Robert Cassity
Valerie Larsen**Email**bcassity@hollandhart.com
vlarsen@hollandhart.com**Holley Driggs Walch Fine Wray Puzey & Thompson****Contact**

Dawn Dudas

Emailddudas@nevadafirm.com**Holley Driggs Walch Puzey Thompson****Contact**

William N. Miller

Emailwmiller@nevadafirm.com**Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson****Contact**

Brian W. Boschee

Emailbboschee@nevadafirm.com**Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson****Contact**

Brian W. Boschee, Esq.

Emailbboschee@nevadafirm.com**Holley, Driggs, Walch, Puzey & Thompson****Contact**

William N. Miller

Emailwmiller@nevadafirm.com**Pisanelli Bice PLLC****Contact**Debra L. Spinelli
Paul Garcia
PB Lit**Email**dls@pisanellibice.com
pg@pisanellibice.com
lit@pisanellibice.com

Reisman Sorokac**Contact**

Joshua H. Reisman, Esq.
Kelly Wood

Email

JReisman@rsnvlaw.com
kwood@rsnvlaw.com

Sullivan & Cromwell, LLP**Contact**

Andrew L. Van Houter
Brian T. Frawley
Heather Celeste Mitchell

Email

vanhoutera@sullcrom.com
frawleyb@sullcrom.com
MITCHELLH@SULLCROM.COM

Willkie, Farr & Gallagher LLP**Contact**

Tariq Mundiya

Email

tmundiya@willkie.com

Winston & Strawn**Contact**

Bruce R. Braun

Email

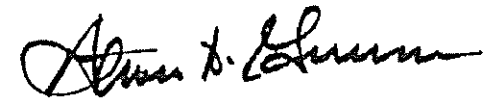
BBraun@winston.com

Young, Conway, Stargatt & Taylor, LLP**Contact**

C. Barr Flinn

Email

bflinn@ycst.com



CLERK OF THE COURT

1 **FFCL**

2 J. Stephen Peek

3 Nevada Bar No. 1758

4 Robert J. Cassity

5 Nevada Bar No. 9779

6 HOLLAND & HART LLP

7 9555 Hillwood Drive, 2nd Floor

8 Las Vegas, NV 89134

9 Phone: (702) 669-4600

10 Fax: (702) 669-4650

11 Holly Stein Sollod (*pro hac vice*)

12 HOLLAND & HART LLP

13 555 17th Street Suite 3200

14 Denver, CO 80202

15 Phone (303) 295-8000

16 Fax: (303) 975-5395

17 David C. McBride (*pro hac vice*)

18 Robert S. Brady (*pro hac vice*)

19 C. Barr Flinn (*pro hac vice*)

20 Emily V. Burton (*pro hac vice*)

21 YOUNG, CONAWAY, STARGATT & TAYLOR, LLP

22 Rodney Square

23 1000 North King Street

24 Wilmington, DE 19801

25 Phone: (302) 571-6600

26 Fax: (302) 571-1253

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

DISTRICT COURT

CLARK COUNTY, NEVADA

IN RE DISH NETWORK CORPORATION
DERIVATIVE LITIGATION

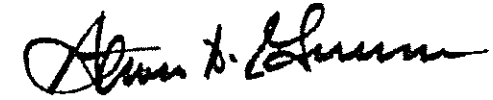
Case No. A-13-686775-B

Dept. No. XI

Consolidated with A688882

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW REGARDING
THE MOTION TO DEFER TO THE
SLC'S DETERMINATION THAT THE
CLAIMS SHOULD BE DISMISSED**

This matter came before the Court for hearing on the Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed (the "Motion to Defer") on January 12, 2015 at 8:00 a.m. During oral argument, Plaintiff Jacksonville Police and Fire Pension Fund



CLERK OF THE COURT

1 **FFCL**
J. Stephen Peek
2 Nevada Bar No. 1758
Robert J. Cassity
3 Nevada Bar No. 9779
HOLLAND & HART LLP
4 9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
5 Phone: (702) 669-4600
Fax: (702) 669-4650

6 Holly Stein Sollod (*pro hac vice*)
7 HOLLAND & HART LLP
555 17th Street Suite 3200
8 Denver, CO 80202
Phone (303) 295-8000
9 Fax: (303) 975-5395

10 David C. McBride (*pro hac vice*)
Robert S. Brady (*pro hac vice*)
11 C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
12 YOUNG, CONAWAY, STARGATT & TAYLOR, LLP
Rodney Square
13 1000 North King Street
Wilmington, DE 19801
14 Phone: (302) 571-6600
Fax: (302) 571-1253

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

17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 **IN RE DISH NETWORK CORPORATION**
20 **DERIVATIVE LITIGATION**

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

Consolidated with A688882

21
22 **FINDINGS OF FACT AND**
23 **CONCLUSIONS OF LAW REGARDING**
24 **THE MOTION TO DEFER TO THE**
SLC'S DETERMINATION THAT THE
CLAIMS SHOULD BE DISMISSED

25
26 This matter came before the Court for hearing on the Motion to Defer to the SLC's
27 Determination That the Claims Should Be Dismissed (the "Motion to Defer") on January 12,
28 2015 at 8:00 a.m. During oral argument, Plaintiff Jacksonville Police and Fire Pension Fund

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134