

Electronically Filed
Aug 28 2020 02:21 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

THE O'MARA LAW FIRM, P.C.
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Liaison Counsel

ROBBINS GELLER RUDMAN
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RANDALL J. BARON
BENNY C. GOODMAN III
ERIK W. LUEDEKE
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San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

Lead Counsel for Plaintiffs

[Additional counsel appear on signature page.]

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND, Derivatively on
Behalf of DISH NETWORK
CORPORATION,

Plaintiff,

vs.

CHARLES W. ERGEN, et al.,

Defendants,

– and –

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant.

Lead Case No. A-17-763397-B
(Consolidated)
Dept. No. XI

NOTICE OF APPEAL

1 NOTICE IS HEREBY GIVEN that Plaintiffs, Plumbers Local Union No. 519 Pension
2 Trust Fund and City of Sterling Heights Police and Fire Retirement System, by and through their
3 counsel, David C. O'Mara, Esq., of the O'Mara Law Firm, P.C., appeal to the Supreme Court of
4 Nevada from the following orders:

- 5 1. Findings of Fact and Conclusions of Law entered in this action on the 17th day of
6 July, 2020, with the Notice of Entry filed on July 31, 2020.
7 2. Judgment entered in this action on the 3rd day of August, 2020, with the Notice of
8 Entry of Judgement filed on August 4, 2020.

9 DATED: August 25, 2020.

O'MARA LAW FIRM, PC

11 /s/ David O'Mara
12 DAVID C. O'MARA

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Liaison Counsel

17 ROBBINS GELLER RUDMAN
18 & DOWD LLP
19 RANDALL J. BARON
20 BENNY C. GOODMAN III
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27 bennyg@rgrdlaw.com
28 eluedeke@rgrdlaw.com
tlacomb@rgrdlaw.com

Lead Counsel for Plaintiffs

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tmichaud@vmtlaw.com

Additional Counsel for Plaintiffs

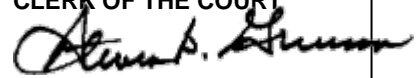
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of The O’Mara Law Firm, P.C., 311 E. Liberty Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing document on all parties to this action through the Court’s electronic filing system.

DATED: August 25 2020

/s/ Bryan Snyder
BRYAN SNYDER



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Lead Counsel for Plaintiffs

[Additional counsel appear on signature page.]

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND, Derivatively on
Behalf of DISH NETWORK
CORPORATION,

Plaintiff,

vs.

CHARLES W. ERGEN, et al.,

Defendants,

– and –

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant.

Lead Case No. A-17-763397-B
(Consolidated)
Dept. No. XI

CASE APPEAL STATEMENT

1 **1. Name of appellant filing this case appeal statement:** Plumbers Local Union No.
2 519 Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System,
3 Derivatively on Behalf of Nominal Defendant Dish Network Corporation.

4 **2. Identify the judge issuing the decision, judgment, or order appealed from:** The
5 Honorable Elizabeth Gonzalez of Department XI of the Eighth Judicial District Court of the
6 County of Clark in and for the State of Nevada.

8 **3. Identify each appellant and the name and address of counsel for each**
9 **appellant:** Appellants Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling
10 Heights Police and Fire Retirement System are represented by David C. O'Mara, Esq., of The
11 O'Mara Law Firm, P.C., located at 311 E. Liberty Street, Reno, NV 89501; Randall J. Baron,
12 Benny C. Goodman III and Erik W. Luedeke, of Robbins Geller Rudman & Dowd LLP, located
13 at 655 West Broadway, Suite 1900, San Diego, CA 92101; and Howard S. Susskind, Esq., of
14 Sugarman & Susskind located at 100 Miracle Mile, Suite 300, Coral Gables, FL 33134.

16 Appellants Sterling Heights Police and Fire Retirement Systems are additionally
17 represented by Patrick R. Leverty, Esq., of Leverty & Associates Law Chtd located at 832 Willow
18 Street, Reno, Nevada 89502; Ashley R. Rifkin, Esq., Brian J. Robbins, Kevin A. Seely and Lindsey
19 C. Herzik, of Robbins Arroyo, LLP, located at 600 B Street, Suite 1900, San Diego, California
20 92101; and Thomas C. Michaud, Esq., of Vanoverbke, Michaud & Timmony, P.C. located at 79
21 Alfred Street, Detroit, Michigan, 89201.

22 **4. Identify each respondent and the name and address of appellate counsel, if**
23 **known, for each respondent (if the name of a respondent's appellate counsel is unknown,**
24 **indicate as much and provide the name and address of that respondent's trial counsel):**
25 Respondents Charles W. Ergen, James Defranco, Cantey M. Ergen, Steven R. Goodbarn, David
26 Moskowitz, Tom A. Ortolf, Carl E. Vogel, George R. Brokaw, Joseph P. Clayton, and Gary S.
27 Howard are represented by J. Randall Jones, Esq., Mark M. Jones, Esq., Ian P. McGinn, Esq. of
28

1 Kemp Jones & Coulthard, LLP located at 3800 Howard Hughes Pkwy, 17th Floor, Las Vegas,
2 Nevada 89169 and Brian T. Frawley, Esq., and Maya Krugman, Esq., of Sullivan Cromwell, LLP
3 located at 125 Broad Street, New York, New York, 10004.

4 Respondent Dish Network Corporation is represented by Mark. E. Ferrario, Esq., Chris
5 Miltenberger, Esq., and Andrea Rosehill of Greenberg Traurig, LLP located at 3773 Howard
6 Hughes Pkwy, Suite 400 North, Las Vegas, Nevada 89169.

7 The Dish Network Special Litigation Committee Counsel is represented by J. Steven Peek,
8 Esq., Robert J. Cassidy, Esq of Holland and Hart, LLP located at 9555 Hillwodd Drive, 2nd Floor,
9 Las Vegas, Nevada 89134 and C. Barr Flinn, Esq. and Emily V. Burton, Esq., of Conaway Stargatt
10 & Taylor, LLP located at Rodney Square, 1000 North King Street, Wilmington, Delaware, 19801.

11 **5. Indicate whether any attorney identified above in response to question 3 or 4**
12 **is not licensed to practice law in Nevada and, if so, whether the district court granted that**
13 **attorney permission to appear under SCR 42 (attach a copy of any district court order**
14 **granting such permission):** The following counsel for Appellants were admitted to practice *pro*
15 *hac vice* on the dates listed: Erik Luedeke, Esq., August 13, 2018; Benny C. Goodman, Esq.,
16 February 4, 2019; Randall J. Baron, Esq., April 1, 2019; and Ashley R. Rifkin, Esq., March 16,
17 2018. The respective orders granting permission to practice *pro hac vice* are attached as Exhibits
18 1, 2, 3 and 4.
19

20 The following counsel for Appellants have not been admitted to practice *pro hac vice*:
21 Howard S. Susskind, Thomas Michaud, Brian J. Robbins, Kevin A. Seely and Lindsey C. Herzik.
22

23 The following counsel for Respondents were admitted to practice *pro hac vice* on the dates
24 listed: Brian T. Frawley, Esq., April 26, 2018; and Maya Krugman, Esq., April 26, 2018. The
25 respective orders granting permission to practice are attached as Exhibits 5 and 6.

26 The following counsel for Dish Network Special Litigation Committee were admitted to
27 practice *pro hac vice* on the dates listed: C. Barr Flinn, Esq., August 22, 2018; Emily V. Burton,
28

Esq., September 24, 2018. The respective orders granting permission to practice are attached as Exhibits 7, 8 and 9.

6. Indicate whether appellant was represented by appointed or retained counsel in the district court: Appellants were represented by retained counsel.

7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Appellants are represented by retained counsel.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: Not applicable.

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): October 19, 2017.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court: This is a shareholder derivative action on behalf of nominal defendant DISH Network Corporation (“Dish” or the “Company”) for breach of fiduciary duties of loyalty and good faith, corporate waste, and unjust enrichment. Plaintiffs allege that the Company’s top officers and directors breached their fiduciary duties to Dish by allowing the Company and its agents to repeatedly violate the Telephone Consumer Protection Act (the “TCPA”) by making illegal telemarketing calls. The TCPA calls at issue resulted in a jury verdict against the Company in the United States District Court for the Middle District of North Carolina. The North Carolina District Court, the Honorable Catherine Eagles presiding, later entered a treble damages award of approximately \$65 million against the Company for knowing and willful violations of the TCPA. The United States District Court for the Central District of Illinois also entered judgment in a separate action against the Company for violating the TCPA and ordered Dish to pay approximately \$280 million in damages. In response to Plaintiffs’ derivative allegations here the

1 Company established a Special Litigation Committee (the “SLC”) to investigate the claims. The
2 SLC concluded its investigation and, on December 19, 2018, filed a Motion for Summary
3 Judgment Deferring to the SLC’s Determination That the Claims Should Be Dismissed. After a
4 two-day evidentiary hearing, the District Court entered Findings of Fact and Conclusions of Law
5 in favor of the SLC on July 17, 2020. The Notice of Entry of Order was filed on July 31, 2020.
6 The Court entered Judgement of dismissal with prejudice in favor of the SLC on August 3, 2020.
7 The Notice of Entry of Judgment was filed on August 4, 2020.
8

9 **11. Indicate whether the case has previously been the subject of an appeal to or**
10 **original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court**
11 **docket number of the prior proceeding:** None.

12 **12. Indicate whether this appeal involves child custody or visitation:** No.

13 **13. If this is a civil case, indicate whether this appeal involves the possibility of**
14 **settlement:** There is always a possibility of settlement; however, the chances of settlement appear
15 to be unlikely here.
16

17 DATED: August 25, 2020.

O’MARA LAW FIRM, PC

18
19 /s/ David O’Mara
20 DAVID C. O’MARA

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24 775/323-4082 (fax)

Liaison Counsel

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2 & DOWD LLP

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9 Lead Counsel for Plaintiffs

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27 Additional Counsel for Plaintiffs
28

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of The O’Mara Law Firm, P.C., 311 E. Liberty Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing document on all parties to this action through the Court’s electronic filing system.

DATED: August 25, 2020

/s/ Bryan Snyder
BRYAN SNYDER

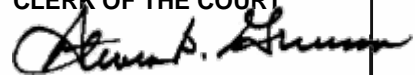
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INDEX OF EXHIBITS

Exh No.	Description	Pages
1	Order Admitting to Practice- EWL	3
2	Order Admitting to Practice- BCG	3
3	Order Admitting to Practice- RJB	3
4	Order Admitting to Practice- ARR	3
5	Order Admitting to Practice- Brian T. Frawley	3
6	Order Admitting to Practice- Maya Krugman, Esq.	3
7	Order Admitting to Practice- C. Barr Flinn	4
8	Order Admitting to Practice- Emily V. Burton	4

EXHIBIT 1

EXHIBIT 1



1 THE O'MARA LAW FIRM, P.C.
2 DAVID C. O'MARA (Nevada Bar No. 8599)
3 311 E. Liberty Street
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6 775/323-4082 (fax)

7 [Additional counsel appear on signature page.]

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 PLUMBERS LOCAL UNION NO. 519
11 PENSION TRUST FUND and CITY OF
12 STERLING HEIGHTS POLICE AND FIRE
13 RETIREMENT SYSTEM, derivatively on
14 behalf of nominal defendant DISH
15 NETWORK CORPORATION,

16 Plaintiffs,

17 v.

18 CHARLES W. ERGEN; JAMES
19 DEFRANCO; CANTEY M. ERGEN;
20 STEVEN R. GOODBARN; DAVID
21 MOSKOWITZ; TOM A. ORTOLF; CARL
22 E. VOGEL; GEORGE R. BROKAW;
23 JOSEPH P. CLAYTON; and GARY S.
24 HOWARD,

25 Defendants,

26 DISH NETWORK CORPORATION, a
27 Nevada corporation,

28 Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL (ERIK
LUEDEKE)**

Hearing Date: June 18, 2018
Hearing Time: In Chambers

23 This matter came for hearing before the Court on June 16, 2018, in chambers on the
24 Motion to Associate Counsel of Erik Luedeke, Esq. of the law firm of Robbins Geller Rudman
25 & Dowd LLP, which was filed pursuant to Nevada Supreme Court Rule 42, together with a
26 Verified Application for Association of Counsel, Certificate of Good Standing and the State
27 Bar Statement. The Motion to Associate Counsel having been properly noticed, no Opposition
28

1 having been filed pursuant to EDCR 2.20(e), the Court being fully apprised in the premises,
2 and good cause appearing,

3 IT IS HEREBY ORDERED that the Motion to Associate Counsel is hereby
4 GRANTED on the merits, and pursuant to Rule 42 of the Supreme Court Rules. Mr. Erik
5 Luedeke, Esq. is hereby admitted to practice before the above-entitled Court for the purposes
6 of the above-entitled matter only.

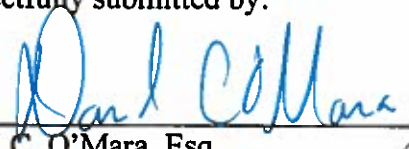
7 IT IS FURTHER ORDERED that by accepting this admission, Mr. Luedeke agrees to
8 submit to the Court's jurisdiction and appear without subpoena for any proceedings required by
9 the Court which relate to Mr. Luedeke's conduct in this matter, including motions, depositions,
10 and evidentiary hearings, whether or not Mr. Luedeke has withdrawn from representing any
11 party pursuant to Nevada Supreme Court Rule 42(13)(a).

12 IT IS SO ORDERED.

13 DATED this 1 day of July 2018.

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15 
16 DISTRICT COURT JUDGE 

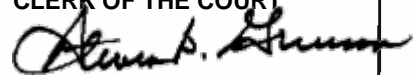
17 Respectfully submitted by:

18 By 
19 David C. O'Mara, Esq.
20 The O'Mara Law Firm, P.C.
21 311 E. Liberty Street
22 Reno, Nevada 89501
23 775.323.1321

24 ROBBINS GELLER RUDMAN
25 & DOWD LLP
26 TRAVIS E. DOWNS III
27 BENNY C. GOODMAN III
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EXHIBIT 2

EXHIBIT 2



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7 [Additional counsel appear on signature page.]

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 PLUMBERS LOCAL UNION NO. 519
11 PENSION TRUST FUND and CITY OF
12 STERLING HEIGHTS POLICE AND FIRE
13 RETIREMENT SYSTEM, derivatively on
14 behalf of nominal defendant DISH
15 NETWORK CORPORATION,

16 Plaintiffs,

17 v.

18 CHARLES W. ERGEN; JAMES
19 DEFRANCO; CANTEY M. ERGEN;
20 STEVEN R. GOODBARN; DAVID
21 MOSKOWITZ; TOM A. ORTOLF; CARL
22 E. VOGEL; GEORGE R. BROKAW;
23 JOSEPH P. CLAYTON; and GARY S.
24 HOWARD,

25 Defendants,

26 DISH NETWORK CORPORATION, a
27 Nevada corporation,

28 Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL (BENNY C.
GOODMAN, III, Esq.)**

Hearing Date: February 1, 2019
Hearing Time: In Chambers

22 This matter came for hearing before the Court on February 1, 2019, in chambers, on the
23 Motion to Associate Counsel of Benny C. Goodman, Esq. of the law firm of Robbins Geller
24 Rudman & Dowd LLP, which was filed pursuant to Nevada Supreme Court Rule 42, together
25 with a Verified Application for Association of Counsel, Certificate of Good Standing and the
26 State Bar Statement. The Motion to Associate Counsel having been properly noticed, no

01-29-19PJS:52 RCVD

1 opposition having been filed pursuant to EDCR 2.20(e), the Court being fully apprised in the
2 premises, and good cause appearing,

3 IT IS HEREBY ORDERED that the Motion to Associate Counsel is hereby
4 GRANTED on the merits, and pursuant to Rule 42 of the Supreme Court Rules. Mr. Benny C.
5 Goodman, Esq. is hereby admitted to practice before the above-entitled Court for the purposes
6 of the above-entitled matter only.

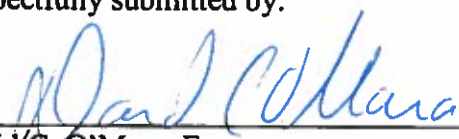
7 IT IS FURTHER ORDERED that by accepting this admission, Mr. Goodman agrees to
8 submit to the Court's jurisdiction and appear without subpoena for any proceedings required by
9 the Court which relate to Mr. Goodman's conduct in this matter, including motions,
10 depositions, and evidentiary hearings, whether or not Mr. Goodman has withdrawn from
11 representing any party pursuant to Nevada Supreme Court Rule 42(13)(a).

12 IT IS SO ORDERED.

13 DATED this 31 day of Jan., 2019.

14
15 
16 DISTRICT COURT JUDGE

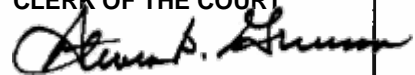
17 Respectfully submitted by:

18 By 
19 David C. O'Mara, Esq.
20 The O'Mara Law Firm, P.C.
21 311 E. Liberty Street
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23 775.323.1321

24 ROBBINS GELLER RUDMAN
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EXHIBIT 3

EXHIBIT 3



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[Additional counsel appear on signature page.]

DISTRICT COURT

CLARK COUNTY, NEVADA

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND and CITY OF
STERLING HEIGHTS POLICE AND FIRE
RETIREMENT SYSTEM, derivatively on
behalf of nominal defendant DISH
NETWORK CORPORATION,

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
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Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL (Randall J.
Baron, Esq.)**

Hearing Date: March 29, 2019
Hearing Time: In Chambers

This matter came for hearing before the Court on March 29, 2019, in chambers, on the Motion to Associate Counsel of Randall J. Baron, Esq. of the law firm of Robbins Geller Rudman & Dowd LLP, which was filed pursuant to Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, Certificate of Good Standing and the State Bar Statement. The Motion to Associate Counsel having been properly noticed, no

1 opposition having been filed pursuant to EDCR 2.20(e), the Court being fully apprised in the
2 premises, and good cause appearing,

3 IT IS HEREBY ORDERED that the Motion to Associate Counsel is hereby
4 GRANTED on the merits, and pursuant to Rule 42 of the Supreme Court Rules. Mr. Randall J.
5 Baron, Esq. is hereby admitted to practice before the above-entitled Court for the purposes of
6 the above-entitled matter only.

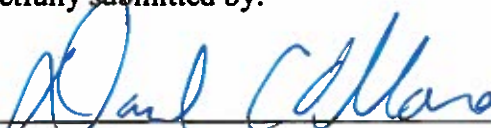
7 IT IS FURTHER ORDERED that by accepting this admission, Mr. Baron agrees to
8 submit to the Court's jurisdiction and appear without subpoena for any proceedings required by
9 the Court which relate to Mr. Baron's conduct in this matter, including motions, depositions,
10 and evidentiary hearings, whether or not Mr. Baron has withdrawn from representing any party
11 pursuant to Nevada Supreme Court Rule 42(13)(a).

12 IT IS SO ORDERED.

13 DATED this 28 day of March, 2019.

14
15 
16 DISTRICT COURT JUDGE

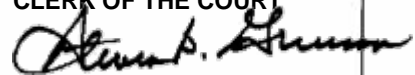
17 Respectfully submitted by:

18 By 
19 David C. O'Mara, Esq.
20 The O'Mara Law Firm, P.C.
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24 ROBBINS GELLER RUDMAN
25 & DOWD LLP
26 TRAVIS E. DOWNS III
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EXHIBIT 4

EXHIBIT 4



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Telephone: 619/525-3990
619/525-3991 (fax)

Attorneys for Plaintiff

[Additional counsel appear on signature page.]

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND, Derivatively on
Behalf of DISH NETWORK
CORPORATION,

Plaintiff,

vs.

CHARLES W. ERGEN, et al.,

Defendants,

– and –

DISH NETWORK CORPORATION, a
Nevada corporation,
Nominal Defendant

Case No. A-17-763397-B
Dept No. 15

**ORDER ADMITTING TO PACTICE
(ASHLEY R. RIFKIN, ESQ.)**

1
2 **ASHLEY R RIFKIN, ESQ.** Having filed her Motion to Associate Counsel under
3 Nevada Supreme Court Rule 42, together with a Verified Application for Association of
4 Counsel, a Certificate of Good Standing for the state of California, and the State Bar of Nevada
5 Statement; said application having been noticed, no objections having been made, and the Court
6 being fully apprised in the premises, and good cause appearing,


7 **IT IS HEREBY ORDERED** that said application is hereby GRANTED and **ASHLEY**
8 **R. RIFKIN, ESQ.,** is hereby admitted to practice in the above-entitled Court for the purposes of
9 the above-entitled matter only.

10 Dated this 12th day of March, 2018

11
12 
13

DISTRICT JUDGE

14 Submitted By:
15 THE O'MARA LAW FIRM, P.C.

16 
17 **DAVID C. O'MARA, ESQ**
18 311 E. Liberty St
19 Reno, NV 89501

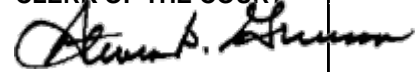
20 Local Counsel

21 **ROBBINS ARROYO LLP**
22 **BRIAN J. ROBBINS**
23 **KEVIN A. SEELY**
24 **ASHLEY R. RIFKIN**
25 **LINDSEY C. HERZIK**
26 600 b Street, Suite 1900
27 Sam Diego, CA 92101
28 Telephone: 619/525-3990
619/525-3991 (fax)

Counsel for Plaintiffs

EXHIBIT 5

EXHIBIT 5



1 J. Randall Jones, Esq. (#1927)
jrj@kempjones.com
2 KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
3 Las Vegas, NV 89169
Telephone: (702) 385-6000
4 Facsimile: (702) 385-6001
Attorney for Defendants

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 PLUMBERS LOCAL UNION NO. 519
9 PENSION TRUST FUND and CITY OF
STERLING HEIGHTS POLICE AND
10 FIRE RETIREMENT SYSTEM,
derivatively on behalf of nominal
11 defendant DISH NETWORK
CORPORATION,

12
13 Plaintiffs,

14 v.

15 CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
16 STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
17 E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
18 HOWARD,

19 Defendants,

20 DISH NETWORK CORPORATION, a
21 Nevada corporation,

22 Nominal Defendant.

CASE NO.: A-17-763397-B

DEPT. NO.: 15

(Consolidated with
Case No. A-17-764522-B)


**ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL
(BRIAN THOMAS FRAWLEY, ESQ.)**

23 THIS MATTER having come on for decision on April 23, 2018 regarding Defendants
24 Motion to Associate Counsel filed on March 21, 2018, the Court having reviewed the pleadings
25 and papers on file herein, and finding that no opposition having been filed, this Court finds that
26 the application of Yevgeniy Zilberman, Esq. satisfies all of the requirements of Nevada
27 Supreme Court Rule 42, and with good cause appearing and there being no just cause for delay,
28

KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kic@kempjones.com

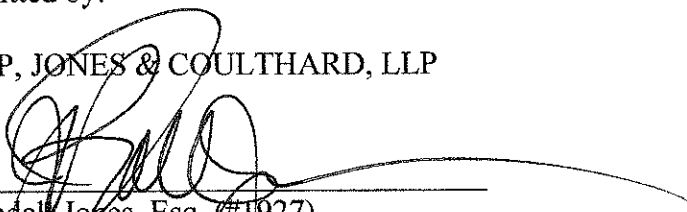
1 **IT IS HEREBY ORDERED** that Defendants Motion to Associate Brian Thomas
2 Frawley, Esq. as counsel is granted.

3 Dated this 25th day of April, 2018.

4
5 
6 DISTRICT COURT JUDGE
7

8 Submitted by:

9 KEMP, JONES & COULTHARD, LLP

10 
11 J. Randall Jones, Esq. (#1927)
12 Mark M. Jones, Esq. (#267)
13 Ian P. McGinn, Esq. (#12818)
14 3800 Howard Hughes Parkway, 17th Floor
15 Las Vegas, NV 89169
16 Attorney for Defendants
17

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on the 25th day of April, 2018, a true and correct copy of the
20 foregoing **ORDER GRANTING MOTION TO ASSOCIATE COUNSEL (BRIAN**
21 **THOMAS FRAWLEY, ESQ.)** was served on all parties through the Court's e-filing system.

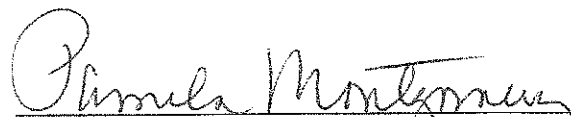
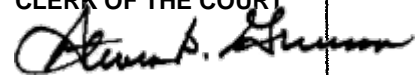
22
23 
24 An employee of Kemp, Jones & Coulthard, LLP
25
26
27
28

EXHIBIT 6

EXHIBIT 6



1 J. Randall Jones, Esq. (#1927)
jrj@kempjones.com
2 KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
3 Las Vegas, NV 89169
Telephone: (702) 385-6000
4 Facsimile: (702) 385-6001
Attorney for Defendants

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 PLUMBERS LOCAL UNION NO. 519
9 PENSION TRUST FUND and CITY OF
STERLING HEIGHTS POLICE AND
10 FIRE RETIREMENT SYSTEM,
derivatively on behalf of nominal
11 defendant DISH NETWORK
CORPORATION,

12
13 Plaintiffs,

14 v.

15 CHARLES W. ERGEN; JAMES
16 DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
17 MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
18 JOSEPH P. CLAYTON; and GARY S.
HOWARD,

19 Defendants,

20 DISH NETWORK CORPORATION, a
21 Nevada corporation,

22 Nominal Defendant.

CASE NO.: A-17-763397-B
DEPT. NO.: 15

(Consolidated with
Case No. A-17-764522-B)

**ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL
(MAYA KRUGMAN, ESQ.)**

23 THIS MATTER having come on for decision on April 23, 2018 regarding Defendants
24 Motion to Associate Counsel filed on March 21, 2018, the Court having reviewed the pleadings
25 and papers on file herein, and finding that no opposition having been filed, this Court finds that
26 the application of Yevgeniy Zilberman, Esq. satisfies all of the requirements of Nevada
27 Supreme Court Rule 42, and with good cause appearing and there being no just cause for delay,
28

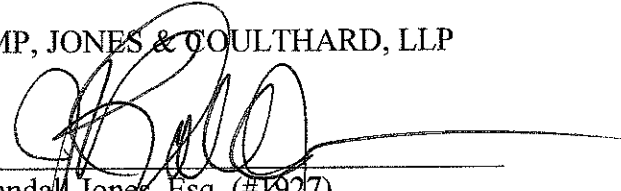
1 **IT IS HEREBY ORDERED** that Defendants Motion to Associate Maya Krugman,
2 Esq. as counsel is granted.

3 Dated this 24th day of April, 2018.

4
5 
6 DISTRICT COURT JUDGE

7
8 Submitted by:

9 KEMP, JONES & COULTHARD, LLP

10 
11 J. Randall Jones, Esq. (#1927)
12 Mark M. Jones, Esq. (#267)
13 Ian P. McGinn, Esq. (#12818)
14 3800 Howard Hughes Parkway, 17th Floor
15 Las Vegas, NV 89169
16 Attorney for Defendants

17
18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on the 25th day of April, 2018, a true and correct copy of the
20 foregoing **ORDER GRANTING MOTION TO ASSOCIATE COUNSEL (MAYA**
21 **KRUGMAN, ESQ.)** was served on all parties through the Court's e-filing system.

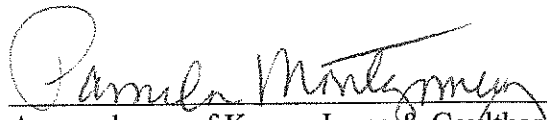
22
23 
24 An employee of Kemp, Jones & Coulthard, LLP

EXHIBIT 7

EXHIBIT 7

1 **ORDG**

2 J. Stephen Peek, Esq. (1758)
3 Robert J. Cassity, Esq. (9779)
4 HOLLAND & HART LLP
5 9555 Hillwood Drive, 2nd Floor
6 Las Vegas, Nevada 89134
7 Tel: (702) 669-4600
8 Fax: (702) 669-4650
9 speak@hollandhart.com
10 bcassity@hollandhart.com

11 C. Barr Flinn (*pro hac vice* pending)
12 Emily V. Burton (*pro hac vice* pending)
13 YOUNG CONAWAY STARGATT & TAYLOR, LLP
14 Rodney Square, 1000 North King Street
15 Wilmington, DE 19801
16 Tel: (302) 571-6600
17 Fax: (302) 571-1253

18 *Attorneys for the Special Litigation Committee*
19 *of Nominal Defendant DISH Network*
20 *Corporation*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 PLUMBERS LOCAL UNION NO. 519
24 PENSION TRUST FUND and CITY OF
25 STERLING HEIGHTS POLICE AND FIRE
26 RETIREMENT SYSTEM, derivatively on
27 behalf of nominal defendant DISH
28 NETWORK CORPORATION,

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
HOWARD,

Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: ~~XV~~ XI

**ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL (C. BARR
FLINN)**

Hearing Date: June 25, 2018
Hearing Time: In Chambers

1 This matter came for hearing before the Court on June 25, 2018 in chambers on the
2 Motion to Associate Counsel of C. Barr Flinn, Esq. of the law firm of Young Conaway
3 Stargatt & Taylor, LLP, which was filed pursuant to Nevada Supreme Court Rule 42, together
4 with a Verified Application for Association of Counsel, Certificate of Good Standing and the
5 State Bar Statement. The Motion to Associate Counsel having been properly noticed, no
6 Opposition having been filed pursuant to EDCR 2.20(e), the Court being fully apprised in the
7 premises, and good cause appearing,

8 IT IS HEREBY ORDERED that the Motion to Associate Counsel is hereby
9 GRANTED and C. Barr Flinn, Esq. is hereby admitted to practice before the above-entitled
10 Court for the purposes of the above-entitled matter only.

11 IT IS FURTHER ORDERED that by accepting this admission, Mr. Flinn agrees to
12 submit to the Court's jurisdiction and appear without subpoena for any proceedings required
13 by the Court which relate to Mr. Flinn's conduct in this matter, including motions,
14 depositions, and evidentiary hearings, whether or not Mr. Flinn has withdrawn from
15 representing any party pursuant to Nevada Supreme Court Rule 42(13)(a).

16 IT IS SO ORDERED.

17 DATED this 17th day of August 2018.

18
19 
DISTRICT COURT JUDGE

20 Respectfully submitted by:

21
22 By 

23 J. Stephen Peek, Esq. (1758)

24 Robert J. Cassity, Esq. (9779)

25 HOLLAND & HART LLP

9555 Hillwood Drive, 2nd Floor

Las Vegas, Nevada 89134

26 C. Barr Flinn (*pro hac vice* pending)

27 Emily V. Burton (*pro hac vice* pending)

28 YOUNG CONAWAY STARGATT & TAYLOR,
LLP

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

1 Rodney Square, 1000 North King Street
2 Wilmington, DE 19801

3 *Attorneys for the Special Litigation*
4 *Committee of Nominal Defendant DISH*
5 *Network Corporation*

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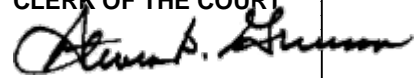
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27

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EXHIBIT 8

EXHIBIT 8



1 **ORDG**

2 J. Stephen Peek, Esq. (1758)
3 Robert J. Cassity, Esq. (9779)
4 **HOLLAND & HART LLP**
5 9555 Hillwood Drive, 2nd Floor
6 Las Vegas, Nevada 89134
7 Tel: (702) 669-4600
8 Fax: (702) 669-4650
9 speak@hollandhart.com
10 bcassity@hollandhart.com

11 C. Barr Flinn (*pro hac vice*)
12 Emily V. Burton (*pro hac vice* pending)
13 **YOUNG CONAWAY STARGATT & TAYLOR, LLP**
14 Rodney Square, 1000 North King Street
15 Wilmington, DE 19801
16 Tel: (302) 571-6600
17 Fax: (302) 571-1253

18 *Attorneys for the Special Litigation Committee*
19 *of Nominal Defendant DISH Network*
20 *Corporation*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 **PLUMBERS LOCAL UNION NO. 519**
24 **PENSION TRUST FUND and CITY OF**
25 **STERLING HEIGHTS POLICE AND FIRE**
26 **RETIREMENT SYSTEM, derivatively on**
27 **behalf of nominal defendant DISH**
28 **NETWORK CORPORATION,**

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
HOWARD,

Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

ORDER GRANTING MOTION TO
ASSOCIATE COUNSEL (EMILY V.
BURTON)

Hearing Date: Aug 31, 2018
Hearing Time: In Chambers

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

1 This matter came for hearing before the Court on August 31, 2018 in chambers on the
2 Motion to Associate Counsel of Emily V. Burton, Esq. of the law firm of Young Conaway
3 Stargatt & Taylor, LLP, which was filed pursuant to Nevada Supreme Court Rule 42, together
4 with a Verified Application for Association of Counsel, Certificate of Good Standing and the
5 State Bar Statement. The Motion to Associate Counsel having been properly noticed, no
6 Opposition having been filed pursuant to EDCR 2.20(e), the Court being fully apprised in the
7 premises, and good cause appearing,

8 IT IS HEREBY ORDERED that the Motion to Associate Counsel is hereby
9 GRANTED and Emily V. Burton, Esq. is hereby admitted to practice before the above-
10 entitled Court for the purposes of the above-entitled matter only.


11 IT IS FURTHER ORDERED that by accepting this admission, Ms. Burton agrees to
12 submit to the Court's jurisdiction and appear without subpoena for any proceedings required
13 by the Court which relate to Ms. Burton's conduct in this matter, including motions,
14 depositions, and evidentiary hearings, whether or not Ms. Burton has withdrawn from
15 representing any party pursuant to Nevada Supreme Court Rule 42(13)(a).

16 IT IS SO ORDERED.

17 DATED this 14 day of September 2018.

18
19 
DISTRICT COURT JUDGE

20 Respectfully submitted by:

21
22 By 
23 J. Stephen Peek, Esq. (1758)
24 Robert J. Cassity, Esq. (9779)
25 HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

26 C. Barr Flinn (*pro hac vice*)
27 Emily V. Burton (*pro hac vice* pending)
28 YOUNG CONAWAY STARGATT & TAYLOR,
LLP

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 222-2500 ♦ Fax: (702) 669-4650

1 Rodney Square, 1000 North King Street
2 Wilmington, DE 19801

3 *Attorneys for the Special Litigation*
4 *Committee of Nominal Defendant DISH*
5 *Network Corporation*
6
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EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-17-763397-B**

Plumbers Local Union No 519 Pension Trust Fund,
Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

§
 §
 §
 §
 §

Location: **Department 11**
 Judicial Officer: **Gonzalez, Elizabeth**
 Filed on: **10/19/2017**
 Case Number History:
 Cross-Reference Case Number: **A763397**

CASE INFORMATION**Related Cases**

A-17-764522-B (Consolidated)

Case Type: **NRS Chapters 78-89**

Case
 Status: **10/19/2017 Open**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-17-763397-B
 Court Department 11
 Date Assigned 07/02/2018
 Judicial Officer Gonzalez, Elizabeth

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	City of Sterling Heights Police and Fire Retirement System	O'Mara, David C. <i>Retained</i> 775-323-1321(W)
	Plumbers Local Union No 519 Pension Trust Fund	O'Mara, David C. <i>Retained</i> 775-323-1321(W)
Defendant	Brokaw, George R Removed: 08/04/2020 Dismissed	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	Candy Ergen, Cantey M Removed: 08/04/2020 Dismissed	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	Clayton, Joseph P Removed: 02/01/2019 Dismissed	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	DeFranco, James Removed: 08/04/2020 Dismissed	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	Ergen, Charles W	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	Goodbarn, Steven R Removed: 08/04/2020 Dismissed	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	Howard, Gary S Removed: 08/04/2020 Dismissed	Jones, Jon Randall <i>Retained</i> 7023856000(W)
	Moskowitz, David K Removed: 08/04/2020	Jones, Jon Randall <i>Retained</i>

CASE SUMMARY**CASE NO. A-17-763397-B**

Dismissed

7023856000(W)

Ortolf, Tom A

Removed: 08/04/2020

Dismissed

Jones, Jon Randall

Retained

7023856000(W)

Vogel, Carl E







Removed: 08/04/2020

Dismissed

Jones, Jon Randall

Retained

7023856000(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
10/19/2017	 Complaint (Business Court) Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Verified Shareholder Derivative Complaint for Breach of Fiduciary Duties of Loyalty and Good Faith, Gorss Mismanagement, Abuse of Control, Corporate Waste and Unjust Enrichment</i>	
10/19/2017	 Initial Appearance Fee Disclosure Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Initial Appearance Fee Disclosure</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- CEV</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- CME</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- CWE</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- DKM</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- G. Howard</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- GRB</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- J. Clayton</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- J. Defranco</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- SRG</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- TAO</i>	
10/20/2017	 Summons Electronically Issued - Service Pending <i>Summons- Dish Network</i>	


CASE SUMMARY

CASE NO. A-17-763397-B


10/26/2017

 Summons
Summons


12/22/2017

 Stipulation and Order
Stipulation re Service of Process Consolidating Cases and Appointing Lead and Liason Counsel and Order Thereon


01/04/2018

 Notice of Entry of Stipulation and Order
Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Notice of Entry of Stipulation Re Service of Process, Consolidating Cases and Appointing Lead and Liaison Counsel and Order Thereon


01/04/2018

 Notice of Change of Address
Notice of Change of Address of the O'Mara Law Firm, P.C.


01/12/2018

 Amended Complaint
Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Verified Consolidated Shareholder Derivative Complaint for Breach of Fiduciary Duties of Loyalty and Good Faith, Gross Mismanagement, Abuse of Control, Corporate Waste and Unjust Enrichment


02/08/2018

 Motion to Associate Counsel
Motion to Associate Counsel (Ashley R. Rifkin, Esq.)


02/26/2018

 Motion to Dismiss
Filed By: Consolidated Case Party DIsH Network Corporation
Nominal Defendant Dish Network Corporation's Motion to Dismiss the Verified Consolidated Shareholder Derivative Complaint and Joinder to Directors' Motion to Dismiss


02/26/2018

 Initial Appearance Fee Disclosure
Filed By: Consolidated Case Party DIsH Network Corporation
Initial Appearance Fee Disclosure


02/26/2018

 Declaration
Filed By: Consolidated Case Party DIsH Network Corporation
Declaration of Mark E. Ferrario in Support of Nominal Defendant Dish Network Corporation's Motion to Dismiss the Verified Consolidated Shareholder Derivative Complaint


02/26/2018

 Initial Appearance Fee Disclosure
Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Initial Appearance Fee Disclosure Statement

02/26/2018

 Motion to Dismiss
Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Defendants' Motion To Dismiss The Verified Consolidated Shareholder Derivative Complaint

03/01/2018

 Initial Appearance Fee Disclosure
Filed By: Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom

CASE SUMMARY

CASE NO. A-17-763397-B

A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Amended Initial Appearance Fee Disclosure Statement

03/16/2018



Order Admitting to Practice

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Order Admitting to Practice (Ashley R. Rifkin, Esq.)

03/19/2018



Notice of Entry of Order

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Notice of Entry of Order Admitting to Practice (Ashley R. Rifkin, Esq.)

03/20/2018



Stipulation and Order

Filed by: Consolidated Case Party DIsh Network Corporation
Stipulation and Order to Continue Hearing on Motions to Dismiss

03/20/2018



Notice of Entry of Stipulation and Order

Filed By: Consolidated Case Party DIsh Network Corporation
Notice of Entry of Stipulation and Order

03/21/2018



Motion to Associate Counsel

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Motion to Associate Counsel (Brian Thomas Frawley, Esq.)

03/21/2018



Motion to Associate Counsel

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Motion to Associate Counsel (Maya Krugman)

03/21/2018



Motion to Associate Counsel

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Motion to Associate Counsel (Yevgeniy Zilberman)

04/12/2018



Opposition to Motion to Dismiss

Plaintiffs' Omnibus Opposition to Defendants' Motions to Dismiss Plaintiffs' Verified Consolidated Shareholder Derivative Complaint

04/26/2018



Order Granting Motion

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Order Granting Motion To Associate Counsel (Brian Thomas Frawley, Esq.)

04/26/2018



Order Granting Motion

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

CASE SUMMARY

CASE NO. A-17-763397-B

Order Granting Motion To Associate Counsel (Yevgeniy Zilberman, Esq.)

04/26/2018



Order Granting Motion

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

Order Granting Motion To Associate Counsel (Maya Krugman, Esq.)

04/26/2018



Notice of Entry of Order

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

Notice Of Entry Of Order Granting Motion To Associate Counsel (Yevgeniy Zilberman, Esq.)

04/26/2018



Motion to Stay

Filed By: Consolidated Case Party DISH Network Corporation

Motion for Stay Pending Investigation of the Special Litigation Committee of DISH Network Corporation Ex Parte Application for Order Shortening Time and Order Thereon

04/26/2018



Stipulation and Order

Stipulation and Order Regarding Omnibus Opposition to Motions to Dismiss

04/30/2018



Order Granting Motion

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

Amended Order Granting Motion To Associate Counsel (Brian Thomas Frawley, Esq.)

04/30/2018



Order Granting Motion

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

Amended Order Granting Motion To Associate Counsel (Maya Krugman, Esq.)

04/30/2018



Notice of Entry of Order

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

Notice Of Entry Of Amended Order Granting Motion To Associate Counsel (Maya Krugman, Esq.)

04/30/2018



Notice of Entry of Order

Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P

Notice Of Entry Of Amended Order Granting Motion To Associate Counsel (Brian Thomas Frawley, Esq.)

05/03/2018



Reply in Support

Filed By: Consolidated Case Party DISH Network Corporation

Nominal Defendant Dish Network Corporation s Reply in Support of Motion to Dismiss the Verified Consolidated Shareholder Derivative Complaint

CASE SUMMARY

CASE NO. A-17-763397-B

05/03/2018	 Reply in Support Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P <i>Defendants' Reply In Support Of Motion To Dismiss The Verified Consolidated Shareholder Derivative Complaint</i>
05/08/2018	 Opposition to Motion Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Plaintiffs' Opposition to Motion to Stay Pending Investigation of Special Litigation Committee of Dish Network Corporation</i>
05/11/2018	 Reply in Support <i>Reply In Support of Motion for Stay Pending Investigation of The Special Litigation Committee of Dish Network Corporation</i>
05/17/2018	 Motion to Associate Counsel Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Motion to Associate Counsel (Erik W. Luedeke, Esq.)</i>
05/18/2018	 Notice <i>Notice of Submission of Proposed Order Regarding Motion for Stay Pending Investigation of the Special Litigation Committee of DISH Network Corporation</i>
05/18/2018	 Notice <i>Notice of Submission of Proposed Order Regarding Motion for Stay Pending Investigation of the Special Litigation Committee of Dish Network Corporation</i>
05/23/2018	 Motion to Associate Counsel <i>Motion to Associate Counsel (C. Barr Flinn)</i>
06/04/2018	 Motion to Associate Counsel Filed By: Other Special Litigation Committee of DISH Network Corp. <i>Motion to Associate Counsel (Emily V. Burton)</i>
06/13/2018	 Order <i>Order Regarding Motion for Stay Pending Investigation of The Special Litigation Committee of DISH Network Corporation</i>
06/18/2018	 Notice of Entry of Order <i>Notice of Entry of Order Regarding Motion for Stay Pending Investigation of the Special Litigation Committee of DISH Network Corporation</i>
07/02/2018	Case Reassigned to Department 11 <i>Reassigned From Judge Hardy - Dept 15</i>
07/20/2018	 Motion to Vacate <i>Notice and Motion to Vacate and Reschedule Status Hearing on Shorten Time</i>
07/23/2018	 Response <i>Response to Plaintiff's Motion to Vacate and Reschedule Status Hearing</i>
07/23/2018	 Response

CASE SUMMARY

CASE NO. A-17-763397-B

Filed by: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P
Defendants' Response to Motion to Vacate and Reschedule Status Hearing

07/23/2018



Motion to Associate Counsel

Motion to Associate Counsel (Emily V. Burton)

07/24/2018



Reply in Support

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund

Reply in Support of Motion to Vacate and Reschedule Hearing

07/26/2018



Notice of Change of Hearing

Notice of Change of Hearing

08/09/2018



Status Report

Filed By: Other Special Litigation Committee of DISH Network Corp.

Status Report of the Special Litigation Committee of DISH Network Corporation Re: August 10, 2018 Status Hearing

08/10/2018



Response

Filed by: Plaintiff Plumbers Local Union No 519 Pension Trust Fund

Plaintiffs' Response to the Dish Special Litigation Committees' Status Report and Request for Expedited Relief to Preserve Corporate Assets, Avoid Delay and Expedite the Special Committee's Investigation

08/13/2018



Order Granting Motion

Order Granting Motion to Associate Counsel (Erik Luedeke)

08/22/2018



Order Granting

Order Granting Motion to Associate Counsel (C. Barr Flinn)

08/24/2018



Notice of Change of Address

Filed By: Consolidated Case Party DISH Network Corporation

Notice of Change of Firm Address

08/24/2018



Notice of Entry of Order

Notice of Entry of Order Granting Motion to Associate Counsel (C. Barr Flinn)

08/24/2018



Transcript of Proceedings

Transcript of Proceedings: Status Check 7/24/18

09/19/2018



Status Report

Status Report of the Special Litigation Committee of DISH Network Corporation re: September 21, 2018 Status Hearing

09/20/2018



Response

Plaintiffs' Response to the Dish Special Litigation Committees' Status Report

09/24/2018



Order Granting

Order Granting Motion to Associate Counsel (Emily V. Burton)

10/01/2018

















Notice of Entry of Order

CASE SUMMARY

CASE NO. A-17-763397-B

Notice of Entry of Order Granting Motion to Associate Counsel (Emily V. Burton)

10/05/2018	 Status Report Filed By: Other Special Litigation Committee of DISH Network Corp. <i>Status Report of the Special Litigation Committee of Dish Network Corporation Re: October 8, 2018 Status Hearing</i>
10/17/2018	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check - Status Report</i>
10/22/2018	 Stipulation and Order Filed by: Other Special Litigation Committee of DISH Network Corp. <i>Stipulation and Order to Extend Stay and the SLC's Deadlines to File Report and Motion</i>
11/27/2018	 Stipulation and Order <i>Stipulated Confidentiality Agreement and Protective Order</i>
11/27/2018	 Motion to Seal/Redact Records <i>Motion to Redact the Report of the Special Litigation Committee of DISH Network Corporation and to Seal Certain Exhibits</i>
11/27/2018	 Notice <i>Notice of Filing Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 11 of Appendix to the Report of the Special Litigation Committee of Dish Network</i>
11/28/2018	 Filed Under Seal <i>Volume 12 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 13 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 14 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 15 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 16 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 18 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 19 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>

CASE SUMMARY

CASE NO. A-17-763397-B

11/28/2018	 Filed Under Seal <i>Volume 17 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 20 of Appendix to the Report of the Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 21 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 22 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 23 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 24 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 25 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 26 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 27 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Filed Under Seal <i>Volume 49 of Appendix to the Report of the Special Litigation Committee of Dish Network Corporation</i>
11/28/2018	 Appendix <i>Volume 1 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 2 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 1 of 4)</i>
11/28/2018	 Appendix <i>Volume 3 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 1 of 4)</i>
11/28/2018	 Appendix

CASE SUMMARY

CASE NO. A-17-763397-B

	<i>Volume 3 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 2 of 4)</i>
11/28/2018	 Appendix <i>Volume 3 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 3 of 4)</i>
11/28/2018	 Appendix <i>Volume 3 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 4 of 4)</i>
11/28/2018	 Appendix <i>Volume 4 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 1 of 2)</i>
11/28/2018	 Appendix <i>Volume 6 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 2 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 2 of 4)</i>
11/28/2018	 Appendix <i>Volume 2 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 3 of 4)</i>
11/28/2018	 Appendix <i>Volume 2 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 4 of 4)</i>
11/28/2018	 Appendix <i>Volume 28 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 4 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 5 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 7 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 10 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/28/2018	 Appendix <i>Volume 9 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>

CASE SUMMARY

CASE NO. A-17-763397-B

11/28/2018	 Appendix <i>Volume 8 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 29 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 31 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 30 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix Filed By: Other Special Litigation Committee of DISH Network Corp. <i>Volume 32 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 38 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 34 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 35 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 36 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 37 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 33 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 39 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 43 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix

CASE SUMMARY

CASE NO. A-17-763397-B

	<i>Volume 44 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 42 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 45 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 46 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 48 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 47 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 40 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 41 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation</i>
11/29/2018	 Appendix <i>Volume 50 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 2 of 3)</i>
11/29/2018	 Appendix <i>Volume 50 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 3 of 3)</i>
11/29/2018	 Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulated Confidentiality Agreement and Protective Order</i>
11/29/2018	 Appendix <i>Volume 50 of Appendix to The Report of the Special Litigation Committee of DISH Network Corporation (Part 1 of 3)</i>
12/19/2018	 Motion to Seal/Redact Records Filed By: Other Special Litigation Committee of DISH Network Corp. <i>Motion to Redact the Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should Be Dismissed</i>
12/19/2018	 Appendix <i>Appendix to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should Be Dismissed</i>

CASE SUMMARY

CASE NO. A-17-763397-B

12/20/2018



Filed Under Seal

Filed By: Other Special Litigation Committee of DISH Network Corp.

Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should Be Dismissed

01/04/2019



Stipulation and Order

Filed by: Other Special Litigation Committee of DISH Network Corp.

Stipulation and Order Extending the Time for Filing Plaintiffs' Opposition to the SLC's Motion to Redact the Report of the SLC and Motion to Seal Certain Exhibits

01/07/2019



Supplement

Supplement to Motion to Redact the Report of the Special Litigation Committee of DISH Network corporation and to Seal Certain Exhibits

01/08/2019



Appendix

Volume 22 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 23 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 24 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 25 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 26 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 27 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 49 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 16 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 17 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 18 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 19 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 20 of Appendix to the Report of the Special Litigation Committee of DISH Network

01/08/2019



Appendix

Volume 21 of Appendix to the Report of the Special Litigation Committee of DISH Network

CASE SUMMARY

CASE NO. A-17-763397-B

01/08/2019	 Appendix <i>Volume 11 of Appendix to the Report of the Special Litigation Committee of DISH Network</i>
01/08/2019	 Appendix <i>Volume 12 of Appendix to the Report of the Special Litigation Committee of DISH Network</i>
01/08/2019	 Appendix <i>Volume 13 of Appendix to the Report of the Special Litigation Committee of DISH Network</i>
01/08/2019	 Appendix <i>Volume 15 of Appendix to the Report of the Special Litigation Committee of DISH Network</i>
01/09/2019	 Business Court Order <i>Business Court Order</i>
01/10/2019	 Notice of Entry of Order Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Notice of Entry of Business Court Order</i>
01/11/2019	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check and Hearing on Motion to Redact Report of Special Litigation Committee and Seal Certain Exhibits</i>
01/14/2019	 Motion <i>Plaintiffs' Motion Pursuant to NRCP 56(f) to Conduct Discovery Necessary to Respond to Motion for Summary Judgment</i>
01/17/2019	 Motion to Stay Filed By: Consolidated Case Party DIsh Network Corporation <i>Defendants' Motion to Stay Merits Discovery Until Pending Dispositive Motions are Resolved and Motion to Continue Mandatory Rule 16 Conference, and Ex Parte Application for Order Shortening Time</i>
01/23/2019	 Stipulation and Order <i>Stipulation and Order Regarding Discovery Concerning the Special Litigation Committee and Investigation</i>
01/24/2019	 Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulation and Order Regarding Discovery Concerning the Special Litigation Committee and Investigation</i>
01/24/2019	 Motion to Associate Counsel <i>Motion to Associate Counsel on Shortened Time (Benny C. Goodman, III)</i>
01/25/2019	 Response Filed by: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Plaintiffs' Response to the SPecial Litigation Committee of Dish Network Corporation's Motions to Redact or Seal</i>
01/28/2019	 Notice of Change of Address <i>Notice of Change of Address of Robbins Arroyo LLP</i>
01/29/2019	

CASE SUMMARY

CASE NO. A-17-763397-B

	 Motion <i>Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed</i>
02/01/2019	 Stipulation and Order for Dismissal Without Prejudice Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S; Defendant Clayton, Joseph P <i>(A763397 and A764522) Stipulation And Order Re: Dismissal Of Defendant Joseph P. Clayton Without Prejudice</i>
02/01/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S <i>Notice Of Entry Of Stipulation And Order Re: Dismissal Of Defendant Joseph P. Clayton Without Prejudice</i>
02/04/2019	 Order Admitting to Practice Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Order Granting Motion to Associate Counsel (Benny C. Goodman, III, Esq.)</i>
02/05/2019	 Notice of Entry of Order Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Notice of Entry of Order Granting Motion to Associate Counsel (Benny C. Goodman, III, Esq.)</i>
02/07/2019	 Order Granting <i>Order Granting the SLC's Motion to Redact the Motion for Summary Judgment Deferring to the SLC's Determination that the Claims Should be Dismissed</i>
02/08/2019	 Notice of Entry of Order <i>Notice of Entry of Order Granting the SLC's Motion to Redact the Motion for Summary Judgment Deferring to the SLC's Determination that the Claims should be Dismissed</i>
02/11/2019	 Order Granting <i>Order Granting the SLC's Motion to Redact The Report of the Special Litigation Committee of DISH Network Corporation and to Seal Certain Exhibits</i>
02/21/2019	 Stipulation and Order Filed by: Consolidated Case Party DIsh Network Corporation <i>Stipulation and Order Regarding Defendants' Motion to Stay and Rule 16 Conference</i>
02/21/2019	 Motion to Associate Counsel Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Motion to Associate Counsel (Randall J. Baron, Esq.)</i>
02/27/2019	 Notice of Entry of Stipulation and Order Filed By: Consolidated Case Party DIsh Network Corporation <i>Notice of Entry of Stipulation and Order</i>
03/19/2019	 Order
04/01/2019	 Order Admitting to Practice

CASE SUMMARY

CASE NO. A-17-763397-B

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Order Granting Motion to Associate Counsel (Randall J. Baron, Esq.)

04/01/2019



Notice of Entry of Order

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Notice of Entry of Order Granting Motion to Associate Counsel (Randall J. Baron, Esq.)

04/04/2019



Notice of Withdrawal of Attorney

Filed by: Defendant Ergen, Charles W; Defendant DeFranco, James; Defendant Candy Ergen, Cantey M; Defendant Goodbarn, Steven R; Defendant Moskowitz, David K; Defendant Ortolf, Tom A; Defendant Vogel, Carl E; Defendant Brokaw, George R; Defendant Howard, Gary S
Notice of Withdrawal of Appearance of Attorney (Yevgeniy Zilberman, Esq.)

04/11/2019



Stipulation and Order

Filed by: Consolidated Case Party Dish Network Corporation
Stipulation and Order Regarding Defendants' Motion to Stay and Rule 16 Conference

04/11/2019



Notice of Entry of Stipulation and Order

Filed By: Consolidated Case Party Dish Network Corporation
Notice of Entry of Stipulation and Order

05/10/2019



Stipulation and Order

Stipulation and Order Extending the Time For Plaintiffs to File Motion(s) Regarding SLC Discovery

05/13/2019



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Notice of Entry of Stipulation and Order Extending the Time for Plaintiffs to File Motion(s) Regarding SLC Discovery

05/31/2019



Status Report

Joint Status Report Regarding June 3, 2019 Status Conference

07/15/2019



Declaration

Declaration of Benny C. Goodman, III in support of Plaintiffs' Motion to Stay Proceedings Pending Decision by the United States Supreme Court on Nominal Defendant Dish Network Corporation's Petition for a Writ of Certiorari in the Underlying Krakauer v. Dish Network, LLC Action

07/15/2019



Appendix

Appendix of Exhibits for Declaration of Benny C. Goodman, III in support of Plaintiffs' Motion to Stay Proceedings Pending Decision by the United States Supreme Court on Nominal Defendant Dish Network Corporation's Petition for a Writ of Certiorari in the Underlying Krakauer v. Dish Network, LLC Action

07/15/2019



Motion to Stay

Plaintiffs' Motion to stay Proceedings Pending Decision by the United States Supreme Court on Nominal Defendant Dish Network Corporation's Petition for a Writ of Certiorari in the Underlying Krakauer v. Dish Network LLC Action on Order Shortening Time

07/26/2019



Stipulation and Order

Stipulation and Order Regarding Briefing Deadlines for Plaintiffs' Motion to Stay Proceedings

07/30/2019



Notice of Entry of Stipulation and Order

Notice of Entry of Order Regarding Briefing Deadlines For Plaintiffs' Motion to Stay

CASE SUMMARY

CASE NO. A-17-763397-B

Proceedings

08/02/2019



Opposition to Motion

Filed By: Consolidated Case Party DISH Network Corporation
The Special Litigation Committee's Opposition to Plaintiffs' Motion to Stay Proceedings Pending Decision By the United States Supreme Court on Nominal Defendant DISH Network Corporation's Petition for a Writ of Certiorari in the Underlying Krakauer v. DISH Network LLC Action

08/08/2019



Reply in Support

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund; Plaintiff City of Sterling Heights Police and Fire Retirement System
Plaintiffs' Reply in Support of Motion to Stay Proceedings Pending Decision by the United States Supreme Court on Nominal Defendant Dish Network Corporation's Petition for Writ of Certiorari in the Underlying Krakauer v. Dish Network L.L.C. Action

08/09/2019



Status Report

The SLC's and Plaintiffs' Joint Status Report Regarding August 12, 2019 Status Conference

08/19/2019



Transcript of Proceedings

Transcript of Proceedings: Status Check and Hearing on Plaintiffs' Motion to Stay

08/29/2019



Order Granting Motion

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Order Granting Motion for Stay

08/29/2019



Notice of Entry of Order

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Notice of Entry of Order Granting Motion for Stay

10/17/2019



Status Report

Filed By: Consolidated Case Party DISH Network Corporation; Other Special Litigation Committee of DISH Network Corp.
Joint Status Report Regarding October 18, 2019 Status Check

10/17/2019



Exhibits

Exhibit A to Joint Status Report Regarding October 18, 2019 Status Check

12/12/2019



Stipulation and Order

Stipulation and Order Regarding Summary Judgment Schedule

01/10/2020



Motion

Filed By: Consolidated Case Party DISH Network Corporation
Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer, Application for Order Shortening Time

01/23/2020



Motion

Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund
Motion to Exceed Page Limits; Application for Order Shortening Time

01/31/2020



Motion to Seal/Redact Records

Filed By: Plaintiff City of Sterling Heights Police and Fire Retirement System
Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C. O'Mara in Support Thereof and the Appendix of Exhibits

CASE SUMMARY

CASE NO. A-17-763397-B

01/31/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/03/2020	 Filed Under Seal <i>Declaration of David C O'Mara in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 1 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 2 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 3 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 4 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 5 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 6 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	

CASE SUMMARY

CASE NO. A-17-763397-B

	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 7 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/03/2020	 Filed Under Seal <i>Appendix of Exhibits in Support of Plaintiffs' Opposition to Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed - Volume 8 (Per Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C O'Mara in Support Thereof and the Appendix of Exhibits, Filed 1/31/2020)</i>
02/14/2020	 Order Granting Motion <i>Order Granting Joint Motion for Evidentiary Hearing on The SLC's Motion to Defer.</i>
02/17/2020	 Notice of Entry of Order Filed By: Consolidated Case Party DIsh Network Corporation <i>Notice of Entry of Order Granting Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer</i>
02/19/2020	 Order Granting <i>Order Granting Plaintiffs' Motion to Exceed Page Limits</i>
02/19/2020	 Notice of Entry of Order Filed By: Other Special Litigation Committee of DISH Network Corp. <i>Notice of Entry of Order Granting Plaintiffs' Motion to Exceed Page Limits</i>
04/07/2020	 Stipulation and Order to Extend Discovery Deadlines <i>Stipulation and Order to Extend Deadline for the SLC to File Reply in Support of Motion to Defer</i>
04/07/2020	 Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulation and Order to Extend Deadline for the SLC to File Reply in Support of Motion to Defer</i>
04/14/2020	 Reply in Support <i>Reply In Support of the Special Litigation Committee's Motion for Summary Judgment Deferring to Its Determination that the Claims Should be Dismissed</i>
05/22/2020	 Order Granting Motion <i>Order Granting Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C. O'Mara in Support Thereof and the Appendix of Exhibits</i>
05/22/2020	 Notice of Entry of Order Filed By: Plaintiff Plumbers Local Union No 519 Pension Trust Fund <i>Notice of Entry of Order Granting Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C. O'Mara in Support Thereof and the Appendix of Exhibits</i>
06/25/2020	 Transcript of Proceedings <i>Transcript of Proceedings: Status Check</i>
06/29/2020	 Disclosure of Documents and Witnesses Pursuant to NRCp 16.1

CASE SUMMARY

CASE NO. A-17-763397-B

The SLC's Pre-Evidentiary Hearing Disclosures Pursuant to NRCP 16.1(a)(3)

07/02/2020



Objection

Objections to Plaintiff's Pre-Evidentiary Hearing Disclosures

07/03/2020



Motion to Seal/Redact Records

Filed By: Consolidated Case Party DISH Network Corporation; Other Special Litigation Committee of DISH Network Corp.

Motion to Retain Redactions to the Special Litigation Committee's Report and Sealing of Certain Exhibits for Evidentiary Hearing; Ex Parte Application for Order Shortening Time and Order Thereon

07/09/2020



Transcript of Proceedings

Transcript of Proceedings: Evidentiary Hearing - Day 1

07/09/2020



Transcript of Proceedings

Transcript of Proceedings: Evidentiary Hearing - Day 2

07/17/2020



Findings of Fact, Conclusions of Law and Judgment

Findings of Fact and Conclusions of Law

07/31/2020



Notice of Entry of Order

Filed By: Other Special Litigation Committee of DISH Network Corp.

Notice of Entry of Findings of Fact and Conclusions of Law

08/03/2020



Judgment

Judgment

08/04/2020



Notice of Entry of Judgment

Notice of Entry of Judgment

08/10/2020



Memorandum of Costs and Disbursements

Filed By: Other Special Litigation Committee of DISH Network Corp.

The Special Litigation Committee of DISH Network Corporation's Verified Memorandum of Costs

08/10/2020



Appendix

Filed By: Other Special Litigation Committee of DISH Network Corp.

Appendix of Exhibits to The Special Litigation Committee of DISH Network Corporation's Verified Memorandum of Costs Volume I of II

08/10/2020



Appendix

Filed By: Other Special Litigation Committee of DISH Network Corp.

Appendix of Exhibits to The Special Litigation Committee of DISH Network Corporation's Verified Memorandum of Costs Volume II of II

08/13/2020



Stipulation and Order

Filed by: Plaintiff Plumbers Local Union No 519 Pension Trust Fund

Stipulation and Order Extending the Time for Plaintiffs to File Motion to ReTax and Settle Costs

08/19/2020



Motion to Retax

Plaintiffs' Motion to Retax and Settle Costs

CASE SUMMARY

CASE NO. A-17-763397-B

08/20/2020  Clerk's Notice of Hearing
Notice of Hearing

08/25/2020  Case Appeal Statement
Case Appeal Statement


08/25/2020  Notice of Appeal
Notice of Appeal


DISPOSITIONS


02/01/2019 **Order of Dismissal Without Prejudice** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: City of Sterling Heights Police and Fire Retirement System (Plaintiff)
Creditors: Joseph P Clayton (Defendant)
Judgment: 02/01/2019, Docketed: 02/01/2019

08/03/2020 **Order of Dismissal With Prejudice** (Judicial Officer: Gonzalez, Elizabeth)
Debtors: Plumbers Local Union No 519 Pension Trust Fund (Plaintiff), City of Sterling Heights Police and Fire Retirement System (Plaintiff)
Creditors: Dish Network Corporation (Consolidated Case Party), Special Litigation Committee of DISH Network Corp. (Other)
Judgment: 08/03/2020, Docketed: 08/05/2020

HEARINGS

03/12/2018  **Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)
Plaintiff's, City of Sterling Heights Police and Fire Retirement System's Motion to Associate Counsel (Ashley R. Rifkin, Esq.)
Minute Order - No Hearing Held;
Journal Entry Details:
COURT ORDERED, Plaintiffs, City Sterling Heights Police and Fire Retirement System s Motion to Associate Counsel (Ashley Rifkin, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: David C. O'Mara, Esq. [david@omaralaw.net], Brian J. Robbins, Esq. [brobbins@robbinsarroyo.com], Kevin A. Seely, Esq. [kseely@robbinsarroyo.com], Ashley R. Rifkin, Esq. [arifkin@robbinsarroyo.com], Lindsey C. Herzik, Esq. [lherzik@robbinsarroyo.com], Timothy Michaud, Esq. [tmichaud@vmtlaw.com], Mark E. Ferrario, Esq. [ferrariom@gtlaw.com], Chris Miltenberger, Esq. [miltenbergerc@gtlaw.com], Andrea Rosehill, Esq. [rosehill@gtlaw.com], Patrick R. Leverty, Esq. [pat@levertylaw.com], and Howard S. Suskind, Esq. [sugarman@sugarmansusskind.com]. (KD 3/13/18);

04/23/2018  **Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)
Events: 03/21/2018 Motion to Associate Counsel
Defendants' Motion to Associate Counsel (Brian Thomas Frawley, Esq.)
Minute Order - No Hearing Held;
Journal Entry Details:
COURT ORDERED, Defendants Motion to Associate Counsel (Brian Thomas Frawley, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Randall Jones, Esq. [jrrj@kempjones.com], David O'Mara, Esq. [david@omaralaw.net], and Brian Frawley, Esq. [frawleyb@sullcrom.com]. (KD 4/23/18);

04/23/2018  **Motion to Associate Counsel** (3:00 AM) (Judicial Officer: Hardy, Joe)
Events: 03/21/2018 Motion to Associate Counsel
Defendants' Motion to Associate Counsel (Maya Krugman, Esq.)
Minute Order - No Hearing Held;
Journal Entry Details:
COURT ORDERED, Defendants Motion to Associate Counsel (Maya Krugman, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits,

CASE SUMMARY

CASE NO. A-17-763397-B

pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Randall Jones, Esq. [jrj@kempjones.com], David O'Mara, Esq. [david@omaralaw.net], and Maya Krugman, Esq. [krugmanm@sullcrom.com]. (KD 4/23/18);

04/23/2018



Motion to Associate Counsel (3:00 AM) (Judicial Officer: Hardy, Joe)

Events: 03/21/2018 Motion to Associate Counsel

Defendants' Motion to Associate Counsel (Yevgeniy Zilberman, Esq.)

Minute Order - No Hearing Held;

Journal Entry Details:

COURT ORDERED, Defendants Motion to Associate Counsel (Yevgeniy Zilberman, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Randall Jones, Esq. [jrj@kempjones.com], David O'Mara, Esq. [david@omaralaw.net], and Yevgeniy Zilberman, Esq. [zilbermany@sullcrom.com]. (KD 4/23/18);

05/15/2018



Motion to Stay (9:00 AM) (Judicial Officer: Hardy, Joe)

Dish Network Corporation's Motion for Stay Pending Investigation of the Special Litigation Committee of Dish Network Corporation Ex Parte Application for Order Shortening Time and Order Thereon

Granted in Part;

Journal Entry Details:

Also present: Stephen Peek, Esq. on behalf of Special Litigation Committee of DISH Network Corp., Bar Flynn, Esq. (Pro Hac Vice PENDING, no arguments made) on behalf of Special Litigation Committee of DISH Network Corp., and Eric Luedeke, Esq. (Pro Hac Vice PENDING, no arguments made) on behalf of Plaintiff Plumbers Local Union No. 519 Pension Trust Fund Mr. O'Mara requested that Mr. Luedeke be permitted to present arguments, noting that his Pro Hac Vice application had been submitted by the bar. Mr. Peek stated that he could not approve such a request. COURT ORDERED that Mr. Luedeke would not be permitted to provide arguments at this time, as his Pro Hac Vice application had not yet been approved. Mr. Peek argued in support of the Motion, requesting a six to nine month stay, in order to allow the Special Litigation Committee of DISH Network Corp. (SLC) to conduct an investigation in to the derivative claims that had been brought. Additionally, Mr. Peek argued that such a stay was appropriate under the law, and that, if the SLC reached a decision other than that the claims should go forward, a Motion would be filed requesting that the Court defer to the SLC's decision. Mr. O'Mara argued in opposition, stating that the SLC was incapable of conducting an independent investigation into the claims, due to their potential liability. Additionally, Mr. O'Mara requested that the Court move forward with an Evidentiary Hearing, and argued that, if the Court was inclined to grant a stay, it should only be for a period of approximately forty-five days. COURT ORDERED the instant Motion was hereby GRANTED IN PART WITHOUT PREJUDICE, and a STAY would be in effect for a period of SIX (6) MONTHS. COURT FURTHER ORDERED the following: (1) a status check was hereby SET every two (2) months, until the expiration of the stay, and the Defendant SLC would be REQUIRED to file a status report one (1) week prior to the status check dates; the filing deadlines for the status reports would be July 10, 2018, and July 4, 2018; (2) the final report regarding SLC's findings must be filed no later than November 13, 2018, and any Motions that needed to be filed subsequent to the submittal of the final report, would be DUE no later than November 27, 2018; (3) the instant Motion was hereby DENIED IN PART WITHOUT PREJUDICE only as to the request for a nine (9) month stay, as such a lengthy stay period was not found to be necessary; and (4) either side would be permitted to file Motions regarding the stay, if they felt they were necessary: Plaintiff to truncate the time period, if they felt that SLC was not doing anything, and Defendant to extend the time period, if they felt it was not long enough. COURT FOUND the following: (1) the Court was controlled by the DISH Network S. Ct. 133 Nev. Adv. Op., 401 decision, and based its decision in the instant case on that decision; and (2) the case in point number 1 indicated that an Evidentiary Hearing, if held, should occur after the investigation had been conducted. Mr. Peek to prepare the Order, and forward to opposing counsel for approval as to form and content. Due to the stay, COURT ORDERED that all pending Motions / hearing, with the exception of the status checks, were hereby VACATED. 7/17/18 9:00 AM STATUS CHECK: STAY 9/11/18 9:00 AM STATUS CHECK: STAY 11/27/18 9:00 AM STATUS CHECK: STAY;

05/24/2018

CANCELED Motion to Dismiss (9:00 AM) (Judicial Officer: Hardy, Joe)





Vacated

Nominal Defendant Dish Network Corporation's Motion to Dismiss the Verified Consolidated

CASE SUMMARY

CASE NO. A-17-763397-B

Shareholder Derivative Complaint and Joinder to Directors' Motion to Dismiss

05/24/2018	<p>CANCELED Motion to Dismiss (9:00 AM) (Judicial Officer: Hardy, Joe)</p> <p><i>Vacated</i></p> <p><i>Defendants' Motion To Dismiss The Verified Consolidated Shareholder Derivative Complaint</i></p>
06/18/2018	<p> Motion to Associate Counsel (3:00 AM) (Judicial Officer: Hardy, Joe)</p> <p><i>Plaintiff's Motion to Associate Counsel (Erik W Luedeke Esq)</i></p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>COURT ORDERED, Plaintiff's Motion to Associate Counsel (Erik W. Luedeke, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. IT IS FURTHER ORDERED that by accepting this admission, Counsel agrees to submit to the Court's jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings, whether or not Counsel has withdrawn from representing any party pursuant to Supreme Court Rule 42(13)(a). Plaintiff's counsel is to prepare the written order, submit it to Defendants counsel for review and approval, and then submit the order to Department 15's chambers within 10 days of this minute order pursuant to EDCR 7.21. CLERK'S NOTE: A copy of this minute order was e-mailed to: David C. O'Mara, Esq. [david@omaralaw.net], Mark E. Ferrario, Esq. [ferrariom@gtlaw.com], Chris Miltenberger, Esq. [miltenbergerc@gtlaw.com], Andrea Rosehill, Esq. [rosehilla@gtlaw.com], Patrick R. Leverty, Esq. [pat@levertylaw.com], Brian J. Robbins, Esq. [brobbins@robbinsarroyo.com], Kevin A. Seely, Esq. [kseely@robbinsarroyo.com], Ashley R. Rifkin, Esq. [arifkin@robbinsarroyo.com], Lindsey C. Herzik, Esq. [lherzik@robbinsarroyo.com], and Thomas Michaud, Esq. [tmichaud@wmtlaw.com]. (KD 6/19/18);</i></p>
06/25/2018	<p> Motion to Associate Counsel (3:00 AM) (Judicial Officer: Hardy, Joe)</p> <p><i>Special Litigation Committee of DISH Network Corporation's Motion to Associate Counsel (C. Barr Flinn)</i></p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>COURT ORDERED, Special Litigation Committee of DISH Network Corporation's Motion to Associate Counsel (Comrie Barr Flinn, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. IT IS FURTHER ORDERED that by accepting this admission, Counsel agrees to submit to the Court's jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings, whether or not Counsel has withdrawn from representing any party pursuant to Supreme Court Rule 42(13)(a). Special Litigation Committee of DISH Network Corporation's counsel is to prepare the written order, submit it to opposing counsels for review and approval, and then submit the order to Department 15's chambers within 10 days of this minute order pursuant to EDCR 7.21. CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Stephen Peek, Esq. [speek@hollandhart.com], Robert J. Cassity, Esq. [bcassity@hollandhart.com], C. Barr Flinn, Esq. [bflinn@ycst.com], David C. O'Mara, Esq. [david@omaralaw.net], Mark E. Ferrario, Esq. [ferrariom@gtlaw.com], Chris Miltenberger, Esq. [miltenbergerc@gtlaw.com], Andrea Rosehill [rosehilla@gtlaw.com], Patrick R. Leverty, Esq. [pat@levertylaw.com], Brian J. Robbins, Esq. [brobbins@robbinsarroyo.com], Kevin A. Seely, Esq. [kseely@robbinsarroyo.com], Ashley R. Rifkin, Esq. [arifkin@robbinsarroyo.com], Lindsey C. Herzik, Esq. [lherzik@robbinsarroyo.com], and Thomas Michaud, Esq. [tmichaud@wmtlaw.com]. (KD 6/25/18);</i></p>
07/09/2018	<p> Motion to Associate Counsel (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Special Litigation Committee of DISH Network Corporation's Motion to Associate Counsel (Emily V. Burton)</i></p> <p>Off Calendar; No appearances.</p> <p>Journal Entry Details:</p> <p><i>COURT ORDERED, matter OFF CALENDAR as there were no appearances. Counsel may re-notice.;</i></p>
07/24/2018	<p> Status Check (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p>

CASE SUMMARY

CASE NO. A-17-763397-B

Status Check: Stay

MINUTES

Matter Heard;

Journal Entry Details:

APPEARANCES CONTINUED: Attorney Emily Burton and C. Barr Flinn, Pro Hac Vice pending, appearing by telephone on behalf of the Special Litigation Committee. Mr. Peek advised that Mr. Flinn's pro hac vice application has been approved and they simply need to submit an order; Ms. Burton's is pending. Court noted Mr. O'Mara wants to attend his father's 80th birthday. Colloquy regarding scheduling. COURT ORDERED, status check on the status report will be SET on August 10, 2018 in chambers. Status report TO BE FILED the day before, August 9th, Court noted it will try and set another status check a week away in chambers depending on the status report or set an in-person status check. COURT FURTHER ORDERED, September 11, 2018 status check RESET on September 10th at 9 AM. If more than one person is going to be appearing by telephone, a call-in number will be required. Court informed Mr. O'Mara he does not need to file a response to the status report. 8-10-18 CHAMBERS STATUS CHECK: STATUS REPORT 9-10-18 9:00 AM STATUS CHECK;

SCHEDULED HEARINGS



Status Check (08/10/2018 at 3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

08/10/2018, 09/21/2018, 10/08/2018

Status Check: Status Report

CANCELED Status Check (09/10/2018 at 9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - per Judge

08/10/2018



Status Check (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

08/10/2018, 09/21/2018, 10/08/2018

Status Check: Status Report

Matter Continued;

Hearing Set;

Matter Heard;

Journal Entry Details:

Upon Court's inquiry, Mr. Peek stated they are on track for November 13. Mr. Luedeke concurred, noting that from the other side's status report it seems they are almost there. Mr. Peek added that there is really nothing to keep them on track; they have meetings that they have identified this Friday and they will have another one in November before the report is due, and hope to have the report filed on or before November 13; if they are not on track they will let the Court know sooner rather than later. Court so noted. CLERK'S NOTE: Minutes prepared by Dulce Romea on behalf of Louisa Garcia.;

Matter Continued;

Hearing Set;

Matter Heard;

Journal Entry Details:

Court reviewed report filed 9/19/18 and 9/20/18 and ORDERED status check CONTINUED to October 8, 2018 at 9 am. Parties to appear. CLERK'S NOTE: A copy of this minute order was distributed via the E-Service list.;

Matter Continued;

Hearing Set;

Matter Heard;

Journal Entry Details:

Court reviewed Special Litigation Committee's report filed August 6, 2018. COURT ORDERED, matter CONTINUED for 6 weeks. Special Litigation Committee to file status report 2 days prior. ...9-21-18 - CHAMBERS CLERK'S NOTE: A copy of this minute order was distributed via the E-Service list. / dr 8-10-18;

08/31/2018



Motion to Associate Counsel (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

The Special Litigation Committee of Nominal Defendant DISH Network Corporation's Motion to Associate Counsel (Emily V. Burton, Esq.)

Granted;

Journal Entry Details:

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e) the Motion to Associate (Emily V. Burton) is deemed unopposed. Therefore, good cause

CASE SUMMARY

CASE NO. A-17-763397-B

appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. CLERK'S NOTE: The above minute order has been distributed to: David O'Mara, Esq. (david@omara.com), Jon Randall Jones, Esq. (r.jones@kempjones.com), Mark Ferrario, Esq. (ferrario@gtlaw.com), and Joseph Peek, Esq. (speek@halelane.com). /mlt CLERK'S NOTE: Minutes corrected to indicate the correct e-mail address for Jon Randall Jones, Esq. /mlt;

09/10/2018 CANCELED Status Check (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)
Vacated - per Judge

01/07/2019  Status Check (10:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;
Journal Entry Details:

Mr. Peek advised the investigation is complete, they have filed a report and a motion for summary judgment, and are here today on a status hearing to discuss a briefing schedule. Court noted the STAY EXPIRED as of today, January 7, 2019, so discovery can commence. Mr. Peek requested the Court extend the stay given the Special Litigation Committee's investigation as there is no need to conduct litigation; it would be inconsistent with Jacksonville and the body of law; they need to see an Opposition to the motion for summary judgment / 56(f) relief, as opposed to broad-based discovery. Mr. Jones echoed Mr. Peek's points and stated that whatever way the Court rules will give the parties some direction or may prove to be unnecessary. Mr. Miltenberger joined in the oral request to extend the stay to resolve summary judgment issues or 56(f) relief. Mr. Peek noted that if the Court were to deny the motion for summary judgment and allow litigation to proceed, the Special Litigation Committee would like control. Upon Court's inquiry, Mr. Luedeke confirmed Plaintiffs can move for 56(f) relief. COURT NOTED counsel can file that as Plaintiffs' Opposition to the Motion for Summary Judgment that is set on January 28. COURT ORDERED, request to extend the stay that Judge Hardy previously put in place DENIED, because that investigation has been completed and because the Court will not move the motion for summary judgment. The parties will have a decision on January 28, one way or another. Court NOTED, there is no limited stay, and FURTHER ORDERED, matter SET for Rule 16 Conference on January 28. Plaintiffs' request for 56(f) relief / Opposition to the Motion for Summary Judgment to be filed one week from today, and a Reply hopefully one week before the January 28th hearing date. 1-25-19 CHAMBERS MOTION TO REDACT THE MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED 1-28-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...MANDATORY RULE 16 CONFERENCE 2-25-19 9:00 AM MOTION TO REDACT THE REPORT OF THE SPECIAL LITIGATION COMMITTEE OF DISH NETWORK CORPORATION AND TO SEAL CERTAIN EXHIBITS;

01/25/2019  Motion to Seal/Redact Records (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Redact the Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should Be Dismissed

Granted;

Journal Entry Details:

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e) the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial information contained in the Motion for Summary Judgment, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 2-1-19 CHAMBERS MOTION TO ASSOCIATE COUNSEL ON SHORTENED TIME 2-25-19 9:00 AM MANDATORY RULE 16 CONFERENCE... ...PLAINTIFFS' MOTION PURSUANT TO NRCP 56(F) TO CONDUCT DISCOVERY NECESSARY TO RESPOND TO MOTION FOR SUMMARY JUDGMENT... ...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED... ...DEFENDANTS' MOTION TO STAY MERITS DISCOVERY UNTIL PENDING DISPOSITIVE MOTIONS ARE

CASE SUMMARY

CASE No. A-17-763397-B

RESOLVED AND MOTION TO CONTINUE MANDATORY RULE 16 CONFERENCE, AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME... ..MOTION TO REDACT THE REPORT OF THE SPECIAL LITIGATION COMMITTEE OF DISH NETWORK CORPORATION AND TO SEAL CERTAIN EXHIBITS CLERK'S NOTE: A copy of this minute order was distributed via the E-Service List. / dr 1-25-19 ;

01/29/2019



Motion to Seal/Redact Records (8:57 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Redact the Report of the Special Litigation Committee of Dish Network Corporation and to Seal Certain Exhibits

Granted;

Journal Entry Details:

Motion ADVANCED from February 25, 2019. COURT ORDERED, pursuant to EDCR 2.23, the Court decides this matter without the necessity of oral argument. The Court having reviewed the Motion to Redact and the response and being fully informed, pursuant to EDCR 2.20(e) the motion to redact is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 2-1-19 CHAMBERS MOTION TO ASSOCIATE COUNSEL ON SHORTENED TIME 2-25-19 9:00 AM DEFENDANTS' MOTION TO STAY MERITS DISCOVERY UNTIL PENDING DISPOSITIVE MOTIONS ARE RESOLVED AND MOTION TO CONTINUE MANDATORY RULE 16 CONFERENCE, AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME... ..PLAINTIFFS' MOTION PURSUANT TO NRCP 56(F) TO CONDUCT DISCOVERY NECESSARY TO RESPOND TO MOTION FOR SUMMARY JUDGMENT... ..MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED... ..MANDATORY RULE 16 CONFERENCE... CLERK'S NOTE: A copy of this was distributed via the E-Service List. / dr 1-29-19;

02/01/2019



Motion to Associate Counsel (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Associate Counsel on Shortened Time

Motion Granted;

Journal Entry Details:

No parties present. Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes a non-opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the Motion to Associate (Goodman) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel's submitted order executed; a filed copy to be distribute to all parties involved in this matter within ten (10) days. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt;

02/25/2019

CANCELED Mandatory Rule 16 Conference (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - per Stipulation and Order

02/25/2019

CANCELED Motion (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - per Stipulation and Order

Plaintiffs' Motion Pursuant to NRCP 56(f) to Conduct Discovery Necessary to Respond to Motion for Summary Judgment

02/25/2019

CANCELED Motion to Stay (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - per Stipulation and Order

Defendants' Motion to Stay Merits Discovery Until Pending Dispositive Motions are Resolved and Motion to Continue Mandatory Rule 16 Conference, and Ex Parte Application for Order Shortening Time

03/29/2019



Motion to Associate Counsel (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Associate Counsel (Randall J. Baron, Esq.)

Granted;

CASE SUMMARY

CASE NO. A-17-763397-B

Journal Entry Details:

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e) the Motion to Associate (Baron) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel's order executed. Filed copy to be distributed to all parties involved in this matter within ten (10) days. 4-22-19 9:00 AM STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16 CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY AND RULE 16 CONFERENCE 11-4-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED CLERK'S NOTE: A copy of this minute order was distributed via the E-Service List. / dr 4-1-19 ;

05/31/2019



Minute Order (12:36 PM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order regarding Status Report filed May 31, 2019

Minute Order - No Hearing Held;

Journal Entry Details:

The Court has reviewed the status report filed May 31, 2019. Based upon the representations in the status report the hearing on June 3, 2019 is continued to July 22, 2019. 7-22-19 9:00 AM STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16 CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY AND RULE 16 CONFERENCE 11-4-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED CLERK'S NOTE: A copy of this minute order was distributed via the E-Service List. / dr 5-31-19;

08/12/2019

Status Check (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Status Check re: (1) Setting a Date for Rule 16 conference; (2) General Status Check per S&O re: Defendants' Motion to Stay and Rule 16 Conference

Moot;

08/12/2019

Motion to Stay (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Plaintiffs' Motion to Stay Proceedings Pending Decision by The United States Supreme Court on Nominal Defendant Dish Network Corporation's Petition for a Writ of Certiorari in the Underlying Krakauer v. Dish Network LLC Action

MINUTES

Granted; 60 days

SCHEDULED HEARINGS



Status Check (10/18/2019 at 3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Status Check: Stay

08/12/2019



All Pending Motions (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

PLAINTIFFS' MOTION TO STAY PROCEEDINGS PENDING DECISION BY THE UNITED STATES SUPREME COURT ON NOMINAL DEFENDANT DISH NETWORK CORPORATION'S PETITION FOR A WRIT OF CERTIORARI IN THE UNDERLYING KRAKAUER V. DISH NETWORK LLC ACTION...STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16 CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY AND RULE 16 CONFERENCE PLAINTIFFS' MOTION TO STAY PROCEEDINGS PENDING DECISION BY THE UNITED STATES SUPREME COURT ON NOMINAL DEFENDANT DISH NETWORK CORPORATION'S PETITION FOR A WRIT OF CERTIORARI IN THE UNDERLYING KRAKAUER V. DISH NETWORK LLC ACTION: Following arguments by Mr. Goodman and Mr. Peek, COURT ORDERED, STAY GRANTED pursuant to Rule 41 for a period of 60 days. Matter SET for status check on the chambers calendar. Status report to be filed prior to that date. If there is no action, Court will probably reset the status check on calendar today regarding a rule 16 conference and reset the motion currently scheduled for November 4, 2019 ("Motion for Summary Judgment Deferring

CASE SUMMARY

CASE NO. A-17-763397-B

to the Special Litigation Committee's Determination that the Claims Should Be Dismissed"). STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16 CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY AND RULE 16 CONFERENCE: COURT ORDERED, as a result of the stay, status check is MOOT. Mr. Peek inquired as to why they will be having a rule 16 conference. Court stated it has time standards it needs to meet under 1.90; the Court is already way beyond the deadline of having that conference. 10-18-19 CHAMBERS STATUS CHECK: STAY 11-4-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED;

10/18/2019



Status Check (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Status Check: Stay

Minute Order - No Hearing Held;

Journal Entry Details:

Court reviewed status report filed October 17, 2019. The briefing schedule suggested by the parties is ACCEPTED. The Motion for Summary Judgment on November 4, 2019 is CONTINUED to March 2, 2020 at 9 am. 3-20-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 10-18-19 ;

01/27/2020

Evidentiary Hearing (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer, Application for Order Shortening Time

Granted;

01/27/2020

Motion (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Plaintiff's Motion to Exceed Page Limits

Granted;

01/27/2020



All Pending Motions (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

PLAINTIFF'S MOTION TO EXCEED PAGE LIMITS...JOINT MOTION FOR EVIDENTIARY HEARING ON THE SLC'S MOTION TO DEFER, APPLICATION FOR ORDER SHORTENING TIME PLAINTIFF'S MOTION TO EXCEED PAGE LIMITS: Counsel advised it would for everything on this motion practice related to deferring to the Special Litigation Committee. COURT ORDERED, motion GRANTED - 50 pages or less, not including exhibits. JOINT MOTION FOR EVIDENTIARY HEARING ON THE SLC'S MOTION TO DEFER, APPLICATION FOR ORDER SHORTENING TIME: Colloquy regarding availability. Mr. Peek advised they have 3 witnesses and simply want to make sure 2 days is enough. Mr. Goodman advised 2 days is more than enough. COURT ORDERED, matter SET for evidentiary hearing on July 6 and 7, 2020. 7-6-20 10:00 AM EVIDENTIARY HEARING...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED 7-7-20 9:30 AM EVIDENTIARY HEARING...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED CLERK'S NOTE: Minutes corrected to reflect that the Motion for Summary Judgment deferring to the SLC has been moved from April 13 to to July 6, 2020 for evidentiary hearing. / dr 1-28-20;

03/06/2020



Motion to Seal/Redact Records (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Seal Plaintiffs' Opposition to Motion for Summary Judgment, Declaration of David C. O'Mara in Support Thereof and the Appendix of Exhibits

Granted;

Journal Entry Details:

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (e) the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 7-6-20 10:00 AM EVIDENTIARY HEARING... ..MOTION FOR SUMMARY JUDGMENT DEFERRING TO

CASE SUMMARY

CASE NO. A-17-763397-B

THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED 7-7-20 9:30 AM EVIDENTIARY HEARING... ..MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-9-20;

06/10/2020



Status Conference (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

Court noted Mr. O'Mara asked for this call to talk about the schedule. Mr. Baron requested he speak on behalf of Mr. O'Mara, noting that he thinks it is Defendant's motion for summary judgment and that it was their desire to bring live witnesses; they wanted to make sure that before they got out to Las Vegas and got hotel rooms there that the matter was still going forward; they are also inquiring about the length of the proceedings; examining witnesses would not be extensive and they simply want to make sure that they would not reserve more time than they needed. Mr. Peek advised that with direct, cross, and whatever openings and closings they have will consume the entire two days. COURT CONFIRMED the matter is still scheduled for July 6 and 7, NOTING, everyone present must wear a mask; the courtroom has been marked with blue post-its for social distancing; witnesses may appear live or by video and have to wear a mask as well; currently, the escalators are not working, and only four people are allowed in the elevators although people may take the stairs if they want. Mr. Peek inquired whether the Court would be having a pre-trial conference. COURT STATED it will NOT have a pre-trial conference on an evidentiary hearing on a motion for summary judgment. Mr. Peek further advised the parties are trying to work out submission dates for exhibits and witness lists. COURT STATED the Clerk will need the parties' exhibits prior to the hearing and will work with counsel's staff on the best platform to submit exhibits electronically. The Court is NOT touching any paper from the parties. Mr. Peek advised that Mr. Baron did not think they have to exchange exhibits prior to the hearing. COURT NOTED EDCR 2.67 does not apply to this hearing but Rule 16 does and that it would be nice of the parties to DISCLOSE at least one (1) week before the hearing. COURT FURTHER ORDERED, proposed findings of fact and conclusions of law are to be EMAILED to the Department on the Thursday before the hearing, or July 2, 2020. The Court further advised the courtroom holds 20 people who are non-court staff, and that everyone in the courtroom wears a mask from the time they enter the building and from the time they leave. Mr. Baron inquired whether the Court is expecting opening statements and closing arguments or simply presentation of evidence and then argument. COURT STATED that it always gives counsel an opportunity to make a statement, both opening and closing, but it is not required; counsel may skip ahead, but if they want to convince the Court, they may. 7-6-20 10:00 AM EVIDENTIARY HEARING...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED 7-7-20 9:30 AM EVIDENTIARY HEARING;

07/06/2020

Motion for Summary Judgment (10:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

07/06/2020-07/07/2020

Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should Be Dismissed

Set for Evidentiary Hearing

Matter Continued;

Decision Pending;

Set for Evidentiary Hearing

Matter Continued;

Decision Pending;

07/06/2020

Evidentiary Hearing (10:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

07/06/2020-07/07/2020

Hearing Continued;

Matter Heard;

Hearing Continued;

Matter Heard;

07/06/2020

Motion to Seal/Redact Records (10:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Retain Redactions to the Special Litigation Committee's Report and Sealing of Certain Exhibits for Evidentiary Hearing; Ex Parte Application for Order Shortening Time and Order Thereon

CASE SUMMARY

CASE NO. A-17-763397-B

Denied;

07/06/2020



All Pending Motions (10:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

DAY 1 MOTION TO RETAIN REDACTIONS TO THE SPECIAL LITIGATION COMMITTEE'S REPORT AND SEALING OF CERTAIN EXHIBITS FOR EVIDENTIARY HEARING; EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...EVIDENTIARY HEARING APPEARANCES CONTINUED: Attorney C. Barr Flinn for the Special Litigation Committee (SLC). MOTION TO RETAIN REDACTIONS TO THE SPECIAL LITIGATION COMMITTEE'S REPORT AND SEALING OF CERTAIN EXHIBITS FOR EVIDENTIARY HEARING; EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON: COURT ORDERED, motion ADVANCED from July 7, 2020. Argument by Mr. Peek. COURT RECESSED for counsel to confer. Proceeding resumed. Mr. Peek advised they are withdrawing the SLC's Proposed Exhibit 101 and that they will offer 102. COURT SO NOTED. MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...EVIDENTIARY HEARING: Opening statements by Mr. Peek and Mr. Baron. Testimony and exhibits presented. (See worksheet.) LUNCH RECESS. Testimony and exhibits continued. COURT ORDERED, hearing CONTINUED. 7-7-20 9:30 AM FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...EVIDENTIARY HEARING;

07/07/2020



All Pending Motions (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth)

MINUTES

Matter Heard;

Journal Entry Details:

DAY 2 MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED APPEARANCES CONTINUED: Attorney C. Barr Flinn for the Special Litigation Committee (SLC). Testimony and exhibits presented. (See worksheet.) LUNCH RECESS. Testimony and exhibits continued. (See worksheet.) At the hour of 2:40 PM the Special Litigation Committee RESTED. Mr. Baron moved for admission of the Plaintiffs' remaining proposed exhibits. Mr. Peek objected to the admission of Plaintiffs' proposed exhibits 17, 18, 19, 20, 21, 31, 32, 37, 38, and 43. Upon the Court's inquiry, Mr. Baron explained that other than they are attached to their Opposition he is proffering the exhibits out of an abundance of caution. COURT ORDERED, because of sealing issues the OBJECTIONS are SUSTAINED; they are already part of the record (motion to seal filed January 31, 2020) and are sealed; the Court ORDERS that they REMAIN SEALED; the rest of the Plaintiff's exhibits are ADMITTED. Closing arguments by Mr. Flinn and Mr. Baron. COURT ORDERED, matter will STAND SUBMITTED. Court thanked counsel for their work and the witnesses for their participation in this hearing, especially given the public health emergency, and assured the parties that the Court appreciates the inconvenience they have endured for coming to court. The Court will endeavor to have a decision by the end of the week. 7-10-20 CHAMBERS STATUS CHECK: COURT'S DECISION CLERK'S NOTE: Matter SET for status check on the chambers calendar on the Court's decision.;

SCHEDULED HEARINGS



Status Check (07/10/2020 at 3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

07/10/2020, 07/17/2020

Status Check: Decision

07/10/2020



Status Check (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

07/10/2020, 07/17/2020

Status Check: Decision

Matter Continued;

Off Calendar;

Journal Entry Details:

Findings of Fact and Conclusions of Law filed July 17, 2020.;

CASE SUMMARY**CASE NO. A-17-763397-B**

09/25/2020	Matter Continued; Off Calendar; Journal Entry Details: <i>COURT ORDERED, matter CONTINUED for one week. 7-17-20 CHAMBERS STATUS CHECK: DECISION CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-10-20;</i> Motion to Retax (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Plaintiffs' Motion to Retax and Settle Costs</i>
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DATE**FINANCIAL INFORMATION**

Consolidated Case Party Dish Network Corporation	
Total Charges	3.50
Total Payments and Credits	3.50
Balance Due as of 8/27/2020	0.00
Defendant Ergen, Charles W	
Total Charges	1,819.50
Total Payments and Credits	1,819.50
Balance Due as of 8/27/2020	0.00
Other Special Litigation Committee of DISH Network Corp.	
Total Charges	504.50
Total Payments and Credits	497.50
Balance Due as of 8/27/2020	7.00
Plaintiff Plumbers Local Union No 519 Pension Trust Fund	
Total Charges	1,557.50
Total Payments and Credits	1,557.50
Balance Due as of 8/27/2020	0.00

BUSINESS COURT CIVIL COVER SHEET

A-17-763397-B

County, Nevada

Department 15

Case No. _____
(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): PLUMBERS LOCAL UNION NO. 519 PENSION TRUST FUND, Derivatively on behalf DISH NETWORK CORPORATION	Defendant(s) (name/address/phone): CHARLES W. ERGEN, JAMES DEFRANCO, CANTEY M. ERGEN, STEVEN R. GOODBARN, DAVID K. MOSCOWITZ, GEORGE R. BROKAW, GARY S. HOWARD, and JOSEPH P. CLAYTON
Attorney (name/address/phone): DAVID C. O'MARA, Esq. 316 E. Bridger Ave, 2nd Floor, Las Vegas, NV 89101 Telephone: (725)529.4042, Facsimile: (775) 323-4082	Attorney (name/address/phone):

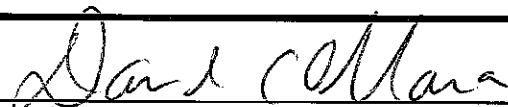
II. Nature of Controversy *(Please check the applicable boxes for both the civil case type and business court case type)*

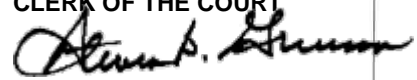
☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Torts Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	CLARK COUNTY BUSINESS COURT <input checked="" type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Civil Writs <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	WASHOE COUNTY BUSINESS COURT <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art.8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
Judicial Review/Appeal/Other Civil Filing Judicial Review <input type="checkbox"/> Foreclosure Mediation Case Appeal Other <input type="checkbox"/> Appeal from Lower Court		
Other Civil Filing <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters		

10/19/2017

Date


 Signature of initiating party or representative



FFCL

DISTRICT COURT

CLARK COUNTY, NEVADA

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND, Derivatively on
Behalf of DISH NETWORK
CORPORATION,

Plaintiff,

vs.

CHARLES W. ERGEN, et al.,

Defendants,

– and –

DISH NETWORK CORPORATION, a
Nevada corporation,
Nominal Defendant

Case No.: A-17-763397-B

Dept.: XI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come on for an evidentiary hearing on the Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed filed December 20, 2018 ("Motion to Defer")¹ before the Honorable Elizabeth Gonzalez on July 6 and 7, 2020; Plaintiffs Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System appeared by and through their counsel of record, Randall J. Baron, Benny C. Goodman III, and Erik W. Luedeke of Robbins Geller Rudman & Dowd LLP, and David C. O'Mara of The O'Mara Law Firm, P.C.; the Special Litigation Committee appeared by and through their counsel of record, J. Stephen Peek and Robert J. Cassity of Holland & Hart LLP, and C. Barr Flinn and Emily V. Burton of Young Conaway

¹ The Court scheduled an evidentiary hearing on the Motion to Defer at the joint request of the parties in conformance with the requirements of an evidentiary hearing set forth in *Dish 1*, 133 Nev. 438 (2017). (Case No. A686775) To avoid confusion, this case, A763397, is *Dish 2* and A797799 is *Dish 3*.

1 Stargatt & Taylor, LLP; the Director Defendants appeared by and through their counsel of record
2 Ian P. McGinn of the law firm of Kemp Jones; the Court having read and considered the pleadings
3 filed by the parties; having reviewed the evidence admitted during the hearing; having heard and
4 carefully considered the testimony of the witnesses called to testify and weighing their credibility;
5 having considered the oral and written arguments of counsel, and with the intent of rendering a
6 decision on only the Motion to Defer pending before the Court; the Court makes the following
7 findings of fact and conclusions of law:
8

9 PROCEDURAL POSTURE

10 1. On October 19, 2017, Plumbers Local Union No. 519 Pension Trust Fund filed
11 this shareholder derivative action.²
12

13 2. On November 13, 2017, Plaintiff City of Sterling Heights Police and Fire
14 Retirement System filed a second derivative action in this Court seeking to assert similar claims
15 on behalf of DISH. Those complaints were consolidated into the present action.

16 3. On January 12, 2018, Plaintiffs filed their operative consolidated complaint,
17 alleging, among other things, that DISH's directors breached their legal obligations to conduct
18 DISH's business in accordance with the TCPA after promising to do so under the terms of the
19 2009 AVC.
20
21
22

23 ² Plaintiffs Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling Heights Police and Fire
24 Retirement System ("Plaintiffs") asserts claims, derivatively on behalf of DISH Network Corporation ("DISH" or the
25 "Company") against Charles Ergen, James DeFranco, Cantey Ergen, Steven Goodbarn, David Moskowitz, Tom
26 Ortolf, Carl Vogel, George Brokaw, and Gary Howard (collectively "Defendants"), each of whom was or is a
27 director of DISH. Plaintiffs assert that the Defendants "did nothing to ensure DISH's compliance with the TCPA or
28 the Compliance Agreement" and thereby knowingly and intentionally caused DISH to commit the violations of
telemarketing laws found by *Krakauer v. DISH Network LLC*, No. 14-cv-333, 2017 WL 2242952 (M.D.N.C. May
22, 2017) ("*Krakauer*") and *United States v. DISH Network LLC*, 256 F. Supp. 3d 810 (C.D. Ill. 2017) ("*U.S. v.*
DISH" and, together with *Krakauer*, the "DNC Actions"). Plaintiffs would have DISH seek a money judgment
against the Defendants under NRS 78.138(7)(b)(2) to make DISH whole for most of the roughly \$340 million in
damages awarded against DISH in the DNC Actions.

1 4. The Complaint asserts that the Defendants “abandoned and abdicated their
2 responsibilities and fiduciary duties” to cause DISH to comply with the DNC Laws, in connection
3 with third-party Retailers’ calls made on DISH’s behalf. (Compl. ¶ 70.) Plaintiffs would have
4 DISH sue the Defendants to recover from them for most of the judgments entered against DISH
5 in *U.S. v. DISH* and *Krakauer*. Plaintiffs claimed standing to derivatively assert these claims
6 belonging to DISH because Plaintiffs named as Defendants eight of the then ten members of the
7 Board of Directors of DISH (“DISH Board”).

9 5. On February 26, 2018, Defendants moved to dismiss the Complaint for failure to
10 state a claim. DISH, separately, moved to dismiss for failure to adequately plead demand futility.
11 In the alternative, DISH asked that this action be stayed “pending final resolution” of the DNC
12 Actions.

13
14 6. While the motions to dismiss were pending, the DISH Board, on April 11, 2018,
15 unanimously resolved by written consent (“Unanimous Written Consent”) to form a special
16 litigation committee (“SLC”) of the DISH Board to assume control of the claims of DISH
17 asserted in this action on DISH’s behalf.

18 7. The SLC is composed of Charles Lillis, a non-party and now former director of
19 DISH; George Brokaw, a director of DISH who is named as a Defendant in this action; and
20 Anthony Federico, a director on the board of EchoStar Corporation (“EchoStar”), a non-party
21 affiliate of DISH.

22
23 8. The Unanimous Written Consent fully delegated all rights and powers of the DISH
24 Board with respect to the claims asserted in this action to the SLC. It provided:

25 [T]he Board of Directors hereby delegates to the Special Litigation Committee the power
26 and authority of the Board of Directors to: (1) review, investigate and evaluate the claims
27 asserted in the Derivative Litigation; (2) file any and all pleadings and other papers on
28 behalf of the Corporation that the Special Litigation Committee finds necessary or
advisable in connection therewith; (3) determine whether it is in the best interests of the
Corporation and/or to what extent it is advisable for the Corporation to pursue any or all

1 of the claims asserted in the Derivative Litigation, taking into consideration all relevant
2 factors as determined by the Special Litigation Committee; (4) prosecute or dismiss on
3 behalf of the Corporation any claims that were or could have been asserted in the
4 Derivative Litigation; and (5) direct the Corporation to formulate and file any and all
5 pleadings and other papers on behalf of the Corporation and the Special Litigation
6 Committee finds necessary or advisable in connection therewith, including, without
7 limitation, the filing of other litigation and counterclaims or cross-complaints, or motions
8 to dismiss or stay the proceedings if the Special Litigation Committee determines that
9 such action is advisable and in the best interests of the Corporation.

10 9. The Unanimous Written Consent provided the SLC with broad authority to
11 investigate all matters related to this action:

12 (1) the officers of the Corporation are hereby authorized and directed to provide to the
13 Special Litigation Committee, each Committee Member and any of their advisors, agents,
14 counsel and designees, such information and materials, including without limitation, the
15 books and records of the Corporation and any documents, reports or studies pertaining to
16 the Derivative Litigation as may be useful or helpful in the discharge of the Special
17 Litigation Committee's duties or as may be determined by the Special Litigation
18 Committee; (2) the Special Litigation Committee is authorized and empowered to meet
19 with both present and past members of the Board of Directors who are not members of the
20 Special Litigation Committee and/or with both present and past officers of the
21 Corporation to gather information from such directors and/or officers pertaining to the
22 Derivative Litigation as may be useful or helpful in the discharge of the Special Litigation
23 Committee's duties or as may be determined by the Special Litigation Committee, or any
24 member thereof, to be appropriate or advisable in connection with the discharge of the
25 duties of the Special Litigation Committee[.]

26 10. The SLC retained Holland & Hart, LLP and Young Conaway Stargatt & Taylor,
27 LLP as its independent counsel.

28 11. On April 24, 2018, the SLC filed a Motion for Stay Pending Investigation of the
Special Litigation Committee of DISH Network Corporation ("Motion to Stay") to permit it to
conduct an investigation of "the allegations asserted by Plaintiffs Plumbers Local Union No. 519
Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System in their
Complaint in this action."

12. The Court stayed this action for six months to permit the SLC to conduct its
investigation.

13. On December 19, 2018, the SLC filed its Motion for Summary Judgment Deferring to the Special Litigation Committee’s Determination That the Claims Should Be Dismissed (“Motion to Defer”). Although the Motion to Defer asserted that there was no genuine issue of material fact, such that this Court should rule in the SLC’s favor based upon the summary judgment standard, this Court does not rule on the Motion to Defer on that basis, but rather on the basis of factual determinations made upon the record presented at the evidentiary hearing under a preponderance of the evidence standard.³

14. From January 14, 2019 through July 31, 2019, Plaintiffs took discovery related to the SLC.

15. On January 10, 2020, the parties filed a Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer, seeking to schedule an evidentiary hearing in accordance with *Dish 1*.

16. On July 6 and 7, 2020, consistent with the Nevada Supreme Court’s direction in *Dish 1*, this Court held the evidentiary hearing on the Motion to Defer.

FINDINGS OF FACT

17. DISH is a Nevada corporation in good standing.

18. Charles Ergen, Cantey Ergen (together the “Ergens”) and James DeFranco founded DISH in 1980. In 1995, DISH became publicly traded on the NASDAQ. The Ergens beneficially hold 48% of DISH’s Class A common stock, 85.8% of DISH’s Class B common stock and 78.4% of its voting power. Report of the Special Litigation Committee of DISH Network Corporation, dated Nov. 7, 2018 (“SLC Report”, admitted Ex.⁴ 102) at Ex. 52 at 9-10. DeFranco holds roughly 2.1% of DISH’s Class A common stock. Ex. 102 at Ex. 44 at 9-10. The

³ If the evidence presented at the evidentiary hearing were evaluated under a summary judgment standard a different result would be reached.

⁴ All "Ex. " references refer to the exhibits admitted during the evidentiary hearing.

1 other Defendants are each stockholders of DISH, each holding less than 1% of DISH's Class A
2 common stock.

3 19. DISH is a company focused on connectivity. Through its subsidiaries, DISH
4 provides television entertainment and technology to customers with its satellite DISH TV and
5 streaming Sling TV services. During the time period addressed by Plaintiffs' Complaint (the
6 "Relevant Time Period"), DISH used a variety of marketing channels, including telemarketing, to
7 market DISH TV and Sling TV services. DISH also authorized third-party businesses, which it
8 referred to as "Retailers," to market and sell DISH's services to businesses and consumers in
9 exchange for commissions. Some of those Retailers used telemarketing.

10 20. Companies that engage in telemarketing are subject to multiple state and federal
11 laws, including the Telephone Consumer Protection Act, 47 U.S.C.A. § 227 ("TCPA") and the
12 Telemarketing Sales Rule, 16 C.F.R. § 310 ("TSR" together with the TCPA, collectively the
13 "DNC Laws"). The TSR is enforceable by the Federal Trade Commission ("FTC"). 15 U.S.C.A.
14 § 6102(a)(1). The TCPA gives both State Attorneys General and individual consumers standing
15 to pursue claims for violations. 47 U.S.C.A. § 227 (b)(3), (c)(5), (g) (2018). Both of these DNC⁵
16 Laws impose per-call fines or damages on companies for telemarketing activities found to be in
17 violation above and beyond specified "safe harbors."

18 21. In 2009, DISH entered into an Assurance of Voluntary Compliance ("2009 AVC")
19 with 46 states' Attorneys General, including Nevada's Attorney General, to resolve disputes
20 between DISH and the 46 states regarding DISH's consumer protection obligations, including
21 with respect to its telemarketing. *See* Ex. 2, at 3-4, 8.

22 22. Under the 2009 AVC, DISH paid \$5,991,000 to the Attorneys General. (Ex. 2 at §
23 6.1.) The 2009 AVC fully resolved, among other things, all DNC Law violations asserted against
24

25 ⁵ The abbreviation DNC stands for do not call.
26
27
28

1 DISH by the 46 states that participated in the 2009 AVC. Through the 2009 AVC, DISH also
2 undertook obligations for specified monitoring and oversight of Retailers who telemarketed
3 DISH's products, but explicitly reserved its position that the Retailers were independent
4 contractors rather than DISH's agents. (*Id.* § 1.14.) No party to the 2009 AVC has alleged that
5 the agreement has been breached in connection with DNC issues.
6

7 23. In 2009, Defendants James DeFranco, Charles W. Ergen, Cantey M. Ergen, Joseph
8 P. Clayton, David K. Moskowitz, Tom A. Ortolf and Carl E. Vogel ("Managing Director
9 Defendants") were briefed on the terms of the 2009 AVC. Ex. 102 at 212-13.

10 24. Between 2007 and 2014, several consumers, the federal government and the four
11 states that declined to join the 2009 AVC brought lawsuits against DISH, seeking to hold DISH
12 liable for violations of the DNC Laws based on calls made by Retailers purporting to sell DISH
13 pay-tv services.
14

15 25. The first two of those lawsuits to reach resolution – *Charvat v. EchoStar Satellite,*
16 *LLC*, 676 F. Supp. 2d 668 (S.D. Ohio 2009) ("*Charvat*") and *Zhu v. DISH Network, LLC*, 808 F.
17 Supp. 2d 815 (E.D. Va. 2011) ("*Zhu*") – were resolved in DISH's favor.

18 26. Although DISH settled with 46 state attorneys general through the 2009 AVC, the
19 other four state Attorneys General and the federal government, through the FTC, continued
20 pursuit of claims that DISH was regularly violating the TCPA. This action was litigated in the
21 U.S. District Court for the Central District of Illinois.
22

23 27. In 2009, the FTC (through the Department of Justice) and the states of California,
24 Illinois, North Carolina and Ohio brought *U.S. v. DISH*, alleging that DISH had violated the
25 TCPA, TSR and state telemarketing laws through telemarketing calls that DISH made directly
26 and that six Retailers made on DISH's behalf from 2003 to 2011. Ex. 102 at Ex. 776. *See also*
27
28

1 *U.S. v. DISH*, 256 F. Supp. 3d at 936-37. DISH opposed the claims, arguing that the Retailers
2 were not DISH's agents and that DISH's calls fell within safe harbors of the DNC Laws.

3 28. After a bench trial, the *U.S. v. DISH* court concluded that DISH and telemarketers
4 under its control had placed approximately 7.6 million calls in violation of the DNC Laws. *See*,
5 *e.g.*, *U.S. v. DISH*, 256 F. Supp. 3d at 931-32, 954, 959. The court also found that the Retailers
6 had placed over 90 million calls in violation of the DNC Laws and held that DISH was liable for
7 these calls because the Retailers placed the calls on DISH's behalf. *Id.* at 913, 915, 917-18, 919-
8 20, 930, 943-45, 953-54 (C.D. Ill. 2017). The *U.S. v. DISH* court entered a \$280 million
9 judgment against DISH. *Id.* at 983.

10
11 29. On April 18, 2014, Thomas Krakauer brought a consumer class action lawsuit
12 against DISH for violations of the TCPA and DNC laws because one of DISH's Retailers,
13 Satellite Systems Network ("SSN"), had placed calls to the plaintiff and other class members in a
14 manner that violated the TCPA. SSN placed the calls at issue in *Krakauer* between 2010 and
15 2011. DISH opposed the claims in *Krakauer*, in substantial part by arguing, as it did successfully
16 in prior cases with respect to other Retailers' calls, that SSN was not an agent of DISH and that
17 DISH could not be held liable for calls made by SSN. DeFranco testified on DISH's behalf at
18 trial in *Krakauer*.
19

20
21 30. On January 19, 2017, the jury in *Krakauer* found DISH liable for violations of the
22 TCPA resulting from, among other violations, over 50,000 calls made between May 2010 and
23 August 2011 in violation of the DNC Laws by SSN, and awarded the plaintiff class \$400 per
24 violation. Ex. 102 at Ex. 88.

25 31. The jury found that SSN was DISH's agent and awarded the plaintiff class a total
26 of \$20,447,600 in damages against DISH. Ex. 102 at Ex. 88 and Ex. 102 at 271-73.
27
28

1 32. The U.S. District Court considered Krakauer’s request for treble damages. The
2 U.S. District Court issued a strongly worded opinion concluding that DISH’s conduct met the
3 TCPA’s knowing and willful standard. Ex. 1., *Krakauer*, at *10. The Court ordered DISH to pay
4 \$65.1 million in trebled damages. Ex. 1, *Krakauer*, at *37.

5
6 33. DISH appealed the decisions in *Krakauer* and *U.S. v. DISH* on May 4, 2018 and
7 October 6, 2017, respectively.

8 34. On May 30, 2019, the United States Court of Appeals for the Fourth Circuit
9 unanimously affirmed the trial verdict and judgment in *Krakauer*, finding that the *Krakauer*
10 judgment rested on “solid evidence.” *Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643 (4th Cir.
11 2019). The Fourth Circuit held, in pertinent part:

12
13 The district court also noted the half-hearted way in which Dish responded
14 to consumer complaints, finding that the “evidence shows that Dish cared about
15 stopping complaints, not about achieving TCPA compliance.” . . . The court then
16 assessed Dish’s arguments to the contrary, finding that its refrain that it knew
17 nothing of SSN’s widespread violations was simply not credible: “Given the tens
18 of thousands of violative calls SSN made in a span of just over a year, even a
19 cursory investigation or monitoring effort by Dish would have uncovered the
20 violations. Under these circumstances, what Dish calls a mistaken belief is
21 actually willful ignorance.”

22 * * *

23 The evidence also showed that Dish failed to respond to these concerns in any
24 serious way and was profiting handsomely from SSN’s sales tactics. It may be
25 that Dish believes that its warnings and admonitions should have been given
26 greater weight by the jury. Because the jury resolved this question and had
27 extensive evidentiary support for its conclusion, it does not matter whether Dish
28 now believes its argument to be convincing. Dish had its chance to persuade the
jury, and it lost.

29 * * *

30 Dish seems to think that so long as it includes certain language in a contract or
31 issues the occasional perfunctory warning to a retailer the court will not look past
32 the formalities and examine the actual control exercised by Dish. Moreover, Dish
33 failed to recognize that repeated expressions of ignorance as to a widespread
34 problem can evince more than simply negligence; they can also be a sign that the

1 violations are known, tolerated, and even encouraged. Trebling is never to be
2 done lightly. Given the consequences for a company, a trebled award must rest on
3 solid evidence. Here [it] was.

4 925 F.3d at 661-63.

5 35. On March 26, 2020, the U.S. Court of Appeals for the Seventh Circuit largely
6 affirmed the U.S. District Court's decision in *U.S. v. DISH*, but vacated the U.S. District Court's
7 holding that DISH violated the TSR by substantially assisting one Retailer in making "abandoned
8 calls." 954 F.3d 970, 977-78 (7th Cir. 2020). The Seventh Circuit also vacated the damages
9 award entered in *U.S. v. DISH* and remanded the case to the U.S. District Court to re-calculate
10 damages. *Id.* at 980.

11 36. On October 15, 2019, DISH filed a Petition for a *Writ of Certiorari* of the
12 *Krakauer* opinion with the U.S. Supreme Court, seeking review of a single issue: "The question
13 presented is whether a call placed in violation of the Telephone Consumer Protection Act, without
14 any allegation or showing of injury – or even that Plaintiffs heard the phone ring – suffices to
15 establish concrete injury for purposes of Article III." Ex. 8, at i. On December 16, 2019, the U.S.
16 Supreme Court denied DISH's Petition for a *Writ of Certiorari*. Ex. 9.

17 37. The SLC met for the first time on May 9, 2018. Ex. 108 at 00001-00002. In
18 addition to the twenty-one interviews discussed below the SLC also met in person or
19 telephonically ten times during the course of its investigation. Ex. 108; Ex. 102 at 33. At these
20 meetings, the SLC received advice of counsel concerning the duties of the SLC, the legal
21 standards relevant to the claims under investigation and Nevada law concerning directors'
22 fiduciary duties. Ex. 108 at 00005-00006. The SLC also discussed the information that it had
23 gathered, additional topics of interest, and topics on which it would like legal advice. Plaintiffs
24 have identified no relevant subject on which the SLC was unadvised.
25
26
27
28

1 38. The SLC began its investigation by assessing its own independence and the
2 independence of its counsel. The SLC concluded that each of its members and the SLC's counsel
3 were independent with respect to the matters to be investigated. Plaintiffs have raised no
4 challenge to the independence or competence of the SLC's counsel.
5

6 39. On June 1, 2018, the SLC sent its First Set of Documents Requested ("First
7 Request") to DISH. Ex. 102 at Ex. 742. After receiving the documents called for in the first
8 Request, the SLC sought and received several additional groups of documents from DISH and
9 DISH's outside legal counsel to further explore topics suggested through the SLC's document
10 review and interviews. The SLC gathered and, through its counsel, reviewed more than 44,000
11 documents related to the SLC's investigation. Ex. 102 at 30. The SLC members themselves
12 reviewed more than 1,500 documents. *Id.*
13

14 40. The SLC began by reviewing the Complaint in this action. The SLC requested and
15 reviewed foundational documents concerning the DNC Actions, such as the decisions in the DNC
16 Actions, including the jury verdict sheet issued in *Krakauer*, the decision trebling damages issued
17 in *Krakauer*, and the Findings of Fact and Conclusions of Law issued in *U.S. v. DISH*, and the
18 trial records for the DNC Actions, including the trial exhibits, the exhibits cited in the decisions
19 and the transcripts of the trial testimony and depositions. The SLC also reviewed the relevant
20 DISH Board-level materials, including Board and Audit Committee meeting minutes and
21 handouts, and communications to the full Board concerning DNC issues whether or not
22 connected to a Board meeting from January 1, 2003 through December 31, 2013. The SLC
23 reviewed internal DISH communications involving the Defendants related to DNC issues,
24 including communications of Mr. Ergen, Mr. DeFranco and Mr. Moskowitz related to DNC
25 issues and the legal advice provided to the DISH Board regarding DNC issues. The SLC also
26 reviewed management-level internal communications and documents regarding telemarketing
27
28

1 policies and practices and DNC complaints, including both internal and external communications
2 relating to DISH's entry into the 2009 AVC and subsequent efforts related to the 2009 AVC.

3 41. From DISH's outside regulatory and litigation counsel, the SLC requested and
4 received communications between outside counsel and DISH employees and communications
5 between the outside counsel and relevant third parties, such as the FTC and states' Attorneys
6 General. *See* Ex. 102 at 30-32. Plaintiffs have not identified any documents relevant to the
7 matters at issue in this litigation that the SLC did not gather and consider.

8
9 42. The SLC identified individuals that the SLC believed likely to have information
10 relevant to the claims in this action. Between July 16, 2018 and September 21, 2018, the SLC
11 conducted twenty-one interviews of this group, including the members of the DISH Board during
12 the Relevant Time Period.⁶ Beyond the DISH Board, the SLC interviewed DISH management,
13 including Blake Van Emst (Vice President of Retail Services) and Amir Ahmed (Senior Vice
14 President of Sales). The SLC also interviewed inside and outside counsel who advised DISH on
15 these issues, including DISH's former General Counsel Stanton Dodge, DISH's Corporate
16 Secretary Brandon Ehrhart, and DISH's other inside counsel responsible for DNC: Jeffrey Blum,
17 Lori Kalani and Brett Kitei. The outside counsel interviewed included Lewis Rose and Alysa
18 Hutnik of Kelley Drye & Warren LLP (regulatory counsel to DISH)⁷ and Helen Mac Murray of
19 Mac Murray & Shuster LLP (DISH's primary counsel for negotiating the 2009 AVC). The SLC
20 interviewed DISH's inside and outside auditors, DISH's Vice President of Internal Audit, Patrick
21 Halbach, and Jason Waldron of KPMG. The SLC interviewed DISH's third-party telemarketing
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26 ⁶ The only individual affiliated with DISH that the SLC did not interview was Mr. Clayton, a member of the DISH
27 Board, who was suffering from serious health issues during the SLC's investigation and who has since passed.

28 ⁷ The SLC conducted a joint interview of Lewis Rose and Alysa Hutnik.

1 consultant, Ken Sponsler of PossibleNow, Inc. and a former member of the Retail Sales and
2 Services team responsible for DNC compliance, Reji Musso.⁸

3 43. At the conclusion of its investigation, the SLC met and deliberated with respect to
4 its conclusions. After reaching high-level determinations, the SLC directed its counsel to draft
5 the SLC Report and reviewed multiple drafts of the Report until ultimately approving it in its
6 final form. The SLC Report described the process that the SLC undertook with respect to its
7 investigation as well as the conclusions that the SLC reached based upon its investigation. The
8 SLC Report incorporated 792 exhibits. The SLC filed the SLC Report under seal on November
9 27, 2018.

11 44. The SLC determined that it would not be in DISH's best interest to pursue the
12 claims articulated by Plaintiffs or other claims against the Defendants related to the judgments
13 entered against DISH in the DNC Actions. Ex. 102 at 352-53.

15 45. The SLC determined that, under NRS 78.138(3)-(7), for DISH to recover damages
16 from the Defendants, DISH would need to show that one or more of the Defendants had
17 knowingly caused or permitted DISH to violate the DNC Laws in a manner that caused DISH to
18 suffer the judgments entered in the DNC Actions. Ex. 102 at 299.

19 46. The SLC concluded that Defendants had an objectively reasonable belief that
20 DISH and they were complying with the law. The SLC concluded DISH could not prevail on the
21 claims against each of the Defendants. *See* Ex. 102, at 17, 22-23, 96, 149-50, 201-11, 216-22,
22 293, and 306.

24 47. With respect to the Defendants who were directors of DISH at the time the
25 conduct occurred ("Director Defendants"), the SLC determined that they did not knowingly cause

27 ⁸ The SLC sought to interview one or more representatives of Plaintiffs; however, Plaintiffs declined to make a
28 representative available for an interview by the SLC.

1 or permit DISH to violate the DNC Laws. The SLC concluded that – to the extent that they were
2 aware of the situation – the Director Defendants believed that the Retailers were not DISH’s
3 agents and that DISH was not legally responsible for the Retailers’ compliance with the DNC
4 Laws. Ex. 102 at 327-33. The SLC observed that this belief was reached following the receipt of
5 advice of counsel. The SLC stated that it found no evidence that any Director Defendant
6 knowingly caused or permitted DISH to violate the DNC Laws.
7

8 48. The SLC concluded that telemarketing compliance was not an issue considered
9 sufficiently material during the Relevant Time Period to be brought to the attention of the full
10 DISH Board. The SLC observed that minutes of DISH Board meetings and DISH Board
11 materials did not reflect discussion of DNC compliance until *U.S. v. DISH* was filed on March 25,
12 2009 and that, prior to the judgment entered in the DNC Actions, claims of the types asserted in
13 those actions were generally settled for thousands, not millions, of dollars. The SLC concluded
14 that the Director Defendants who were not executives of DISH could not have knowingly caused
15 or permitted DISH to violate the DNC Laws through Retailers’ telemarketing for the additional
16 reason that the non-executive directors had little, if any, awareness of or role in Retailers’ DNC
17 compliance during the Relevant Time Period. Ex. 102 at 175, 315-17.
18

19 49. The SLC examined whether the oversight systems in place at DISH suggested that
20 the DISH Board knowingly or willfully permitted DISH to violate the DNC Laws by knowingly
21 failing to monitor serious compliance issues. Ex. 102 at 334-36. The SLC determined that this
22 was not the case. The SLC noted that the DISH Board had regular reports from DISH’s General
23 Counsel, had an audit committee tasked with such oversight and retained both outside and inside
24 auditors to monitor DISH’s regulatory risk, among other precautions. Ex. 102 at 240-42, 246-56.
25 DISH has and then-had a Compliance Department with specific responsibility in respect of TCPA
26 compliance (Compl. ¶ 55), which “had weekly meetings with Dish’s Legal Department”
27
28

1 concerning “all areas of Order Entry Retailer compliance, including telemarketing,” and imposed
2 “real changes . . . in late 2008 and 2009.” *U.S. v. DISH*, 256 F. Supp. 3d at 852, 987.

3 50. As the SLC found that no Defendant knowingly caused or permitted DISH to
4 violate the DNC Laws, the SLC concluded that NRS 78.138(7)(b)(1)-(2) would bar DISH from
5 recovering damages from the Defendants and that the claims thus lacked merit.
6

7 51. The SLC concluded that it would not be in DISH’s best interest to pursue them:
8 pursuit of non-meritorious claims would not justify the burdens such litigation would impose on
9 DISH, including litigation costs and disruption to DISH’s operations and strategic plans
10 stemming from the distraction attendant upon suing the majority of the current DISH Board and
11 senior executives. *See* Ex. 102 at 348.

12 52. If any findings of fact are properly conclusions of law, they shall be treated as if
13 appropriately identified and designated.
14

15 CONCLUSIONS OF LAW

16 53. The question before the Court is whether the Court should defer to the SLC’s
17 recommendation that the claims asserted in this action be dismissed.

18 54. In *Dish I*, the Nevada Supreme Court adopted the *Auerbach* standard, which sets
19 forth the process for judicial deference to a special litigation committee’s recommendation
20

21 55. The SLC, as the moving party, is entitled to no presumption and bears the burden
22 of proof. Only if a special litigation committee meets its burden are its conclusions protected by
23 the business judgment rule.

24 56. The SLC members bear the burden of showing the SLC conducted a good faith
25 and thorough investigation.
26
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28

1 57. The SLC must show: (1) “that the areas and subjects to be examined are
2 reasonably complete *and* [(2)] there has been a good-faith pursuit of inquiry into such areas and
3 subjects.” *Dish I*, at 443-444.

4 58. If the SLC fails to meet its burden related to the independence, good faith and/or
5 thoroughness of the special litigation committee and/or its investigative process or work product,
6 then a court cannot defer to a special litigation committee’s business judgment and adopt as its
7 own the findings of that committee.

8 59. The first prong of *Dish I* asks whether the special litigation committee was
9 independent. Under this standard, the Court assesses “whether the [SLC] that would be
10 addressing the demand can impartially consider its merits without being influenced by improper
11 considerations,’ such that it could ‘properly exercise[] its independent and disinterested business
12 judgment[.]’” *Id.* at 446.

13 60. “[T]he independence standard that applies to directors in the demand-futility
14 context is equally applicable” here. *Id.*, at 446. However, a special litigation committee is not
15 presumed to be independent; rather, this Court must make a determination as to the independence
16 of the committee. *Id.* at 446.

17 61. *Dish I* held that a special litigation committee is independent where the committee
18 cannot act without the approval of at least one independent member. *Id.* at 449.

19 62. Mr. Lillis has substantial business experience, including serving, at the
20 appointment of the Governor of Oregon, as the Chair of the Board of Trustees of the University
21 of Oregon, and serving on the boards of Agilera, Inc., Ascent Entertainment Grp., Charter
22 Communications, Inc. and various affiliates, Medco Health Solutions, Inc., On Command
23 Corporation, SUPERVALU Inc., Time Warner Entertainment Company, L.P., Williams
24 Companies, Inc. and Washington Mutual Inc. and affiliated entities.

1 63. Mr. Lillis joined the DISH Board effective November 5, 2013. He satisfies the
2 independence requirements for a board member of NASDAQ and the SEC rules and regulations.
3 Mr. Lillis has no personal or professional relationship with any Director other than his service on
4 the DISH Board. Mr. Lillis resigned from the DISH Board, effective May 1, 2020.

5
6 64. There is no evidence that any aspect of Mr. Lillis's service on the DISH Board
7 compromised Mr. Lillis's independence. Indeed, Mr. Lillis retired from the DISH Board on May
8 1, 2020. Based upon all evidence presented, including Mr. Lillis's testimony, the Court finds him
9 to be independent of all Defendants.

10 65. Mr. Lillis is not interested in this action and he is clearly independent.⁹

11 66. Mr. Federico has never served on the DISH Board and had no involvement in any
12 of the events at issue.

13
14 67. Mr. Federico joined the board of directors of EchoStar, a DISH affiliate, in May
15 2011 He satisfies the independence requirements for a board member of NASDAQ and the SEC
16 rules and regulations. Federico brings to the EchoStar board and to the SLC years of technical
17 and managerial experience. Federico spent almost fifty years at the Xerox Corporation, during
18 which time he held various product and general management positions, as well as numerous
19 engineering, solutions, information management and process re-engineering positions.

20 68. Mr. Federico is disinterested in the claims under investigation and is independent.

21 69. Mr. Brokaw joined the DISH Board effective October 7, 2013. He satisfies the
22 independence requirements for a board member of NASDAQ and the SEC rules and regulations.
23 Mr. Brokaw is an attorney with years of investment banking and board experience. Mr. Brokaw
24 has served on the boards of directors of multiple companies, including Alico, Inc., Capital
25

26 ⁹ In *Dish 1*, this Court found Mr. Lillis to be independent. That conclusion remains unchanged after presentation of
27 the evidence during the evidentiary hearing.
28

1 Business Credit LLC, Exclusive Resorts, LLC, Ovation LLC, Timberstar Southwest LLC, Value
2 Place Holdings LLC and North American Energy Partners Inc.

3 70. A strong argument can be made that Mr. Brokaw lacks independence with respect
4 to the claims based upon his personal relationship with the Ergens.¹⁰ Mr. Brokaw's "ties with the
5 Ergens represent the type of improper influences that *could* inhibit the proper exercise of
6 independent business judgment." *Id.* at 448.

7
8 71. Even though Mr. Brokaw has social relationships with the Ergens, that does not
9 undermine the independence of the SLC. Under Nevada law, the SLC had to act by the majority
10 approval of its members.¹¹ The SLC could not act without – at minimum – the affirmative
11 approval of either Mr. Lillis or Mr. Federico, each of whom is undeniably independent; thus the
12 unanimous SLC approval here was independent regardless of Mr. Brokaw's independence. There
13 is no evidence that Mr. Brokaw exerted control over the SLC's investigation in a way that might
14 neutralize Mr. Lillis's and Mr. Federico's voting control over the SLC. Thus, the independence
15 of the SLC ultimately does not depend upon Mr. Brokaw's disinterest or independence.

16
17 72. The Court finds the SLC to be independent.
18
19
20

21 ¹⁰ These personal relationships were detailed in *Dish I* and remain the same. Although Mr. Brokaw is clearly a strong
22 personality able to stand his ground, the relationship of Cantey Ergen as godmother to his 12 year old son and the
continuing social relationship between his wife and Cantey Ergen remain of concern.

23 ¹¹ See NRS 78.125(1) ("Unless it is otherwise provided in the articles of incorporation, the board of directors may
24 designate one or more committees which . . . have and may exercise the powers of the board of directors . . ."); NRS
25 78.315(1) ("[T]he act of directors holding a majority of the voting power of the directors, present at a meeting at
26 which a quorum is present, is the act of the board of directors."); Ex. 102 at Ex. 53, Am. and Restated Bylaws of
27 DISH Network Corp. § 4.15 (Mar. 28, 2018) ("Committee Rules. Unless the Board of Directors otherwise provides
28 and subject to Section 4.1 of these Bylaws, a majority of the entire authorized number of members of such committee
shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at
the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each
committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to
this Article IV of these Bylaws."); Ex. 102 at Ex. 20, Am. and Restated Bylaws of EchoStar Communications Corp.
§ 4.15 (May 8, 2007) (same).

1 73. The second prong of the *Dish I* standard – that the special litigation committee
2 conducted a “good faith, thorough investigation” – concerns “the appropriateness and sufficiency
3 of the investigative procedures chosen and pursued by the committee.” *Id.* at 443.

4 74. “In accordance with the business judgment rule, courts can ‘inquir[e] into the
5 procedural indicia of whether the directors resorted in good faith to an informed decision making
6 process.’” *Id.* at 449-50, (quoting *Wynn Resorts, Ltd. v. Eighth Judicial Dist. Court*, 133 Nev.
7 369 (2017)).

8 75. For this analysis, “[c]ourts look to indicia of the SLC’s investigatory
9 thoroughness, such as what documents were reviewed and which witnesses interviewed.” *Id.* at
10 449-50.

11 76. As with any director action protected by the business judgment doctrine, the
12 process employed by the special litigation committee must not be so deficient as to constitute bad
13 faith:
14
15

16 [P]roof[] . . . that the investigation has been so restricted in scope, so
17 shallow in execution, or otherwise so *pro forma* or halfhearted as to
18 constitute a pretext or sham, consistent with the principles underlying the
19 application of the business judgment doctrine, would raise questions of
20 good faith or conceivably fraud which would never be shielded by that
21 doctrine.

22 *Id.* at 450.

23 77. This analysis does not, however, permit inquiry into the substance of the
24 committee’s determinations, into the merit of its analysis, or its conclusions: “The inquiry into
25 whether the SLC made its determination in good faith and on an informed basis ‘focuses on the
26 process used by the SLC, rather than the substantive outcome of the process.’” *Id.* at 449-50. A
27 “court ‘may not under the guise of consideration of such [procedural] factors trespass in the
28 domain of business judgment.’” *Id.* at 443. “[T]he substantive aspects of a decision to terminate
a shareholders’ derivative action against defendant corporate directors made by a committee of

1 disinterested directors appointed by the corporation's board of directors are beyond judicial
2 inquiry under the business judgment doctrine." *Id.* As codified in NRS 78.138, the business
3 judgment rule in Nevada does not permit inquiry into the reasonableness of the director's
4 decision. *Wynn Resorts*, 133 Nev. at 377.

5
6 78. The evaluation to be made by the Court is whether the SLC's procedures were
7 designed to provide an independent, thorough and good faith analysis of the issues raised in the
8 Complaint. The issues investigated related to the Retailers' violations of the TPCA and the legal
9 responsibility of DISH for supervision or control of those Retailers as well as the efforts to insure
10 compliance with the 2009 AVC.

11 79. For purposes of the SLC's investigation, the members accepted as fact the findings
12 made in the decisions in the DNC Actions. Although damning, these findings do not end the
13 inquiry into whether the Defendants are entitled to protection under the business judgment rule¹²
14 or whether a breach of fiduciary duty occurred by the Defendants.

15
16 80. Board members are entitled to rely upon advice of counsel in exercising their
17 business judgment.¹³ The SLC inquired of the attorneys who during the Relevant Time Period
18

19 ¹² NRS 78.138(3) provides in pertinent part: Except as otherwise provided in subsection 1 of NRS 78.139,
20 directors and officers, in deciding upon matters of business, are presumed to act in good faith, on an informed basis
21 and with a view to the interests of the corporation. A director or officer is not individually liable for damages as a
22 result of an act or failure to act in his or her capacity as a director or officer except as described in subsection 7.
23 NRS 78.138(7) provides in pertinent part: Except as otherwise provided in NRS 35.230, 90.660, 91.250, 452.200,
24 452.270, 668.045 and 694A.030, or unless the articles of incorporation or an amendment thereto, in each case filed
25 on or after October 1, 2003, provide for greater individual liability, a director or officer is not individually liable to
26 the corporation or its stockholders or creditors for any damages as a result of any act or failure to act in his or her
27 capacity as a director or officer unless:

28 (a) The presumption established by subsection 3 has been rebutted; and

(b) It is proven that:

(1) The director's or officer's act or failure to act constituted a breach of his or her fiduciary duties as a
director or officer; and

(2) Such breach involved intentional misconduct, fraud or a knowing violation of law.

¹³ NRS 78.138(2) provides in pertinent part: In exercising their respective powers, directors and officers may, and
are entitled to, rely on information, opinions, reports, books of account or statements, including financial statements
and other financial data, that are prepared or presented by:

1 had provided the white paper and advice related to the relationship of the Retailers and oversight
2 obligations as part of its investigation and had the opportunity to test, from its perspective, the
3 appropriateness of reliance upon that advice.¹⁴

4 81. Based upon the evidence presented, including the SLC's Report, the SLC
5 members' testimony, the document requests made, and the minutes of the meetings held by the
6 SLC during the course of its investigation, the SLC approached its investigation without any
7 prejudice of the outcome.

8 82. The SLC met to plan their investigation, to receive legal advice and to deliberate
9 over the evidence they gathered and their conclusions through ten separate meetings. Some of
10 these meetings were in person; others were telephonic.

11 83. During the SLC's investigation, the SLC, through counsel, reviewed over 44,000
12 documents. Ex. 102 at 30. Each SLC member personally reviewed over 1,500 documents. *Id.* at
13 30. The SLC requested, received and reviewed internal DISH Board materials and
14 communications and the trial court opinions in the DNC Actions, as well as the underlying
15 documents in those actions, such as deposition transcripts, trial testimony and trial exhibits. *See*
16 Ex. 102 at Ex. 742. The SLC members further reviewed hundreds of internal and external DISH
17 communications related to DNC compliance and the 2009 AVC, including legal advice received
18 by DISH from outside counsel related to DNC issues. *See* Ex. 102 at 30-32.

19
20
21
22
23 (b) Counsel, public accountants, financial advisers, valuation advisers, investment bankers or other persons as to
24 matters reasonably believed to be within the preparer's or presenter's professional or expert competence; or
25 ***
26 but a director or officer is not entitled to rely on such information, opinions, reports, books of account or statements if
27 the director or officer has knowledge concerning the matter in question that would cause reliance thereon to be
28 unwarranted.

¹⁴ While prior cases also agreed with the advice apparently given by counsel, it is unclear whether under NRS 78.138(2) the board members are entitled to rely upon those trial court decisions (i.e. *Charvat* and *Zhu*) in exercising their judgment.

1 84. The SLC also interviewed twenty-two individuals, including each current Director
2 Defendant, DISH's inside counsel, DISH's outside counsel in the DNC Actions, and DISH's
3 independent auditor. Ex. 102 at 32, 41-47. Based upon the evidence presented, it is apparent that
4 the SLC challenged the interviewees and tested the honesty and veracity of the answers the
5 interviewees provided to the SLC. The SLC members each testified as to the thoroughness of
6 their investigation.
7

8 85. Although clearly DISH disagrees with the decision in the DNC Actions, the SLC
9 accepted the decisions as fact and reviewed those determinations and considered them in reaching
10 its conclusion. Nineteen pages of the SLC Report directly address those decisions. Ex. 102 at
11 20-23, 265-73, 281-83, 318-24. Under *Dish I*, the test of a special litigation committee's good-
12 faith thoroughness relates to the procedures that the committee followed, its process and the scope
13 of its investigation. The procedure used by the SLC in considering these decisions confirms that
14 there is no issue with respect to the good-faith thoroughness of its investigation in that regard.
15

16 86. The SLC analyzed the decisions in the DNC Actions. The SLC decided that
17 neither decision addressed the questions put before the SLC, which was not whether DISH
18 violated a DNC Law, but whether the Board may be liable for such violation. To assess whether
19 the SLC's determination conflicted with the DNC Actions would necessarily revisit the substance
20 of the SLC's determinations. *Dish I* does not permit that review.
21

22 87. The standard set by the Nevada Supreme Court in *Dish I* governs the SLC's
23 Motion to Defer. Based upon the evidence presented at the evidentiary hearing, this Court
24 concludes that the SLC is independent and has conducted a good-faith, thorough investigation.
25 Therefore, under *Dish I*, this Court defers to the business judgment of the SLC and accepts its
26 determination that it would not be in the best interest of DISH to litigate these claims. Consistent
27
28

1 with Nevada law, this Court will not review the substantive merits of the SLC's determination.

2 The SLC's Motion to Defer is granted.

3 88. This decision reflects the Court's factual findings based upon weighing the
4 evidence and evaluating witness testimony presented at the evidentiary hearing and through
5 briefing on the Motion to Defer.
6

7 89. If any conclusions of law are properly findings of fact, they shall be treated as if
8 appropriately identified and designated.

9 Based upon the foregoing Findings of Fact and Conclusions of Law:


10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Motion to Defer
11 is granted.

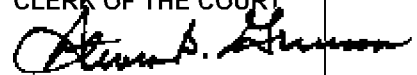
12 DATED this 17th day of July, 2020.

13
14
15 
16 Elizabeth Gonzalez, District Court Judge

17 **Certificate of Service**

18 I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of
19 Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth
20 Judicial District Court Electronic Filing Program.

21 
22
23 Dan Kutinac



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19 *Nominal Defendant DISH Network*
20 *Corporation*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 PLUMBERS LOCAL UNION NO. 519
24 PENSION TRUST FUND and CITY OF
25 STERLING HEIGHTS POLICE AND FIRE
26 RETIREMENT SYSTEM, derivatively on
27 behalf of nominal defendant DISH
28 NETWORK CORPORATION,

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
HOWARD,

Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

**NOTICE OF ENTRY OF FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

Hearing Date:
Hearing Time:

1 PLEASE TAKE NOTICE that Findings of Fact and Conclusions of Law were entered
2 on the 17th day of July 2020. A copy is attached.

3 DATED this 31st day of July 2020.
4

5 By /s/ J. Stephen Peek
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18
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28

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July 2020, a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW** was served by the following method(s):

X 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:

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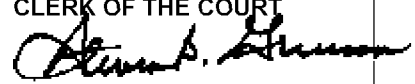
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FFCL

DISTRICT COURT

CLARK COUNTY, NEVADA

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND, Derivatively on
Behalf of DISH NETWORK
CORPORATION,

Plaintiff,

vs.

CHARLES W. ERGEN, et al.,

Defendants,

– and –

DISH NETWORK CORPORATION, a
Nevada corporation,
Nominal Defendant

Case No.: A-17-763397-B

Dept.: XI

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come on for an evidentiary hearing on the Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should be Dismissed filed December 20, 2018 ("Motion to Defer")¹ before the Honorable Elizabeth Gonzalez on July 6 and 7, 2020; Plaintiffs Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System appeared by and through their counsel of record, Randall J. Baron, Benny C. Goodman III, and Erik W. Luedeke of Robbins Geller Rudman & Dowd LLP, and David C. O'Mara of The O'Mara Law Firm, P.C.; the Special Litigation Committee appeared by and through their counsel of record, J. Stephen Peek and Robert J. Cassity of Holland & Hart LLP, and C. Barr Flinn and Emily V. Burton of Young Conaway

¹ The Court scheduled an evidentiary hearing on the Motion to Defer at the joint request of the parties in conformance with the requirements of an evidentiary hearing set forth in *Dish 1*, 133 Nev. 438 (2017). (Case No. A686775) To avoid confusion, this case, A763397, is *Dish 2* and A797799 is *Dish 3*.

1 Stargatt & Taylor, LLP; the Director Defendants appeared by and through their counsel of record
2 Ian P. McGinn of the law firm of Kemp Jones; the Court having read and considered the pleadings
3 filed by the parties; having reviewed the evidence admitted during the hearing; having heard and
4 carefully considered the testimony of the witnesses called to testify and weighing their credibility;
5 having considered the oral and written arguments of counsel, and with the intent of rendering a
6 decision on only the Motion to Defer pending before the Court; the Court makes the following
7 findings of fact and conclusions of law:
8

9 PROCEDURAL POSTURE

10 1. On October 19, 2017, Plumbers Local Union No. 519 Pension Trust Fund filed
11 this shareholder derivative action.²
12

13 2. On November 13, 2017, Plaintiff City of Sterling Heights Police and Fire
14 Retirement System filed a second derivative action in this Court seeking to assert similar claims
15 on behalf of DISH. Those complaints were consolidated into the present action.

16 3. On January 12, 2018, Plaintiffs filed their operative consolidated complaint,
17 alleging, among other things, that DISH's directors breached their legal obligations to conduct
18 DISH's business in accordance with the TCPA after promising to do so under the terms of the
19 2009 AVC.
20
21
22

23 ² Plaintiffs Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling Heights Police and Fire
24 Retirement System ("Plaintiffs") asserts claims, derivatively on behalf of DISH Network Corporation ("DISH" or the
25 "Company") against Charles Ergen, James DeFranco, Cantey Ergen, Steven Goodbarn, David Moskowitz, Tom
26 Ortolf, Carl Vogel, George Brokaw, and Gary Howard (collectively "Defendants"), each of whom was or is a
27 director of DISH. Plaintiffs assert that the Defendants "did nothing to ensure DISH's compliance with the TCPA or
28 the Compliance Agreement" and thereby knowingly and intentionally caused DISH to commit the violations of
telemarketing laws found by *Krakauer v. DISH Network LLC*, No. 14-cv-333, 2017 WL 2242952 (M.D.N.C. May
22, 2017) ("*Krakauer*") and *United States v. DISH Network LLC*, 256 F. Supp. 3d 810 (C.D. Ill. 2017) ("*U.S. v.*
DISH" and, together with *Krakauer*, the "DNC Actions"). Plaintiffs would have DISH seek a money judgment
against the Defendants under NRS 78.138(7)(b)(2) to make DISH whole for most of the roughly \$340 million in
damages awarded against DISH in the DNC Actions.

1 4. The Complaint asserts that the Defendants “abandoned and abdicated their
2 responsibilities and fiduciary duties” to cause DISH to comply with the DNC Laws, in connection
3 with third-party Retailers’ calls made on DISH’s behalf. (Compl. ¶ 70.) Plaintiffs would have
4 DISH sue the Defendants to recover from them for most of the judgments entered against DISH
5 in *U.S. v. DISH* and *Krakauer*. Plaintiffs claimed standing to derivatively assert these claims
6 belonging to DISH because Plaintiffs named as Defendants eight of the then ten members of the
7 Board of Directors of DISH (“DISH Board”).

9 5. On February 26, 2018, Defendants moved to dismiss the Complaint for failure to
10 state a claim. DISH, separately, moved to dismiss for failure to adequately plead demand futility.
11 In the alternative, DISH asked that this action be stayed “pending final resolution” of the DNC
12 Actions.

13
14 6. While the motions to dismiss were pending, the DISH Board, on April 11, 2018,
15 unanimously resolved by written consent (“Unanimous Written Consent”) to form a special
16 litigation committee (“SLC”) of the DISH Board to assume control of the claims of DISH
17 asserted in this action on DISH’s behalf.

18 7. The SLC is composed of Charles Lillis, a non-party and now former director of
19 DISH; George Brokaw, a director of DISH who is named as a Defendant in this action; and
20 Anthony Federico, a director on the board of EchoStar Corporation (“EchoStar”), a non-party
21 affiliate of DISH.

22
23 8. The Unanimous Written Consent fully delegated all rights and powers of the DISH
24 Board with respect to the claims asserted in this action to the SLC. It provided:

25 [T]he Board of Directors hereby delegates to the Special Litigation Committee the power
26 and authority of the Board of Directors to: (1) review, investigate and evaluate the claims
27 asserted in the Derivative Litigation; (2) file any and all pleadings and other papers on
28 behalf of the Corporation that the Special Litigation Committee finds necessary or
advisable in connection therewith; (3) determine whether it is in the best interests of the
Corporation and/or to what extent it is advisable for the Corporation to pursue any or all

1 of the claims asserted in the Derivative Litigation, taking into consideration all relevant
2 factors as determined by the Special Litigation Committee; (4) prosecute or dismiss on
3 behalf of the Corporation any claims that were or could have been asserted in the
4 Derivative Litigation; and (5) direct the Corporation to formulate and file any and all
5 pleadings and other papers on behalf of the Corporation and the Special Litigation
6 Committee finds necessary or advisable in connection therewith, including, without
7 limitation, the filing of other litigation and counterclaims or cross-complaints, or motions
8 to dismiss or stay the proceedings if the Special Litigation Committee determines that
9 such action is advisable and in the best interests of the Corporation.

10 9. The Unanimous Written Consent provided the SLC with broad authority to
11 investigate all matters related to this action:

12 (1) the officers of the Corporation are hereby authorized and directed to provide to the
13 Special Litigation Committee, each Committee Member and any of their advisors, agents,
14 counsel and designees, such information and materials, including without limitation, the
15 books and records of the Corporation and any documents, reports or studies pertaining to
16 the Derivative Litigation as may be useful or helpful in the discharge of the Special
17 Litigation Committee's duties or as may be determined by the Special Litigation
18 Committee; (2) the Special Litigation Committee is authorized and empowered to meet
19 with both present and past members of the Board of Directors who are not members of the
20 Special Litigation Committee and/or with both present and past officers of the
21 Corporation to gather information from such directors and/or officers pertaining to the
22 Derivative Litigation as may be useful or helpful in the discharge of the Special Litigation
23 Committee's duties or as may be determined by the Special Litigation Committee, or any
24 member thereof, to be appropriate or advisable in connection with the discharge of the
25 duties of the Special Litigation Committee[.]

26 10. The SLC retained Holland & Hart, LLP and Young Conaway Stargatt & Taylor,
27 LLP as its independent counsel.

28 11. On April 24, 2018, the SLC filed a Motion for Stay Pending Investigation of the
Special Litigation Committee of DISH Network Corporation ("Motion to Stay") to permit it to
conduct an investigation of "the allegations asserted by Plaintiffs Plumbers Local Union No. 519
Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System in their
Complaint in this action."

12. The Court stayed this action for six months to permit the SLC to conduct its
investigation.

13. On December 19, 2018, the SLC filed its Motion for Summary Judgment Deferring to the Special Litigation Committee’s Determination That the Claims Should Be Dismissed (“Motion to Defer”). Although the Motion to Defer asserted that there was no genuine issue of material fact, such that this Court should rule in the SLC’s favor based upon the summary judgment standard, this Court does not rule on the Motion to Defer on that basis, but rather on the basis of factual determinations made upon the record presented at the evidentiary hearing under a preponderance of the evidence standard.³

14. From January 14, 2019 through July 31, 2019, Plaintiffs took discovery related to the SLC.

15. On January 10, 2020, the parties filed a Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer, seeking to schedule an evidentiary hearing in accordance with *Dish 1*.

16. On July 6 and 7, 2020, consistent with the Nevada Supreme Court’s direction in *Dish 1*, this Court held the evidentiary hearing on the Motion to Defer.

FINDINGS OF FACT

17. DISH is a Nevada corporation in good standing.

18. Charles Ergen, Cantey Ergen (together the “Ergens”) and James DeFranco founded DISH in 1980. In 1995, DISH became publicly traded on the NASDAQ. The Ergens beneficially hold 48% of DISH’s Class A common stock, 85.8% of DISH’s Class B common stock and 78.4% of its voting power. Report of the Special Litigation Committee of DISH Network Corporation, dated Nov. 7, 2018 (“SLC Report”, admitted Ex.⁴ 102) at Ex. 52 at 9-10. DeFranco holds roughly 2.1% of DISH’s Class A common stock. Ex. 102 at Ex. 44 at 9-10. The

³ If the evidence presented at the evidentiary hearing were evaluated under a summary judgment standard a different result would be reached.

⁴ All “Ex. ” references refer to the exhibits admitted during the evidentiary hearing.

1 other Defendants are each stockholders of DISH, each holding less than 1% of DISH's Class A
2 common stock.

3 19. DISH is a company focused on connectivity. Through its subsidiaries, DISH
4 provides television entertainment and technology to customers with its satellite DISH TV and
5 streaming Sling TV services. During the time period addressed by Plaintiffs' Complaint (the
6 "Relevant Time Period"), DISH used a variety of marketing channels, including telemarketing, to
7 market DISH TV and Sling TV services. DISH also authorized third-party businesses, which it
8 referred to as "Retailers," to market and sell DISH's services to businesses and consumers in
9 exchange for commissions. Some of those Retailers used telemarketing.

10 20. Companies that engage in telemarketing are subject to multiple state and federal
11 laws, including the Telephone Consumer Protection Act, 47 U.S.C.A. § 227 ("TCPA") and the
12 Telemarketing Sales Rule, 16 C.F.R. § 310 ("TSR" together with the TCPA, collectively the
13 "DNC Laws"). The TSR is enforceable by the Federal Trade Commission ("FTC"). 15 U.S.C.A.
14 § 6102(a)(1). The TCPA gives both State Attorneys General and individual consumers standing
15 to pursue claims for violations. 47 U.S.C.A. § 227 (b)(3), (c)(5), (g) (2018). Both of these DNC⁵
16 Laws impose per-call fines or damages on companies for telemarketing activities found to be in
17 violation above and beyond specified "safe harbors."

18 21. In 2009, DISH entered into an Assurance of Voluntary Compliance ("2009 AVC")
19 with 46 states' Attorneys General, including Nevada's Attorney General, to resolve disputes
20 between DISH and the 46 states regarding DISH's consumer protection obligations, including
21 with respect to its telemarketing. *See* Ex. 2, at 3-4, 8.

22 22. Under the 2009 AVC, DISH paid \$5,991,000 to the Attorneys General. (Ex. 2 at §
23 6.1.) The 2009 AVC fully resolved, among other things, all DNC Law violations asserted against
24

25
26
27 ⁵ The abbreviation DNC stands for do not call.
28

1 DISH by the 46 states that participated in the 2009 AVC. Through the 2009 AVC, DISH also
2 undertook obligations for specified monitoring and oversight of Retailers who telemarketed
3 DISH's products, but explicitly reserved its position that the Retailers were independent
4 contractors rather than DISH's agents. (*Id.* § 1.14.) No party to the 2009 AVC has alleged that
5 the agreement has been breached in connection with DNC issues.
6

7 23. In 2009, Defendants James DeFranco, Charles W. Ergen, Cantey M. Ergen, Joseph
8 P. Clayton, David K. Moskowitz, Tom A. Ortolfo and Carl E. Vogel ("Managing Director
9 Defendants") were briefed on the terms of the 2009 AVC. Ex. 102 at 212-13.

10 24. Between 2007 and 2014, several consumers, the federal government and the four
11 states that declined to join the 2009 AVC brought lawsuits against DISH, seeking to hold DISH
12 liable for violations of the DNC Laws based on calls made by Retailers purporting to sell DISH
13 pay-tv services.
14

15 25. The first two of those lawsuits to reach resolution – *Charvat v. EchoStar Satellite,*
16 *LLC*, 676 F. Supp. 2d 668 (S.D. Ohio 2009) ("*Charvat*") and *Zhu v. DISH Network, LLC*, 808 F.
17 Supp. 2d 815 (E.D. Va. 2011) ("*Zhu*") – were resolved in DISH's favor.

18 26. Although DISH settled with 46 state attorneys general through the 2009 AVC, the
19 other four state Attorneys General and the federal government, through the FTC, continued
20 pursuit of claims that DISH was regularly violating the TCPA. This action was litigated in the
21 U.S. District Court for the Central District of Illinois.
22

23 27. In 2009, the FTC (through the Department of Justice) and the states of California,
24 Illinois, North Carolina and Ohio brought *U.S. v. DISH*, alleging that DISH had violated the
25 TCPA, TSR and state telemarketing laws through telemarketing calls that DISH made directly
26 and that six Retailers made on DISH's behalf from 2003 to 2011. Ex. 102 at Ex. 776. *See also*
27
28

1 *U.S. v. DISH*, 256 F. Supp. 3d at 936-37. DISH opposed the claims, arguing that the Retailers
2 were not DISH's agents and that DISH's calls fell within safe harbors of the DNC Laws.

3 28. After a bench trial, the *U.S. v. DISH* court concluded that DISH and telemarketers
4 under its control had placed approximately 7.6 million calls in violation of the DNC Laws. *See*,
5 *e.g.*, *U.S. v. DISH*, 256 F. Supp. 3d at 931-32, 954, 959. The court also found that the Retailers
6 had placed over 90 million calls in violation of the DNC Laws and held that DISH was liable for
7 these calls because the Retailers placed the calls on DISH's behalf. *Id.* at 913, 915, 917-18, 919-
8 20, 930, 943-45, 953-54 (C.D. Ill. 2017). The *U.S. v. DISH* court entered a \$280 million
9 judgment against DISH. *Id.* at 983.

10
11 29. On April 18, 2014, Thomas Krakauer brought a consumer class action lawsuit
12 against DISH for violations of the TCPA and DNC laws because one of DISH's Retailers,
13 Satellite Systems Network ("SSN"), had placed calls to the plaintiff and other class members in a
14 manner that violated the TCPA. SSN placed the calls at issue in *Krakauer* between 2010 and
15 2011. DISH opposed the claims in *Krakauer*, in substantial part by arguing, as it did successfully
16 in prior cases with respect to other Retailers' calls, that SSN was not an agent of DISH and that
17 DISH could not be held liable for calls made by SSN. DeFranco testified on DISH's behalf at
18 trial in *Krakauer*.
19

20
21 30. On January 19, 2017, the jury in *Krakauer* found DISH liable for violations of the
22 TCPA resulting from, among other violations, over 50,000 calls made between May 2010 and
23 August 2011 in violation of the DNC Laws by SSN, and awarded the plaintiff class \$400 per
24 violation. Ex. 102 at Ex. 88.

25 31. The jury found that SSN was DISH's agent and awarded the plaintiff class a total
26 of \$20,447,600 in damages against DISH. Ex. 102 at Ex. 88 and Ex. 102 at 271-73.
27
28

1 32. The U.S. District Court considered Krakauer's request for treble damages. The
2 U.S. District Court issued a strongly worded opinion concluding that DISH's conduct met the
3 TCPA's knowing and willful standard. Ex. 1., *Krakauer*, at *10. The Court ordered DISH to pay
4 \$65.1 million in trebled damages. Ex. 1, *Krakauer*, at *37.

5
6 33. DISH appealed the decisions in *Krakauer* and *U.S. v. DISH* on May 4, 2018 and
7 October 6, 2017, respectively.

8 34. On May 30, 2019, the United States Court of Appeals for the Fourth Circuit
9 unanimously affirmed the trial verdict and judgment in *Krakauer*, finding that the *Krakauer*
10 judgment rested on "solid evidence." *Krakauer v. Dish Network, L.L.C.*, 925 F.3d 643 (4th Cir.
11 2019). The Fourth Circuit held, in pertinent part:

12
13 The district court also noted the half-hearted way in which Dish responded
14 to consumer complaints, finding that the "evidence shows that Dish cared about
15 stopping complaints, not about achieving TCPA compliance." . . . The court then
16 assessed Dish's arguments to the contrary, finding that its refrain that it knew
17 nothing of SSN's widespread violations was simply not credible: "Given the tens
18 of thousands of violative calls SSN made in a span of just over a year, even a
cursory investigation or monitoring effort by Dish would have uncovered the
violations. Under these circumstances, what Dish calls a mistaken belief is
actually willful ignorance."

19 * * *

20 The evidence also showed that Dish failed to respond to these concerns in any
21 serious way and was profiting handsomely from SSN's sales tactics. It may be
22 that Dish believes that its warnings and admonitions should have been given
23 greater weight by the jury. Because the jury resolved this question and had
24 extensive evidentiary support for its conclusion, it does not matter whether Dish
now believes its argument to be convincing. Dish had its chance to persuade the
jury, and it lost.

25 * * *

26 Dish seems to think that so long as it includes certain language in a contract or
27 issues the occasional perfunctory warning to a retailer the court will not look past
28 the formalities and examine the actual control exercised by Dish. Moreover, Dish
failed to recognize that repeated expressions of ignorance as to a widespread
problem can evince more than simply negligence; they can also be a sign that the

1 violations are known, tolerated, and even encouraged. Trebling is never to be
2 done lightly. Given the consequences for a company, a trebled award must rest on
3 solid evidence. Here [it] was.

4 925 F.3d at 661-63.

5 35. On March 26, 2020, the U.S. Court of Appeals for the Seventh Circuit largely
6 affirmed the U.S. District Court's decision in *U.S. v. DISH*, but vacated the U.S. District Court's
7 holding that DISH violated the TSR by substantially assisting one Retailer in making "abandoned
8 calls." 954 F.3d 970, 977-78 (7th Cir. 2020). The Seventh Circuit also vacated the damages
9 award entered in *U.S. v. DISH* and remanded the case to the U.S. District Court to re-calculate
10 damages. *Id.* at 980.

11 36. On October 15, 2019, DISH filed a Petition for a *Writ of Certiorari* of the
12 *Krakauer* opinion with the U.S. Supreme Court, seeking review of a single issue: "The question
13 presented is whether a call placed in violation of the Telephone Consumer Protection Act, without
14 any allegation or showing of injury – or even that Plaintiffs heard the phone ring – suffices to
15 establish concrete injury for purposes of Article III." Ex. 8, at i. On December 16, 2019, the U.S.
16 Supreme Court denied DISH's Petition for a *Writ of Certiorari*. Ex. 9.

17 37. The SLC met for the first time on May 9, 2018. Ex. 108 at 00001-00002. In
18 addition to the twenty-one interviews discussed below the SLC also met in person or
19 telephonically ten times during the course of its investigation. Ex. 108; Ex. 102 at 33. At these
20 meetings, the SLC received advice of counsel concerning the duties of the SLC, the legal
21 standards relevant to the claims under investigation and Nevada law concerning directors'
22 fiduciary duties. Ex. 108 at 00005-00006. The SLC also discussed the information that it had
23 gathered, additional topics of interest, and topics on which it would like legal advice. Plaintiffs
24 have identified no relevant subject on which the SLC was unadvised.
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1 38. The SLC began its investigation by assessing its own independence and the
2 independence of its counsel. The SLC concluded that each of its members and the SLC's counsel
3 were independent with respect to the matters to be investigated. Plaintiffs have raised no
4 challenge to the independence or competence of the SLC's counsel.
5

6 39. On June 1, 2018, the SLC sent its First Set of Documents Requested ("First
7 Request") to DISH. Ex. 102 at Ex. 742. After receiving the documents called for in the first
8 Request, the SLC sought and received several additional groups of documents from DISH and
9 DISH's outside legal counsel to further explore topics suggested through the SLC's document
10 review and interviews. The SLC gathered and, through its counsel, reviewed more than 44,000
11 documents related to the SLC's investigation. Ex. 102 at 30. The SLC members themselves
12 reviewed more than 1,500 documents. *Id.*
13

14 40. The SLC began by reviewing the Complaint in this action. The SLC requested and
15 reviewed foundational documents concerning the DNC Actions, such as the decisions in the DNC
16 Actions, including the jury verdict sheet issued in *Krakauer*, the decision trebling damages issued
17 in *Krakauer*, and the Findings of Fact and Conclusions of Law issued in *U.S. v. DISH*, and the
18 trial records for the DNC Actions, including the trial exhibits, the exhibits cited in the decisions
19 and the transcripts of the trial testimony and depositions. The SLC also reviewed the relevant
20 DISH Board-level materials, including Board and Audit Committee meeting minutes and
21 handouts, and communications to the full Board concerning DNC issues whether or not
22 connected to a Board meeting from January 1, 2003 through December 31, 2013. The SLC
23 reviewed internal DISH communications involving the Defendants related to DNC issues,
24 including communications of Mr. Ergen, Mr. DeFranco and Mr. Moskowitz related to DNC
25 issues and the legal advice provided to the DISH Board regarding DNC issues. The SLC also
26 reviewed management-level internal communications and documents regarding telemarketing
27
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1 policies and practices and DNC complaints, including both internal and external communications
2 relating to DISH's entry into the 2009 AVC and subsequent efforts related to the 2009 AVC.

3 41. From DISH's outside regulatory and litigation counsel, the SLC requested and
4 received communications between outside counsel and DISH employees and communications
5 between the outside counsel and relevant third parties, such as the FTC and states' Attorneys
6 General. *See* Ex. 102 at 30-32. Plaintiffs have not identified any documents relevant to the
7 matters at issue in this litigation that the SLC did not gather and consider.

9 42. The SLC identified individuals that the SLC believed likely to have information
10 relevant to the claims in this action. Between July 16, 2018 and September 21, 2018, the SLC
11 conducted twenty-one interviews of this group, including the members of the DISH Board during
12 the Relevant Time Period.⁶ Beyond the DISH Board, the SLC interviewed DISH management,
13 including Blake Van Emst (Vice President of Retail Services) and Amir Ahmed (Senior Vice
14 President of Sales). The SLC also interviewed inside and outside counsel who advised DISH on
15 these issues, including DISH's former General Counsel Stanton Dodge, DISH's Corporate
16 Secretary Brandon Ehrhart, and DISH's other inside counsel responsible for DNC: Jeffrey Blum,
17 Lori Kalani and Brett Kitei. The outside counsel interviewed included Lewis Rose and Alysa
18 Hutnik of Kelley Drye & Warren LLP (regulatory counsel to DISH)⁷ and Helen Mac Murray of
19 Mac Murray & Shuster LLP (DISH's primary counsel for negotiating the 2009 AVC). The SLC
20 interviewed DISH's inside and outside auditors, DISH's Vice President of Internal Audit, Patrick
21 Halbach, and Jason Waldron of KPMG. The SLC interviewed DISH's third-party telemarketing
22
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26 ⁶ The only individual affiliated with DISH that the SLC did not interview was Mr. Clayton, a member of the DISH
27 Board, who was suffering from serious health issues during the SLC's investigation and who has since passed.

28 ⁷ The SLC conducted a joint interview of Lewis Rose and Alysa Hutnik.

consultant, Ken Sponsler of PossibleNow, Inc. and a former member of the Retail Sales and Services team responsible for DNC compliance, Reji Musso.⁸

43. At the conclusion of its investigation, the SLC met and deliberated with respect to its conclusions. After reaching high-level determinations, the SLC directed its counsel to draft the SLC Report and reviewed multiple drafts of the Report until ultimately approving it in its final form. The SLC Report described the process that the SLC undertook with respect to its investigation as well as the conclusions that the SLC reached based upon its investigation. The SLC Report incorporated 792 exhibits. The SLC filed the SLC Report under seal on November 27, 2018.

44. The SLC determined that it would not be in DISH's best interest to pursue the claims articulated by Plaintiffs or other claims against the Defendants related to the judgments entered against DISH in the DNC Actions. Ex. 102 at 352-53.

45. The SLC determined that, under NRS 78.138(3)-(7), for DISH to recover damages from the Defendants, DISH would need to show that one or more of the Defendants had knowingly caused or permitted DISH to violate the DNC Laws in a manner that caused DISH to suffer the judgments entered in the DNC Actions. Ex. 102 at 299.

46. The SLC concluded that Defendants had an objectively reasonable belief that DISH and they were complying with the law. The SLC concluded DISH could not prevail on the claims against each of the Defendants. *See* Ex. 102, at 17, 22-23, 96, 149-50, 201-11, 216-22, 293, and 306.

47. With respect to the Defendants who were directors of DISH at the time the conduct occurred ("Director Defendants"), the SLC determined that they did not knowingly cause

⁸ The SLC sought to interview one or more representatives of Plaintiffs; however, Plaintiffs declined to make a representative available for an interview by the SLC.

1 or permit DISH to violate the DNC Laws. The SLC concluded that – to the extent that they were
2 aware of the situation – the Director Defendants believed that the Retailers were not DISH’s
3 agents and that DISH was not legally responsible for the Retailers’ compliance with the DNC
4 Laws. Ex. 102 at 327-33. The SLC observed that this belief was reached following the receipt of
5 advice of counsel. The SLC stated that it found no evidence that any Director Defendant
6 knowingly caused or permitted DISH to violate the DNC Laws.

8 48. The SLC concluded that telemarketing compliance was not an issue considered
9 sufficiently material during the Relevant Time Period to be brought to the attention of the full
10 DISH Board. The SLC observed that minutes of DISH Board meetings and DISH Board
11 materials did not reflect discussion of DNC compliance until *U.S. v. DISH* was filed on March 25,
12 2009 and that, prior to the judgment entered in the DNC Actions, claims of the types asserted in
13 those actions were generally settled for thousands, not millions, of dollars. The SLC concluded
14 that the Director Defendants who were not executives of DISH could not have knowingly caused
15 or permitted DISH to violate the DNC Laws through Retailers’ telemarketing for the additional
16 reason that the non-executive directors had little, if any, awareness of or role in Retailers’ DNC
17 compliance during the Relevant Time Period. Ex. 102 at 175, 315-17.

19 49. The SLC examined whether the oversight systems in place at DISH suggested that
20 the DISH Board knowingly or willfully permitted DISH to violate the DNC Laws by knowingly
21 failing to monitor serious compliance issues. Ex. 102 at 334-36. The SLC determined that this
22 was not the case. The SLC noted that the DISH Board had regular reports from DISH’s General
23 Counsel, had an audit committee tasked with such oversight and retained both outside and inside
24 auditors to monitor DISH’s regulatory risk, among other precautions. Ex. 102 at 240-42, 246-56.
25 DISH has and then-had a Compliance Department with specific responsibility in respect of TCPA
26 compliance (Compl. ¶ 55), which “had weekly meetings with Dish’s Legal Department”
27
28

1 concerning “all areas of Order Entry Retailer compliance, including telemarketing,” and imposed
2 “real changes . . . in late 2008 and 2009.” *U.S. v. DISH*, 256 F. Supp. 3d at 852, 987.

3 50. As the SLC found that no Defendant knowingly caused or permitted DISH to
4 violate the DNC Laws, the SLC concluded that NRS 78.138(7)(b)(1)-(2) would bar DISH from
5 recovering damages from the Defendants and that the claims thus lacked merit.
6

7 51. The SLC concluded that it would not be in DISH’s best interest to pursue them:
8 pursuit of non-meritorious claims would not justify the burdens such litigation would impose on
9 DISH, including litigation costs and disruption to DISH’s operations and strategic plans
10 stemming from the distraction attendant upon suing the majority of the current DISH Board and
11 senior executives. *See* Ex. 102 at 348.

12 52. If any findings of fact are properly conclusions of law, they shall be treated as if
13 appropriately identified and designated.
14

15 **CONCLUSIONS OF LAW**

16 53. The question before the Court is whether the Court should defer to the SLC’s
17 recommendation that the claims asserted in this action be dismissed.

18 54. In *Dish I*, the Nevada Supreme Court adopted the *Auerbach* standard, which sets
19 forth the process for judicial deference to a special litigation committee’s recommendation
20

21 55. The SLC, as the moving party, is entitled to no presumption and bears the burden
22 of proof. Only if a special litigation committee meets its burden are its conclusions protected by
23 the business judgment rule.

24 56. The SLC members bear the burden of showing the SLC conducted a good faith
25 and thorough investigation.
26
27
28

1 57. The SLC must show: (1) “that the areas and subjects to be examined are
2 reasonably complete *and* [(2)] there has been a good-faith pursuit of inquiry into such areas and
3 subjects.” *Dish I*, at 443-444.

4 58. If the SLC fails to meet its burden related to the independence, good faith and/or
5 thoroughness of the special litigation committee and/or its investigative process or work product,
6 then a court cannot defer to a special litigation committee’s business judgment and adopt as its
7 own the findings of that committee.

8 59. The first prong of *Dish I* asks whether the special litigation committee was
9 independent. Under this standard, the Court assesses “whether the [SLC] that would be
10 addressing the demand can impartially consider its merits without being influenced by improper
11 considerations,’ such that it could ‘properly exercise[] its independent and disinterested business
12 judgment[.]’” *Id.* at 446.

13 60. “[T]he independence standard that applies to directors in the demand-futility
14 context is equally applicable” here. *Id.*, at 446. However, a special litigation committee is not
15 presumed to be independent; rather, this Court must make a determination as to the independence
16 of the committee. *Id.* at 446.

17 61. *Dish I* held that a special litigation committee is independent where the committee
18 cannot act without the approval of at least one independent member. *Id.* at 449.

19 62. Mr. Lillis has substantial business experience, including serving, at the
20 appointment of the Governor of Oregon, as the Chair of the Board of Trustees of the University
21 of Oregon, and serving on the boards of Agilera, Inc., Ascent Entertainment Grp., Charter
22 Communications, Inc. and various affiliates, Medco Health Solutions, Inc., On Command
23 Corporation, SUPERVALU Inc., Time Warner Entertainment Company, L.P., Williams
24 Companies, Inc. and Washington Mutual Inc. and affiliated entities.

1 63. Mr. Lillis joined the DISH Board effective November 5, 2013. He satisfies the
2 independence requirements for a board member of NASDAQ and the SEC rules and regulations.
3 Mr. Lillis has no personal or professional relationship with any Director other than his service on
4 the DISH Board. Mr. Lillis resigned from the DISH Board, effective May 1, 2020.

5
6 64. There is no evidence that any aspect of Mr. Lillis's service on the DISH Board
7 compromised Mr. Lillis's independence. Indeed, Mr. Lillis retired from the DISH Board on May
8 1, 2020. Based upon all evidence presented, including Mr. Lillis's testimony, the Court finds him
9 to be independent of all Defendants.

10 65. Mr. Lillis is not interested in this action and he is clearly independent.⁹

11 66. Mr. Federico has never served on the DISH Board and had no involvement in any
12 of the events at issue.

13
14 67. Mr. Federico joined the board of directors of EchoStar, a DISH affiliate, in May
15 2011 He satisfies the independence requirements for a board member of NASDAQ and the SEC
16 rules and regulations. Federico brings to the EchoStar board and to the SLC years of technical
17 and managerial experience. Federico spent almost fifty years at the Xerox Corporation, during
18 which time he held various product and general management positions, as well as numerous
19 engineering, solutions, information management and process re-engineering positions.

20 68. Mr. Federico is disinterested in the claims under investigation and is independent.

21 69. Mr. Brokaw joined the DISH Board effective October 7, 2013. He satisfies the
22 independence requirements for a board member of NASDAQ and the SEC rules and regulations.
23 Mr. Brokaw is an attorney with years of investment banking and board experience. Mr. Brokaw
24 has served on the boards of directors of multiple companies, including Alico, Inc., Capital
25

26
27 ⁹ In *Dish I*, this Court found Mr. Lillis to be independent. That conclusion remains unchanged after presentation of
28 the evidence during the evidentiary hearing.

1 Business Credit LLC, Exclusive Resorts, LLC, Ovation LLC, Timberstar Southwest LLC, Value
2 Place Holdings LLC and North American Energy Partners Inc.

3 70. A strong argument can be made that Mr. Brokaw lacks independence with respect
4 to the claims based upon his personal relationship with the Ergens.¹⁰ Mr. Brokaw's "ties with the
5 Ergens represent the type of improper influences that *could* inhibit the proper exercise of
6 independent business judgment." *Id.* at 448.

7
8 71. Even though Mr. Brokaw has social relationships with the Ergens, that does not
9 undermine the independence of the SLC. Under Nevada law, the SLC had to act by the majority
10 approval of its members.¹¹ The SLC could not act without – at minimum – the affirmative
11 approval of either Mr. Lillis or Mr. Federico, each of whom is undeniably independent; thus the
12 unanimous SLC approval here was independent regardless of Mr. Brokaw's independence. There
13 is no evidence that Mr. Brokaw exerted control over the SLC's investigation in a way that might
14 neutralize Mr. Lillis's and Mr. Federico's voting control over the SLC. Thus, the independence
15 of the SLC ultimately does not depend upon Mr. Brokaw's disinterest or independence.

16
17 72. The Court finds the SLC to be independent.
18
19
20

21 ¹⁰ These personal relationships were detailed in *Dish I* and remain the same. Although Mr. Brokaw is clearly a strong
22 personality able to stand his ground, the relationship of Cantey Ergen as godmother to his 12 year old son and the
continuing social relationship between his wife and Cantey Ergen remain of concern.

23 ¹¹ See NRS 78.125(1) ("Unless it is otherwise provided in the articles of incorporation, the board of directors may
24 designate one or more committees which . . . have and may exercise the powers of the board of directors . . ."); NRS
25 78.315(1) ("[T]he act of directors holding a majority of the voting power of the directors, present at a meeting at
26 which a quorum is present, is the act of the board of directors."); Ex. 102 at Ex. 53, Am. and Restated Bylaws of
27 DISH Network Corp. § 4.15 (Mar. 28, 2018) ("Committee Rules. Unless the Board of Directors otherwise provides
28 and subject to Section 4.1 of these Bylaws, a majority of the entire authorized number of members of such committee
shall constitute a quorum for the transaction of business, the vote of a majority of the members present at a meeting at
the time of such vote if a quorum is then present shall be the act of such committee, and in other respects each
committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to
this Article IV of these Bylaws."); Ex. 102 at Ex. 20, Am. and Restated Bylaws of EchoStar Communications Corp.
§ 4.15 (May 8, 2007) (same).

1 73. The second prong of the *Dish I* standard – that the special litigation committee
2 conducted a “good faith, thorough investigation” – concerns “the appropriateness and sufficiency
3 of the investigative procedures chosen and pursued by the committee.” *Id.* at 443.

4 74. “In accordance with the business judgment rule, courts can ‘inquir[e] into the
5 procedural indicia of whether the directors resorted in good faith to an informed decision making
6 process.’” *Id.* at 449-50, (quoting *Wynn Resorts, Ltd. v. Eighth Judicial Dist. Court*, 133 Nev.
7 369 (2017)).

8 75. For this analysis, “[c]ourts look to indicia of the SLC’s investigatory
9 thoroughness, such as what documents were reviewed and which witnesses interviewed.” *Id.* at
10 449-50.

11 76. As with any director action protected by the business judgment doctrine, the
12 process employed by the special litigation committee must not be so deficient as to constitute bad
13 faith:
14
15

16 [P]roof[] . . . that the investigation has been so restricted in scope, so
17 shallow in execution, or otherwise so *pro forma* or halfhearted as to
18 constitute a pretext or sham, consistent with the principles underlying the
19 application of the business judgment doctrine, would raise questions of
20 good faith or conceivably fraud which would never be shielded by that
21 doctrine.

22 *Id.* at 450.

23 77. This analysis does not, however, permit inquiry into the substance of the
24 committee’s determinations, into the merit of its analysis, or its conclusions: “The inquiry into
25 whether the SLC made its determination in good faith and on an informed basis ‘focuses on the
26 process used by the SLC, rather than the substantive outcome of the process.’” *Id.* at 449-50. A
27 “court ‘may not under the guise of consideration of such [procedural] factors trespass in the
28 domain of business judgment.’” *Id.* at 443. “[T]he substantive aspects of a decision to terminate
a shareholders’ derivative action against defendant corporate directors made by a committee of

1 disinterested directors appointed by the corporation's board of directors are beyond judicial
2 inquiry under the business judgment doctrine." *Id.* As codified in NRS 78.138, the business
3 judgment rule in Nevada does not permit inquiry into the reasonableness of the director's
4 decision. *Wynn Resorts*, 133 Nev. at 377.

5
6 78. The evaluation to be made by the Court is whether the SLC's procedures were
7 designed to provide an independent, thorough and good faith analysis of the issues raised in the
8 Complaint. The issues investigated related to the Retailers' violations of the TPCA and the legal
9 responsibility of DISH for supervision or control of those Retailers as well as the efforts to insure
10 compliance with the 2009 AVC.

11 79. For purposes of the SLC's investigation, the members accepted as fact the findings
12 made in the decisions in the DNC Actions. Although damning, these findings do not end the
13 inquiry into whether the Defendants are entitled to protection under the business judgment rule¹²
14 or whether a breach of fiduciary duty occurred by the Defendants.

15
16 80. Board members are entitled to rely upon advice of counsel in exercising their
17 business judgment.¹³ The SLC inquired of the attorneys who during the Relevant Time Period
18

19 ¹² NRS 78.138(3) provides in pertinent part: Except as otherwise provided in subsection 1 of NRS 78.139,
20 directors and officers, in deciding upon matters of business, are presumed to act in good faith, on an informed basis
21 and with a view to the interests of the corporation. A director or officer is not individually liable for damages as a
22 result of an act or failure to act in his or her capacity as a director or officer except as described in subsection 7.
23 NRS 78.138(7) provides in pertinent part: Except as otherwise provided in NRS 35.230, 90.660, 91.250, 452.200,
24 452.270, 668.045 and 694A.030, or unless the articles of incorporation or an amendment thereto, in each case filed
25 on or after October 1, 2003, provide for greater individual liability, a director or officer is not individually liable to
26 the corporation or its stockholders or creditors for any damages as a result of any act or failure to act in his or her
27 capacity as a director or officer unless:

28 (a) The presumption established by subsection 3 has been rebutted; and
(b) It is proven that:
(1) The director's or officer's act or failure to act constituted a breach of his or her fiduciary duties as a
director or officer; and
(2) Such breach involved intentional misconduct, fraud or a knowing violation of law.

¹³ NRS 78.138(2) provides in pertinent part: In exercising their respective powers, directors and officers may, and
are entitled to, rely on information, opinions, reports, books of account or statements, including financial statements
and other financial data, that are prepared or presented by:

1 had provided the white paper and advice related to the relationship of the Retailers and oversight
2 obligations as part of its investigation and had the opportunity to test, from its perspective, the
3 appropriateness of reliance upon that advice.¹⁴

4 81. Based upon the evidence presented, including the SLC's Report, the SLC
5 members' testimony, the document requests made, and the minutes of the meetings held by the
6 SLC during the course of its investigation, the SLC approached its investigation without any
7 prejudgment of the outcome.

8 82. The SLC met to plan their investigation, to receive legal advice and to deliberate
9 over the evidence they gathered and their conclusions through ten separate meetings. Some of
10 these meetings were in person; others were telephonic.

11 83. During the SLC's investigation, the SLC, through counsel, reviewed over 44,000
12 documents. Ex. 102 at 30. Each SLC member personally reviewed over 1,500 documents. *Id.* at
13 30. The SLC requested, received and reviewed internal DISH Board materials and
14 communications and the trial court opinions in the DNC Actions, as well as the underlying
15 documents in those actions, such as deposition transcripts, trial testimony and trial exhibits. *See*
16 Ex. 102 at Ex. 742. The SLC members further reviewed hundreds of internal and external DISH
17 communications related to DNC compliance and the 2009 AVC, including legal advice received
18 by DISH from outside counsel related to DNC issues. *See* Ex. 102 at 30-32.

19
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23 (b) Counsel, public accountants, financial advisers, valuation advisers, investment bankers or other persons as to
24 matters reasonably believed to be within the preparer's or presenter's professional or expert competence; or
25 ***
26 but a director or officer is not entitled to rely on such information, opinions, reports, books of account or statements if
27 the director or officer has knowledge concerning the matter in question that would cause reliance thereon to be
28 unwarranted.

¹⁴ While prior cases also agreed with the advice apparently given by counsel, it is unclear whether under NRS 78.138(2) the board members are entitled to rely upon those trial court decisions (i.e. *Charvat* and *Zhu*) in exercising their judgment.

1 84. The SLC also interviewed twenty-two individuals, including each current Director
2 Defendant, DISH's inside counsel, DISH's outside counsel in the DNC Actions, and DISH's
3 independent auditor. Ex. 102 at 32, 41-47. Based upon the evidence presented, it is apparent that
4 the SLC challenged the interviewees and tested the honesty and veracity of the answers the
5 interviewees provided to the SLC. The SLC members each testified as to the thoroughness of
6 their investigation.
7

8 85. Although clearly DISH disagrees with the decision in the DNC Actions, the SLC
9 accepted the decisions as fact and reviewed those determinations and considered them in reaching
10 its conclusion. Nineteen pages of the SLC Report directly address those decisions. Ex. 102 at
11 20-23, 265-73, 281-83, 318-24. Under *Dish I*, the test of a special litigation committee's good-
12 faith thoroughness relates to the procedures that the committee followed, its process and the scope
13 of its investigation. The procedure used by the SLC in considering these decisions confirms that
14 there is no issue with respect to the good-faith thoroughness of its investigation in that regard.
15

16 86. The SLC analyzed the decisions in the DNC Actions. The SLC decided that
17 neither decision addressed the questions put before the SLC, which was not whether DISH
18 violated a DNC Law, but whether the Board may be liable for such violation. To assess whether
19 the SLC's determination conflicted with the DNC Actions would necessarily revisit the substance
20 of the SLC's determinations. *Dish I* does not permit that review.
21

22 87. The standard set by the Nevada Supreme Court in *Dish I* governs the SLC's
23 Motion to Defer. Based upon the evidence presented at the evidentiary hearing, this Court
24 concludes that the SLC is independent and has conducted a good-faith, thorough investigation.
25 Therefore, under *Dish I*, this Court defers to the business judgment of the SLC and accepts its
26 determination that it would not be in the best interest of DISH to litigate these claims. Consistent
27
28

1 with Nevada law, this Court will not review the substantive merits of the SLC's determination.
2 The SLC's Motion to Defer is granted.

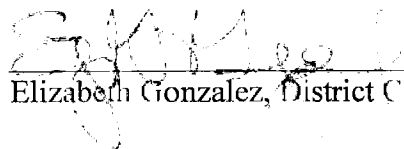
3 88. This decision reflects the Court's factual findings based upon weighing the
4 evidence and evaluating witness testimony presented at the evidentiary hearing and through
5 briefing on the Motion to Defer.

6 89. If any conclusions of law are properly findings of fact, they shall be treated as if
7 appropriately identified and designated.

8 Based upon the foregoing Findings of Fact and Conclusions of Law:

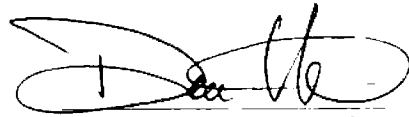
9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Motion to Defer
10 is granted.
11

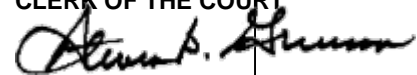
12 DATED this 17th day of July, 2020.

13
14
15 
16 Elizabeth Gonzalez, District Court Judge

17 **Certificate of Service**

18 I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of
19 Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth
20 Judicial District Court Electronic Filing Program.

21 
22 Dan Kutinac
23
24
25
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27
28



JUDG

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Robert J. Cassity, Esq. (9779)
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Rodney Square, 1000 North King Street
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Tel: (302) 571-6600
Fax: (302) 571-1253

*Attorneys for Special Litigation Committee of
Nominal Defendant DISH Network
Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND and CITY OF
STERLING HEIGHTS POLICE AND FIRE
RETIREMENT SYSTEM, derivatively on
behalf of nominal defendant DISH
NETWORK CORPORATION,

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
HOWARD,
Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,
Nominal Defendant

CASE NO.: A-17-763397-B

DEPT. NO.: XI

JUDGMENT

On December 19, 2018, the Special Litigation Committee (the "SLC") of DISH Network Corporation (DISH") filed a Motion for Summary Judgment Deferring to the SLC's

Determination That the Claims Should Be Dismissed (the "Motion to Defer"). On January 19, 2019, Plaintiffs filed a motion pursuant to NRCP 56(f) seeking an order denying or deferring the SLC's motion to allow Plaintiffs to conduct discovery. Pursuant to a Stipulation and Order Regarding Discovery Concerning the SLC and Its Investigation, Plaintiffs sought and obtained certain discovery regarding the SLC and its investigation. On January 10, 2020, the parties filed a Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer pursuant to *In re DISH Network Derivative Litigation*, 133 Nev. 438, 399 P.3d 334 (2017), which the Court granted in an Order dated February 14, 2020. On January 31, 2020, Plaintiffs filed an Opposition to the Motion to Defer, and the SLC filed a Reply in Support of the Motion to Defer on April 14, 2020. The Court, not having ruled on summary judgment, but instead having conducted an evidentiary hearing on July 6 and 7, 2020 pursuant to *In re DISH Network Derivative Litigation*, 133 Nev. 438, 399 P.3d 334 (2017), as jointly requested by the parties in the Joint Motion for Evidentiary Hearing, having entered Findings of Fact and Conclusions of Law filed on July 17, 2020, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that **JUDGMENT** of dismissal with prejudice of Plaintiffs' *Verified Consolidated Shareholder Derivative Complaint for Breach of Fiduciary Duties of Loyalty and Good Faith, Gross Mismanagement, Abuse of Control, Corporate Waste and Unjust Enrichment* is entered in favor of Defendants and the SLC on behalf of nominal defendant DISH, and against Plaintiffs.

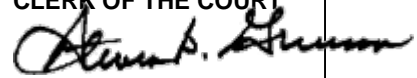
IT IS SO ORDERED this 3rd day of August 2020.


DISTRICT COURT JUDGE

Respectfully submitted by:

/s/ Robert J. Cassity
J. Stephen Peek, Esq. (1758)
Robert J. Cassity, Esq. (9779)
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

C. Barr Flinn (*pro hac vice*)
Emily V. Burton (*pro hac vice*)
YOUNG CONAWAY STARGATT & TAYLOR, LLP
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Wilmington, DE 19801
*Attorneys for the Special Litigation Committee
of Nominal Defendant DISH Network Corporation*



1 **NJUD**

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18 *Attorneys for Special Litigation Committee of*
19 *Nominal Defendant DISH Network*
20 *Corporation*

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 PLUMBERS LOCAL UNION NO. 519
24 PENSION TRUST FUND and CITY OF
25 STERLING HEIGHTS POLICE AND FIRE
26 RETIREMENT SYSTEM, derivatively on
27 behalf of nominal defendant DISH
28 NETWORK CORPORATION,

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
HOWARD,

Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,

Nominal Defendant

CASE NO.: A-17-763397-B
DEPT. NO.: XI

NOTICE OF ENTRY OF JUDGMENT

1 PLEASE TAKE NOTICE that a Judgment was entered on the 3rd day of August,
2 2020. A copy is attached.

3 DATED this 4th day of August 2020.

4
5 By /s/ Robert J. Cassity
6 J. Stephen Peek, Esq. (1758)
7 Robert J. Cassity, Esq. (9779)
8 HOLLAND & HART LLP
9 9555 Hillwood Drive, 2nd Floor
10 Las Vegas, Nevada 89134

11 C. Barr Flinn (*Admitted pro hac vice*)
12 Emily V. Burton (*Admitted pro hac vice*)
13 YOUNG CONAWAY STARGATT & TAYLOR, LLP
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15 Wilmington, DE 19801

16 *Attorneys for the Special Litigation Committee of*
17 *Nominal Defendant DISH Network Corporation*
18
19
20
21
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28

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of August 2020, a true and correct copy of the foregoing **NOTICE OF ENTRY OF JUDGMENT** was served by the following method(s):

X 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:

David C. O'Mara, Esq.
THE O'MARA LAW FIRM, PC.
311 East Liberty Street
Reno, NV 89501

Mark E. Ferrario, Esq.
Chris Miltenberger, Esq.
GREENBERG TRAURIG LLP
10845 Griffith Peak Drive, Ste 600
Las Vegas, NV 89135
Attorneys for Nominal Defendants DISH Network Corporation

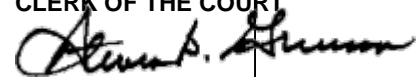
Travis E. Downs, III, Esq.
Benny C. Goodman III, Esq.
Erik W. Luedeke, Esq.
Timothy Z. Lacombe, Esq.
ROBBINS GELLER RUDMAN & DOWD, LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498

J. Randall Jones, Esq.
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Pkwy, 17th Floor
Las Vegas, NV 89169

Howard S. Susskind, Esq.
SUGARMAN & SUSSKIND
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
Attorneys for Plaintiff Plumbers Local Union No. 519 Pension Trust Fund

Brian T. Frawley, Esq.
Maya Krugman, Esq.
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004
Attorneys for Defendants

By: /s/ Valerie Larsen
An Employee of Holland & Hart, LLP



JUDG

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Tel: (302) 571-6600
Fax: (302) 571-1253

*Attorneys for Special Litigation Committee of
Nominal Defendant DISH Network
Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND and CITY OF
STERLING HEIGHTS POLICE AND FIRE
RETIREMENT SYSTEM, derivatively on
behalf of nominal defendant DISH
NETWORK CORPORATION,

Plaintiffs,

v.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID
MOSKOWITZ; TOM A. ORTOLF; CARL
E. VOGEL; GEORGE R. BROKAW;
JOSEPH P. CLAYTON; and GARY S.
HOWARD,
Defendants,

DISH NETWORK CORPORATION, a
Nevada corporation,
Nominal Defendant

CASE NO.: A-17-763397-B

DEPT. NO.: XI

JUDGMENT

On December 19, 2018, the Special Litigation Committee (the "SLC") of DISH Network Corporation (DISH") filed a Motion for Summary Judgment Deferring to the SLC's

Determination That the Claims Should Be Dismissed (the "Motion to Defer"). On January 19, 2019, Plaintiffs filed a motion pursuant to NRCP 56(f) seeking an order denying or deferring the SLC's motion to allow Plaintiffs to conduct discovery. Pursuant to a Stipulation and Order Regarding Discovery Concerning the SLC and Its Investigation, Plaintiffs sought and obtained certain discovery regarding the SLC and its investigation. On January 10, 2020, the parties filed a Joint Motion for Evidentiary Hearing on the SLC's Motion to Defer pursuant to *In re DISH Network Derivative Litigation*, 133 Nev. 438, 399 P.3d 334 (2017), which the Court granted in an Order dated February 14, 2020. On January 31, 2020, Plaintiffs filed an Opposition to the Motion to Defer, and the SLC filed a Reply in Support of the Motion to Defer on April 14, 2020. The Court, not having ruled on summary judgment, but instead having conducted an evidentiary hearing on July 6 and 7, 2020 pursuant to *In re DISH Network Derivative Litigation*, 133 Nev. 438, 399 P.3d 334 (2017), as jointly requested by the parties in the Joint Motion for Evidentiary Hearing, having entered Findings of Fact and Conclusions of Law filed on July 17, 2020, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that **JUDGMENT** of dismissal with prejudice of Plaintiffs' *Verified Consolidated Shareholder Derivative Complaint for Breach of Fiduciary Duties of Loyalty and Good Faith, Gross Mismanagement, Abuse of Control, Corporate Waste and Unjust Enrichment* is entered in favor of Defendants and the SLC on behalf of nominal defendant DISH, and against Plaintiffs.

IT IS SO ORDERED this 3rd day of August 2020.


DISTRICT COURT JUDGE

Respectfully submitted by:

/s/ Robert J. Cassity
J. Stephen Peek, Esq. (1758)
Robert J. Cassity, Esq. (9779)
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

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 Nominal Defendant DISH Network Corporation*

March 12, 2018

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

April 23, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**April 23, 2018 3:00 AM Motion to Associate
Counsel**

HEARD BY: Hardy, Joe

COURTROOM: Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Defendants Motion to Associate Counsel (Brian Thomas Frawley, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Randall Jones, Esq. [jrj@kempjones.com], David O'Mara, Esq. [david@omaralaw.net], and Brian Frawley, Esq. [frawleyb@sullcrom.com]. (KD 4/23/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

April 23, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**April 23, 2018 3:00 AM Motion to Associate
Counsel**

HEARD BY: Hardy, Joe **COURTROOM:** Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Defendants Motion to Associate Counsel (Maya Krugman, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Randall Jones, Esq. [jrj@kempjones.com], David O'Mara, Esq. [david@omaralaw.net], and Maya Krugman, Esq. [krugmanm@sullcrom.com]. (KD 4/23/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

April 23, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**April 23, 2018 3:00 AM Motion to Associate
Counsel**

HEARD BY: Hardy, Joe **COURTROOM:** Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Defendants Motion to Associate Counsel (Yevgeniy Zilberman, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules.

CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Randall Jones, Esq. [jrj@kempjones.com], David O'Mara, Esq. [david@omaralaw.net], and Yevgeniy Zilberman, Esq. [zilbermany@sullcrom.com]. (KD 4/23/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 15, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

May 15, 2018 9:00 AM Motion to Stay

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT:	Ferrario, Mark E., ESQ	Attorney
	Jones, Jon Randall	Attorney
	Miltenberger, Chris	Attorney
	O'Mara, David C.	Attorney

JOURNAL ENTRIES

- Also present: Stephen Peek, Esq. on behalf of Special Litigation Committee of DISH Network Corp., Bar Flynn, Esq. (Pro Hac Vice PENDING, no arguments made) on behalf of Special Litigation Committee of DISH Network Corp., and Eric Luedeke, Esq. (Pro Hac Vice PENDING, no arguments made) on behalf of Plaintiff Plumbers Local Union No. 519 Pension Trust Fund

Mr. O'Mara requested that Mr. Luedeke be permitted to present arguments, noting that his Pro Hac Vice application had been submitted by the bar. Mr. Peek stated that he could not approve such a request. COURT ORDERED that Mr. Luedeke would not be permitted to provide arguments at this time, as his Pro Hac Vice application had not yet been approved.

Mr. Peek argued in support of the Motion, requesting a six to nine month stay, in order to allow the Special Litigation Committee of DISH Network Corp. (SLC) to conduct an investigation in to the derivative claims that had been brought. Additionally, Mr. Peek argued that such a stay was appropriate under the law, and that, if the SLC reached a decision other than that the claims should go forward, a Motion would be filed requesting that the Court defer to the SLC's decision. Mr.

O'Mara argued in opposition, stating that the SLC was incapable of conducting an independent investigation into the claims, due to their potential liability. Additionally, Mr. O'Mara requested that the Court move forward with an Evidentiary Hearing, and argued that, if the Court was inclined to grant a stay, it should only be for a period of approximately forty-five days. COURT ORDERED the instant Motion was hereby GRANTED IN PART WITHOUT PREJUDICE, and a STAY would be in effect for a period of SIX (6) MONTHS. COURT FURTHER ORDERED the following: (1) a status check was hereby SET every two (2) months, until the expiration of the stay, and the Defendant SLC would be REQUIRED to file a status report one (1) week prior to the status check dates; the filing deadlines for the status reports would be July 10, 2018, and July 4, 2018; (2) the final report regarding SLC's findings must be filed no later than November 13, 2018, and any Motions that needed to be filed subsequent to the submittal of the final report, would be DUE no later than November 27, 2018; (3) the instant Motion was hereby DENIED IN PART WITHOUT PREJUDICE only as to the request for a nine (9) month stay, as such a lengthy stay period was not found to be necessary; and (4) either side would be permitted to file Motions regarding the stay, if they felt they were necessary: Plaintiff to truncate the time period, if they felt that SLC was not doing anything, and Defendant to extend the time period, if they felt it was not long enough. COURT FOUND the following: (1) the Court was controlled by the DISH Network S. Ct. 133 Nev. Adv. Op., 401 decision, and based its decision in the instant case on that decision; and (2) the case in point number 1 indicated that an Evidentiary Hearing, if held, should occur after the investigation had been conducted. Mr. Peek to prepare the Order, and forward to opposing counsel for approval as to form and content.

Due to the stay, COURT ORDERED that all pending Motions / hearing, with the exception of the status checks, were hereby VACATED.

7/17/18 9:00 AM STATUS CHECK: STAY

9/11/18 9:00 AM STATUS CHECK: STAY

11/27/18 9:00 AM STATUS CHECK: STAY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 18, 2018

A-17-763397-B	Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
	vs.
	Charles Ergen, Defendant(s)

June 18, 2018	3:00 AM	Motion to Associate Counsel
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HEARD BY: Hardy, Joe

COURTROOM: Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Plaintiff s Motion to Associate Counsel (Erik W. Luedeke, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. IT IS FURTHER ORDERED that by accepting this admission, Counsel agrees to submit to the Court s jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel s conduct in this matter including motions, depositions, and evidentiary hearings, whether or not Counsel has withdrawn from representing any party pursuant to Supreme Court Rule 42(13)(a). Plaintiff s counsel is to prepare the written order, submit it to Defendants counsel for review and approval, and then submit the order to Department 15 s chambers within 10 days of this minute order pursuant to EDCR 7.21.

CLERK'S NOTE: A copy of this minute order was e-mailed to: David C. O'Mara, Esq. [david@omaralaw.net], Mark E. Ferrario, Esq. [ferrariom@gtlaw.com], Chris Miltenberger, Esq. [miltenbergerc@gtlaw.com], Andrea Rosehill, Esq. [rosehilla@gtlaw.com], Patrick R. Leverty, Esq. [pat@levertylaw.com], Brian J. Robbins, Esq. [brobbins@robbinsarroyo.com], Kevin A. Seely, Esq. [kseely@robbinsarroyo.com], Ashley R. Rifkin, Esq. [arifkin@robbinsarroyo.com], Lindsey C. Herzik, Esq. [lherzik@robbinsarroyo.com], and Thomas Michaud, Esq. [tmichaud@wmtlaw.com]. (KD

6/19/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 25, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**June 25, 2018 3:00 AM Motion to Associate
Counsel**

HEARD BY: Hardy, Joe

COURTROOM: Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Special Litigation Committee of DISH Network Corporation s Motion to Associate Counsel (Comrie Barr Flinn, Esq.) is hereby GRANTED as unopposed, pursuant to EDCR 2.20(e), and is GRANTED on the merits, pursuant to Rule 42 of the Supreme Court Rules. IT IS FURTHER ORDERED that by accepting this admission, Counsel agrees to submit to the Court s jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel s conduct in this matter including motions, depositions, and evidentiary hearings, whether or not Counsel has withdrawn from representing any party pursuant to Supreme Court Rule 42(13)(a). Special Litigation Committee of DISH Network Corporation s counsel is to prepare the written order, submit it to opposing counsels for review and approval, and then submit the order to Department 15 s chambers within 10 days of this minute order pursuant to EDCR 7.21.

CLERK'S NOTE: A copy of this minute order was e-mailed to: J. Stephen Peek, Esq. [speek@hollandhart.com], Robert J. Cassity, Esq. [bcassity@hollandhart.com], C. Barr Flinn, Esq. [bflinn@ycst.com], David C. O'Mara, Esq. [david@omaralaw.net], Mark E. Ferrario, Esq. [ferrariom@gtlaw.com], Chris Miltenberger, Esq. [miltenbergerc@gtlaw.com], Andrea Rosehill [rosehilla@gtlaw.com], Patrick R. Leverty, Esq. [pat@levertylaw.com], Brian J. Robbins, Esq.

[brobbins@robbinsarroyo.com], Kevin A. Seely, Esq. [kseely@robbinsarroyo.com], Ashley R. Rifkin, Esq. [arifkin@robbinsarroyo.com], Lindsey C. Herzik, Esq. [lherzik@robbinsarroyo.com], and Thomas Michaud, Esq. [tmichaud@wmtlaw.com]. (KD 6/25/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 09, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

July 09, 2018 9:00 AM Motion to Associate No appearances.
Counsel

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter OFF CALENDAR as there were no appearances. Counsel may re-notice.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 24, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

July 24, 2018 9:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Cassity, Robert J.	Attorney
	Jones, Mark Merrill	Attorney
	Luedeke, Erik W.	Attorney
	Miltenberger, Chris	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Attorney Emily Burton and C. Barr Flinn, Pro Hac Vice pending, appearing by telephone on behalf of the Special Litigation Committee.

Mr. Peek advised that Mr. Flinn's pro hac vice application has been approved and they simply need to submit an order; Ms. Burton's is pending.

Court noted Mr. O'Mara wants to attend his father's 80th birthday. Colloquy regarding scheduling. COURT ORDERED, status check on the status report will be SET on August 10, 2018 in chambers. Status report TO BE FILED the day before, August 9th, Court noted it will try and set another status check a week away in chambers depending on the status report or set an in-person status check. COURT FURTHER ORDERED, September 11, 2018 status check RESET on September 10th at 9 AM. If more than one person is going to be appearing by telephone, a call-in number will be required. Court informed Mr. O'Mara he does not need to file a response to the status report.

8-10-18	CHAMBERS	STATUS CHECK: STATUS REPORT
9-10-18	9:00 AM	STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

August 10, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

August 10, 2018 3:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court reviewed Special Litigation Committee s report filed August 6, 2018. COURT ORDERED, matter CONTINUED for 6 weeks. Special Litigation Committee to file status report 2 days prior.

...9-21-18 - CHAMBERS

CLERK'S NOTE: A copy of this minute order was distributed via the E-Service list. / dr 8-10-18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

August 31, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**August 31, 2018 3:00 AM Motion to Associate
Counsel**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: Chambers

COURT CLERK: Michele Tucker

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motion to Associate (Emily V. Burton) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel s conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

CLERK'S NOTE: The above minute order has been distributed to: David O'Mara, Esq. (david@omaralaw.net), Jon Randall Jones, Esq. (r.jones@kempjones.com), Mark Ferrario, Esq. (ferrariom@gtlaw.com), and Jospeh Peek, Esq. (speek@halelane.com). /mlt

CLERK'S NOTE: Minutes corrected to indicae the correct e-mail address for Jon Randall Jones, Esq. /mlt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

September 21, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

September 21, 2018 3:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court reviewed report filed 9/19/18 and 9/20/18 and ORDERED status check CONTINUED to October 8, 2018 at 9 am. Parties to appear.

CLERK'S NOTE: A copy of this minute order was distributed via the E-Service list.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

October 08, 2018

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

October 08, 2018 9:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Louisa Garcia

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Cassity, Robert J.	Attorney
	Jones, Mark Merrill	Attorney
	Luedeke, Erik W.	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Peek stated they are on track for November 13. Mr. Luedeke concurred, noting that from the other side's status report it seems they are almost there. Mr. Peek added that there is really nothing to keep them on track; they have meetings that they have identified this Friday and they will have another one in November before the report is due, and hope to have the report filed on or before November 13; if they are not on track they will let the Court know sooner rather than later. Court so noted.

CLERK'S NOTE: Minutes prepared by Dulce Romea on behalf of Louisa Garcia.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 07, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

January 07, 2019 10:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Flinn, Comrie B.	Attorney
	Jones, Jon Randall	Attorney
	Luedeke, Erik W.	Attorney
	Miltenberger, Chris	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- Mr. Peek advised the investigation is complete, they have filed a report and a motion for summary judgment, and are here today on a status hearing to discuss a briefing schedule. Court noted the STAY EXPIRED as of today, January 7, 2019, so discovery can commence. Mr. Peek requested the Court extend the stay given the Special Litigation Committee's investigation as there is no need to conduct litigation; it would be inconsistent with Jacksonville and the body of law; they need to see an Opposition to the motion for summary judgment / 56(f) relief, as opposed to broad-based discovery.

Mr. Jones echoed Mr. Peek's points and stated that whatever way the Court rules will give the parties some direction or may prove to be unnecessary. Mr. Miltenberger joined in the oral request to extend the stay to resolve summary judgment issues or 56(f) relief. Mr. Peek noted that if the Court were to deny the motion for summary judgment and allow litigation to proceed, the Special Litigation Committee would like control.

Upon Court's inquiry, Mr. Luedeke confirmed Plaintiffs can move for 56(f) relief. COURT NOTED counsel can file that as Plaintiffs' Opposition to the Motion for Summary Judgment that is set on January 28. COURT ORDERED, request to extend the stay that Judge Hardy previously put in place DENIED, because that investigation has been completed and because the Court will not move the motion for summary judgment. The parties will have a decision on January 28, one way or another. Court NOTED, there is no limited stay, and FURTHER ORDERED, matter SET for Rule 16 Conference on January 28. Plaintiffs' request for 56(f) relief / Opposition to the Motion for Summary Judgment to be filed one week from today, and a Reply hopefully one week before the January 28th hearing date.

1-25-19 CHAMBERS MOTION TO REDACT THE MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED

1-28-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...MANDATORY RULE 16 CONFERENCE

2-25-19 9:00 AM MOTION TO REDACT THE REPORT OF THE SPECIAL LITIGATION COMMITTEE OF DISH NETWORK CORPORATION AND TO SEAL CERTAIN EXHIBITS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 25, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

January 25, 2019 3:00 AM Motion to Seal/Redact
Records

HEARD BY: Gonzalez, Elizabeth

COURTROOM: Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial information contained in the Motion for Summary Judgment, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

2-1-19 CHAMBERS MOTION TO ASSOCIATE COUNSEL ON SHORTENED TIME

2-25-19 9:00 AM MANDATORY RULE 16 CONFERENCE...
...PLAINTIFFS' MOTION PURSUANT TO NRCP 56(F) TO CONDUCT DISCOVERY NECESSARY
TO RESPOND TO MOTION FOR SUMMARY JUDGMENT...
...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION
COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...
...DEFENDANTS' MOTION TO STAY MERITS DISCOVERY UNTIL PENDING DISPOSITIVE
MOTIONS ARE RESOLVED AND MOTION TO CONTINUE MANDATORY RULE 16
CONFERENCE, AND EX PARTE APPLICATION FOR ORDER SHORTENING TIME...

...MOTION TO REDACT THE REPORT OF THE SPECIAL LITIGATION COMMITTEE OF DISH NETWORK CORPORATION AND TO SEAL CERTIAN EXHIBITS

CLERK'S NOTE: A copy of this minute order was distributed via the E-Service List. / dr 1-25-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 29, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

January 29, 2019 8:57 AM **Motion to Seal/Redact
Records**

HEARD BY: Gonzalez, Elizabeth

COURTROOM: Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Motion ADVANCED from February 25, 2019. COURT ORDERED, pursuant to EDCR 2.23, the Court decides this matter without the necessity of oral argument. The Court having reviewed the Motion to Redact and the response and being fully informed, pursuant to EDCR 2.20(e) the motion to redact is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

2-1-19 CHAMBERS MOTION TO ASSOCIATE COUNSEL ON SHORTENED TIME

2-25-19 9:00 AM DEFENDANTS' MOTION TO STAY MERITS DISCOVERY UNTIL
PENDING DISPOSITIVE MOTIONS ARE RESOLVED AND MOTION TO CONTINUE
MANDATORY RULE 16 CONFERENCE, AND EX PARTE APPLICATION FOR ORDER
SHORTENING TIME...

...PLAINTIFFS' MOTION PURSUANT TO NRCP 56(F) TO CONDUCT DISCOVERY NECESSARY
TO RESPOND TO MOTION FOR SUMMARY JUDGMENT...

...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION

COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...
...MANDATORY RULE 16 CONFERENCE...

CLERK'S NOTE: A copy of this was distributed via the E-Service List. / dr 1-29-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

February 01, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**February 01, 2019 3:00 AM Motion to Associate
Counsel**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Michaela Tapia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present.

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes a non-opposition has been filed. Accordingly, pursuant to EDCR 2.20(e), the Motion to Associate (Goodman) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel's submitted order executed; a filed copy to be distribute to all parties involved in this matter within ten (10) days.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 29, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**March 29, 2019 3:00 AM Motion to Associate
Counsel**

HEARD BY: Gonzalez, Elizabeth**COURTROOM:** Chambers**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Motion to Associate (Baron) is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel's conduct in this matter including motions, depositions, and evidentiary hearings. SCR 42(13)(a). Moving Counsel's order executed. Filed copy to be distributed to all parties involved in this matter within ten (10) days.

4-22-19 9:00 AM STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16
CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY
AND RULE 16 CONFERENCE

11-4-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE
SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE
DISMISSED

CLERK'S NOTE: A copy of this minute order was distributed via the E-Service List. / dr 4-1-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 31, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

May 31, 2019 12:36 AM Minute Order

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court has reviewed the status report filed May 31, 2019. Based upon the representations in the status report the hearing on June 3, 2019 is continued to July 22, 2019.

7-22-19 9:00 AM STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16
CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY
AND RULE 16 CONFERENCE

11-4-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE
SPECIAL LITIGATOIN COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE
DISMISSED

CLERK'S NOTE: A copy of this minute order was distributed via the E-Service List. / dr 5-31-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

August 12, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

August 12, 2019 9:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Cassity, Robert J.	Attorney
	Flinn, Comrie B.	Attorney
	Goodman, Benny C., III	Attorney
	Miltenberger, Chris	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- PLAINTIFFS' MOTION TO STAY PROCEEDINGS PENDING DECISION BY THE UNITED STATES SUPREME COURT ON NOMINAL DEFENDANT DISH NETWORK CORPORATION'S PETITION FOR A WRIT OF CERTIORARI IN THE UNDERLYING KRAKAUER V. DISH NETWORK LLC ACTION...STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16 CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY AND RULE 16 CONFERENCE

PLAINTIFFS' MOTION TO STAY PROCEEDINGS PENDING DECISION BY THE UNITED STATES SUPREME COURT ON NOMINAL DEFENDANT DISH NETWORK CORPORATION'S PETITION FOR A WRIT OF CERTIORARI IN THE UNDERLYING KRAKAUER V. DISH NETWORK LLC ACTION: Following arguments by Mr. Goodman and Mr. Peek, COURT ORDERED, STAY GRANTED pursuant to Rule 41 for a period of 60 days. Matter SET for status check on the chambers calendar. Status report to be filed prior to that date. If there is no action, Court will probably reset the

status check on calendar today regarding a rule 16 conference and reset the motion currently scheduled for November 4, 2019 ("Motion for Summary Judgment Deferring to the Special Litigation Committee's Determination that the Claims Should Be Dismissed").

STATUS CHECK RE: (1) SETTING A DATE FOR RULE 16 CONFERENCE; (2) GENERAL STATUS CHECK PER S&O RE: DEFENDANTS' MOTION TO STAY AND RULE 16 CONFERENCE: COURT ORDERED, as a result of the stay, status check is MOOT.

Mr. Peek inquired as to why they will be having a rule 16 conference. Court stated it has time standards it needs to meet under 1.90; the Court is already way beyond the deadline of having that conference.

10-18-19 CHAMBERS STATUS CHECK: STAY

11-4-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE
SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE
DISMISSED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

October 18, 2019

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

October 18, 2019 3:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court reviewed status report filed October 17, 2019. The briefing schedule suggested by the parties is ACCEPTED. The Motion for Summary Judgment on November 4, 2019 is CONTINUED to March 2, 2020 at 9 am.

3-20-19 9:00 AM MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE
SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE
DISMISSED

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 10-18-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 27, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

January 27, 2020 9:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Cassity, Robert J.	Attorney
	Goodman, Benny C., III	Attorney
	McGinn, Ian P.	Attorney
	Miltenberger, Chris	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO EXCEED PAGE LIMITS...JOINT MOTION FOR EVIDENTIARY HEARING ON THE SLC'S MOTION TO DEFER, APPLICATION FOR ORDER SHORTENING TIME

PLAINTIFF'S MOTION TO EXCEED PAGE LIMITS: Counsel advised it would for everything on this motion practice related to deferring to the Special Litigation Committee. COURT ORDERED, motion GRANTED - 50 pages or less, not including exhibits.

JOINT MOTION FOR EVIDENTIARY HEARING ON THE SLC'S MOTION TO DEFER, APPLICATION FOR ORDER SHORTENING TIME: Colloquy regarding availability. Mr. Peek advised they have 3 witnesses and simply want to make sure 2 days is enough. Mr. Goodman advised 2 days is more than enough. COURT ORDERED, matter SET for evidentiary hearing on July 6 and 7, 2020.

7-6-20 10:00 AM EVIDENTIARY HEARING...MOTION FOR SUMMARY JUDGMENT
DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE
CLAIMS SHOULD BE DISMISSED

7-7-20 9:30 AM EVIDENTIARY HEARING...MOTION FOR SUMMARY JUDGMENT
DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE
CLAIMS SHOULD BE DISMISSED

CLERK'S NOTE: Minutes corrected to reflect that the Motion for Summary Judgment deferring to the
SLC has been moved from April 13 to to July 6, 2020 for evidentiary hearing. / dr 1-28-20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 06, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

**March 06, 2020 3:00 AM Motion to Seal/Redact
Records**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive commercial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

7-6-20 10:00 AM EVIDENTIARY HEARING...
...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION
COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED

7-7-20 9:30 AM EVIDENTIARY HEARING...
...MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION
COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-9-20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

June 10, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

June 10, 2020 9:00 AM Status Conference

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Baron, Randall J.	Attorney
	Burton, Emily V.	Attorney
	Ferrario, Mark E., ESQ	Attorney
	Flinn, Comrie B.	Attorney
	Goodman, Benny C., III	Attorney
	Luedeke, Erik W.	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- Court noted Mr. O'Mara asked for this call to talk about the schedule. Mr. Baron requested he speak on behalf of Mr. O'Mara, noting that he thinks it is Defendant's motion for summary judgment and that it was their desire to bring live witnesses; they wanted to make sure that before they got out to Las Vegas and got hotel rooms there that the matter was still going forward; they are also inquiring about the length of the proceedings; examining witnesses would not be extensive and they simply want to make sure that they would not reserve more time than they needed. Mr. Peek advised that with direct, cross, and whatever openings and closings they have will consume the entire two days. COURT CONFIRMED the matter is still scheduled for July 6 and 7, NOTING, everyone present must wear a mask; the courtroom has been marked with blue post-its for social distancing; witnesses may appear live or by video and have to wear a mask as well; currently, the escalators are not working, and only four people are allowed in the elevators although people may take the stairs if they want.

Mr. Peek inquired whether the Court would be having a pre-trial conference. COURT STATED it will NOT have a pre-trial conference on an evidentiary hearing on a motion for summary judgment. Mr. Peek further advised the parties are trying to work out submission dates for exhibits and witness lists. COURT STATED the Clerk will need the parties' exhibits prior to the hearing and will work with counsel's staff on the best platform to submit exhibits electronically. The Court is NOT touching any paper from the parties. Mr. Peek advised that Mr. Baron did not think they have to exchange exhibits prior to the hearing. COURT NOTED EDCR 2.67 does not apply to this hearing but Rule 16 does and that it would be nice of the parties to DISCLOSE at least one (1) week before the hearing. COURT FURTHER ORDERED, proposed findings of fact and conclusions of law are to be EMAILED to the Department on the Thursday before the hearing, or July 2, 2020. The Court further advised the courtroom holds 20 people who are non-court staff, and that everyone in the courtroom wears a mask from the time they enter the building and from the time they leave. Mr. Baron inquired whether the Court is expecting opening statements and closing arguments or simply presentation of evidence and then argument. COURT STATED that it always gives counsel an opportunity to make a statement, both opening and closing, but it is not required; counsel may skip ahead, but if they want to convince the Court, they may.

7-6-20 10:00 AM EVIDENTIARY HEARING...MOTION FOR SUMMARY
JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION
THAT THE CLAIMS SHOULD BE DISMISSED

7-7-20 9:30 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 06, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

July 06, 2020 10:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT: Baron, Randall J. Attorney
Burton, Emily V. Attorney
Cassity, Robert J. Attorney
Goodman, Benny C., III Attorney
Luedeke, Erik W. Attorney
McGinn, Ian P. Attorney
Miltenberger, Chris Attorney
O'Mara, David C. Attorney
Peek, Joseph S. Attorney

JOURNAL ENTRIES

- DAY 1

MOTION TO RETAIN REDACTIONS TO THE SPECIAL LITIGATION COMMITTEE'S REPORT
AND SEALING OF CERTAIN EXHIBITS FOR EVIDENTIARY HEARING; EX PARTE
APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON...MOTION FOR
SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S
DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...EVIDENTIARY HEARING

APPEARANCES CONTINUED: Attorney C. Barr Flinn for the Special Litigation Committee (SLC).

MOTION TO RETAIN REDACTIONS TO THE SPECIAL LITIGATION COMMITTEE'S REPORT AND SEALING OF CERTAIN EXHIBITS FOR EVIDENTIARY HEARING; EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON: COURT ORDERED, motion ADVANCED from July 7, 2020. Argument by Mr. Peek. COURT RECESSED for counsel to confer. Proceeding resumed. Mr. Peek advised they are withdrawing the SLC's Proposed Exhibit 101 and that they will offer 102. COURT SO NOTED.

MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...EVIDENTIARY HEARING: Opening statements by Mr. Peek and Mr. Baron. Testimony and exhibits presented. (See worksheet.) LUNCH RECESS. Testimony and exhibits continued. COURT ORDERED, hearing CONTINUED.

7-7-20 9:30 AM FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED...EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 07, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

July 07, 2020

9:30 AM

All Pending Motions

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Baron, Randall J.	Attorney
	Burton, Emily V.	Attorney
	Cassity, Robert J.	Attorney
	Goodman, Benny C., III	Attorney
	Luedeke, Erik W.	Attorney
	McGinn, Ian P.	Attorney
	Miltenberger, Chris	Attorney
	O'Mara, David C.	Attorney
	Peek, Joseph S.	Attorney

JOURNAL ENTRIES

- DAY 2

MOTION FOR SUMMARY JUDGMENT DEFERRING TO THE SPECIAL LITIGATION
COMMITTEE'S DETERMINATION THAT THE CLAIMS SHOULD BE DISMISSED

APPEARANCES CONTINUED: Attorney C. Barr Flinn for the Special Litigation Committee (SLC).

Testimony and exhibits presented. (See worksheet.) LUNCH RECESS.

Testimony and exhibits continued. (See worksheet.) At the hour of 2:40 PM the Special Litigation

Committee RESTED.

Mr. Baron moved for admission of the Plaintiffs' remaining proposed exhibits. Mr. Peek objected to the admission of Plaintiffs' proposed exhibits 17, 18, 19, 20, 21, 31, 32, 37, 38, and 43. Upon the Court's inquiry, Mr. Baron explained that other than they are attached to their Opposition he is proffering the exhibits out of an abundance of caution. COURT ORDERED, because of sealing issues the OBJECTIONS are SUSTAINED; they are already part of the record (motion to seal filed January 31, 2020) and are sealed; the Court ORDERS that they REMAIN SEALED; the rest of the Plaintiff's exhibits are ADMITTED.

Closing arguments by Mr. Flinn and Mr. Baron. COURT ORDERED, matter will STAND SUBMITTED. Court thanked counsel for their work and the witnesses for their participation in this hearing, especially given the public health emergency, and assured the parties that the Court appreciates the inconvenience they have endured for coming to court. The Court will endeavor to have a decision by the end of the week.

7-10-20 CHAMBERS STATUS CHECK: COURT'S DECISION

CLERK'S NOTE: Matter SET for status check on the chambers calendar on the Court's decision.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 10, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

July 10, 2020 3:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED for one week.

7-17-20 CHAMBERS STATUS CHECK: DECISION

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-10-20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

July 17, 2020

A-17-763397-B Plumbers Local Union No 519 Pension Trust Fund, Plaintiff(s)
vs.
Charles Ergen, Defendant(s)

July 17, 2020 3:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Findings of Fact and Conclusions of Law filed July 17, 2020.

EXHIBIT(S) LIST

Case No.: **A-17-763397-B**

Hearing Date: July 6-7, 2020

Dept. No.: **11**

Judge: Honorable Elizabeth Gonzalez

Court Clerk: Dulce Marie V. Romea

Recorder: JILL HAWKINS

Counsel for Plaintiffs: Benny C. Goodman III,

Erik W. Luedeke, Randall J. Baron, David C. O'Mara

Counsel for Defendants: J. Randall Jones,

Mark M. Jones, Ian P. McGinn, Brian T. Frawley, J. Stephen Peek, Robert H. Cassity, C. Barr Flinn, Emily V. Burton

Plaintiff: **PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND, Derivatively on
Behalf of DISH NETWORK CORPORATION,**

vs.

Defendant: **CHARLES W. ERGEN, et al.,**

– and –

Nominal Defendant: **DISH NETWORK
CORPORATION, a Nevada corporation,**

HEARING BEFORE THE COURT

PLAINTIFFS' EXHIBITS

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted
1	OMSJ00001-00013	<i>Krakauer v. DISH Network L.L.C.</i> , No. 1:14-CV-333, 2017 U.S. Dist. LEXIS 77163 (M.D.N.C. May 22, 2017) (" <i>Krakauer</i> ")	7-6-20	NO	7-6-20
2	OMSJ00014-00099	2009 Assurance of Voluntary Compliance	7-6-20	NO	7-6-20
3	OMSJ00100-00107	Special Meeting of the Board of Directors, dated March 28, 2018, DISH_SLC-Production_0009312-18 [Lillis Depo. Ex. 1]	7-7-20	NO	7-7-20
4	OMSJ00108-00115	Unanimous Written Consent in Lieu of a Special Meeting of the Board of Directors of Dish Network Corporation as of April 11, 2018, DISH_SLC-Production_0008493-501 [Lillis Depo. Ex. 2]	7-7-20	NO	7-7-20
5	OMSJ00116-00131	<i>In re DISH Network Derivative Litig.</i> , 133 Nev. Adv. Rep. 61, 401 P.3d 1081 (Nev. 2017) (" <i>Dish I</i> ")	7-7-20	NO	7-7-20
6	OMSJ00132-00515	Report of the Special Litigation Committee of DISH Network Corporation, dated November 27, 2018	7-6-20	NO	7-6-20
7	OMSJ00516-00532	<i>Krakauer v. Dish Network, L.L.C.</i> , 925 F.3d 643 (4th Cir. 2019) (" <i>Krakauer II</i> ")	7-7-20	NO	7-7-20

EXHIBIT(S) LIST

Case No. A-17-763397-B

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND

VS.

CHARLES W. ERGEN, et al.,

PLAINTIFFS' EXHIBITS

8	OMSJ00533-00576	<i>Dish Network L.L.C. v. Krakauer</i> , No. 19-496, Petition for a Writ of Certiorari (U.S. Sup. Ct. Oct. 15, 2019)	7-7-20	NO	7-7-20
9	OMSJ00577-00578	<i>Krakauer v. DISH Network L.L.C.</i> , No. 18-1518 (4th Cir. Dec. 16, 2019), ECF No. 97, correspondence from Scott S. Harris, Clerk of the Court, U.S. Sup. Ct., to Clerk, 4th Cir. regarding denial of petition for a writ of certiorari			
10	OMSJ00579-00635	Deposition Transcript of Charles M. Lillis, dated July 19, 2019			
11	OMSJ00636-00856	<i>Krakauer v. Dish Network, L.L.C.</i> , No. 1:14CV333, Daily Transcript of Trial Testimony (James DeFranco) (M.D.N.C. Jan. 13, 2017), ECF No. 304			
12	OMSJ00857-00868	Memorandum to Executive Team re Abstract of 2009 Attorney General AVC, dated July 20, 2009, SLC, DNC_Investigation_0005788-98 [Brokaw Depo. Ex. 15]			
13	OMSJ00869-00975	<i>United States v. DISH Network L.L.C.</i> , No. 17-3111, Brief for Defendant-Appellant Dish Network L.L.C. (7th Cir. Feb. 22, 2018)			
14	OMSJ00976-977	Meeting of the Special Litigation Committee of the Board of Directors of Dish Network Corporation, dated February 19, 2019, DISH_SLC-Production_0000027 [Federico Depo. Ex. 11]			
15	OMSJ00978-01040	Deposition Transcript of George R. Brokaw, dated July 31, 2019			
16	OMSJ01041-01042	Jeffrey Blum email chain, dated July 15, 2009 [Brokaw Depo. Ex. 16]	7-7-20	NO	7-7-20
17	OMSJ01043-01055	DISH DNC – Summary of Interview of Charlie Ergen, dated October 6, 2018, DISH_SCL_Production_0009129-40 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	
18	OMSJ01056-01063	DISH DNC – Summary of Interview of Carl Vogel, dated October 10, 2018, DISH_SLC_Production_0009122-28 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	

Printed July 6, 2020

EXHIBIT(S) LIST

Case No. A-17-763397-B

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND

VS.

CHARLES W. ERGEN, et al.,

PLAINTIFFS' EXHIBITS

19	OMSJ01064-01080	DISH DNC – Summary of Interview of Brandon Ehrhart, dated October 4, 2018, DISH_SCL_Production_0009097-112 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20 OBJ Sustained		
20	OMSJ01081-01086	DISH DNC SLC: Summary of Interview of Steven Goodbarn, dated October 5, 2018, DISH_SCL_Production_0009253-57 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20 OBJ Sustained		
21	OMSJ01087-01094	DISH DNC: Summary of Interview of David Moskowitz, dated October 5, 2018, DISH_SCL_Production_0009270-76 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20 OBJ Sustained		
22	OMSJ01095-01102	Do-Not-Call Regulatory Compliance, Creating a Defendable Position presentation, dated May 4, 2007, DISH_SLC-Production_0001169-75 [Federico Depo. Ex. 10]	7-7-20 NO	7-7-20	
23	OMSJ01103-01105	<i>Krakauer v. Dish Network, L.L.C.</i> , No. 1:14CV333, Verdict Sheet, filed January 19, 2017, ECF No. 292	7-6-20 NO	7-6-20	
24	OMSJ01106-01131	<i>Krakauer v. DISH Network L.L.C.</i> , No. 18-1518, Motion to Stay the Mandate (4th Cir. June 19, 2019), ECF No. 90	7-7-20 NO	7-7-20	
25	OMSJ01132-01133	<i>Krakauer v. DISH Network L.L.C.</i> , No. 18-1518, Order Denying Motion to Stay (4th Cir. June 24, 2019), ECF No. 93			
26	OMSJ01134-01149	The Special Litigation Committee of Dish Network Corporation's Objections and Responses to Plaintiffs' First Request for Admissions, dated May 23, 2019			
27	OMSJ01150-01170	<i>Krakauer v. Dish Network, L.L.C.</i> , No. 1:14CV333, Final Jury Instructions, filed January 19, 2017, ECF No. 293			
28	OMSJ01171-1303	Retail Services Retailer Compliance File, DISH-Paper-007978-8109 [SLC Report Ex. 689]			
29	OMSJ01304-01316	<i>State of North Carolina, ex rel., Roy Cooper, Atty. Gen. v. Vitana Fin. Grp., Inc.</i> , No. 04 CV 08799, Judgment by Consent and Stipulated Permanent Injunction (N.C. Super. Ct., Wake Cty., Mar. 21, 2005) [SLC Report Ex. 684]	7-7-20 NO	7-7-20	

Printed July 6, 2020

EXHIBIT(S) LIST

Case No. A-17-763397-B

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND

VS.

CHARLES W. ERGEN, et al.,

PLAINTIFFS' EXHIBITS

30	OMSJ01317-01376	Deposition Transcript of Anthony M. Federico, dated July 24, 2019	7-7-20	NO	7-7-20
31	OMSJ01377-01396	DISH DNC – Summary of Interview of Jim DeFranco, dated October 9, 2018, DISH_SCL_Production_0009234-52 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	
32	OMSJ01397-01406	DISH DNC: Summary of Interview of Amir Ahmed, dated October 5, 2018, DISH_SCL_Production_0009084-92 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	
33	OMSJ01407-1408	Letter from Reji Musso to Alex Teranchi at Satellite Systems Network, dated May 12, 2010, Dish11-023842 [SLC Report Ex. 695]	7-7-20	NO	7-7-20
34	OMSJ01409-01412	Reji Musso email chain, dated May 13, 2010, DISH5-0000001358-60 [SLC Report Ex. 696]			
35	OMSJ01413-01624	<i>Krakauer v. Dish Network, L.L.C., No. 1:14CV333, Daily Transcript of Trial Testimony (Reji Musso) (M.D.N.C. Jan. 12, 2017), ECF No. 303</i>			
36	OMSJ01625-01871	<i>Krakauer v. Dish Network, L.L.C., No. 1:14CV333, Daily Transcript of Trial Testimony (Amir Ahmed) (M.D.N.C. Jan. 11, 2017)</i>	7-7-20	NO	7-7-20
37	OMSJ01872-01888	DISH DNC: Summary of Interview of Jeffrey Blum, dated October 1, 2018, DISH_SCL_Production_0009141-56 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	
38	OMSJ01889-01900	DISH DNC: Summary of Interview of Kenneth Sponsler, dated October 15, 2018, DISH_SCL_Production_0009157-67 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	
39	OMSJ01901-01906	Federal Communications Commission correspondence regarding official citation, dated September 2, 2008 [Federico Depo. Ex. 13]	7-7-20	NO	7-7-20
40	OMSJ01907-01911	Guy Caldwell email chain, dated October 12, 2009, DISH2-0000039688-91 [SLC Report Ex. 693]	7-7-20	NO	7-7-20
41	OMSJ01912-1949	EchoStar Retailer Agreement with Satellite Systems Network, dated December 31, 2006, DISH5-0000032050-86 [SLC Report Ex. 687]	7-7-20	NO	7-7-20

EXHIBIT(S) LIST

Case No. A-17-763397-B

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND

VS.

CHARLES W. ERGEN, et al.,

PLAINTIFFS' EXHIBITS

42	OMSJ01950-01952	David Moskowitz email chain, dated March 24, 2009, DISH_SLC_Production_0017581-82 [Brokaw Depo. Ex. 17]	7-7-20	NO	7-7-20
43	OMSJ01953-01971	DISH DNC – Summary of Interview of Stanton Dodge, dated October 12, 2018, DISH_SLC_Production_0009216-33 <i>SEALED BY COURT ORDER 7-7-20</i>	7-7-20	OBJ Sustained	
44	OMSJ01972-01975	Mike Oberbillig email chain, dated July 29, 2004, SLC DNC Investigation 0003132-34 [Brokaw Depo. Ex. 19]	7-7-20	NO	7-7-20
45	OMSJ01976-01984	Mike Oberbillig email chain, dated August 14, 2006 [Brokaw Depo. Ex. 20]			
46	OMSJ01985-01988	Mike Oberbillig email chain, dated January 30, 2007, DISH5-0000126144-45 [SLC Report Ex. 682]			
47	OMSJ01989-01999	Excerpts from 2009 Proxy Statement, Schedule 14A, dated March 19, 2019 and historical prices of Dish common stock			
48	OMSJ02000-02008	Plumbers Local Union No. 519 Pension Trust Fund, et al. v. Ergen, et al., No. A-17-763397-B, Declaration of George Brokaw (Clark Cty. Nev. Dec. 18, 2018) [Brokaw Depo. Ex. 14]			
49	OMSJ02009-02010	Tim Messner email chain, dated March 30, 2018, DISH_SLC_Production_0024578 [Federico Depo. Ex. 7]	7-7-20	NO	7-7-20
50	OMSJ02011-02020	Resume of Anthony M. Federico with attachments, DISH_SLC_Production_0024579-87 [Federico Depo. Ex. 8]	7-6-20	NO	7-6-20
51	OMSJ02021-02023	Meeting of the Special Litigation Committee of the Board of Directors of Dish Network Corporation, dated July 6, 2018, DISH_SLC_Production_0000012-13 [Federico Depo. Ex. 9]	7-7-20	NO	7-7-20

EXHIBIT(S) LIST

Case No.: **A-17-763397-B**

EV Hearing Date: July 6th (10:00am) & 7th, 2020

Dept. No.: **XI**

Judge: The Honorable Elizabeth Gonzalez

Court Clerk: Dulce Romea

Recorder: Jill Hawkins

Plaintiff: **Plumbers Local Union No. 519
Pension Trust Fund, et al.**

Counsel for Plaintiffs: THE O'MARA LAW FIRM, PC
David C. O'Mara, Esq.

ROBBINS GELLAR RUDMAN &
DOWD, LLP
Travis E. Downs, III, Esq.
Benny C. Goodman, III, Esq.
Erik W. Luedeke, Esq.
Timothy Z. Lacombe, Esq.

SUGARMAN & SUSSKIND
Howard S. Susskind, Esq.

vs.

Defendant: **Charles W. Ergen, et al.**

Counsel for Defendants: KEMP, JONES & COULTHARD,
LLP
J. Randall Jones, Esq.

SULLIVAN & CROMWELL LLP
Brian T. Frawley, Esq.
Maya Krugman, Esq.

Counsel for Nominal Defendant: GREENBERG TRAURIG LLP
Mark E. Ferrario, Esq.
Chris Miltenberger, Esq.

Counsel for SLC of Nominal Defendant: HOLLAND & HART LLP
J. Stephen Peek, Esq.
Robert J. Cassity, Esq.

YOUNG CONAWAY STARGATT &
TAYLOR, LLP
C. Barr Flinn, Esq.
Emily V. Burton, Esq.

HEARING BEFORE THE COURT

SLC EXHIBITS

(Special Litigation Committee)

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted
TX 101		November 27, 2018 Publicly Filed SLC Report and Publicly Filed Appendices of Exhibits (Exs. 1-792; Appx. Vols. 1-50) Publicly Filed Exhibits: 1 – 257; 261; 266-268; 287; 289; 295; 298; 312-315; 319; 321-323; 326-328; 331-332; 347-348; 352; 355-356; 358; 366; 369; 373; 377; 381; 384-385; 392; 394; 408-410; 420;	WITHDRAWN 7/6/20		

EXHIBIT(S) LIST

Exhibit Number	Bates No.(s)	Exhibit Description	Date Offered	Objection	Date Admitted
		423; 428; 433; 441; 450; 458; 463; 467; 478; 481-707; 709; 712; 714; 721; 729-730; 733-734; 739; & 742-792.			
TX 102		November 27, 2018 Filed Under Seal SLC Report and Both Filed Under Seal and Publicly Filed Appendices of Exhibits (Exs. 1-792; Appx. Vols. 1-50)	7-6-20	NO	7-6-20
TX 103		September 18, 2015 <i>In Re: DISH Network Corporation Derivative Litigation</i> - Findings of Fact and Conclusions of Law Regarding the Motion to Defer to the SLC's Determination That the Claims Should Be Dismissed			
TX 104		May 22, 2017 <i>Krakauer v. Dish Network LLC</i> , 2017 US Dist. (M.D.N.C.) – Memorandum Opinion and Order	7-6-20	NO	7-6-20
TX 105		June 5, 2017 <i>United States v. Dish Network LLC</i> , 2017 U.S. Dist. (C.D. Ill.) – Findings of Fact and Conclusions of Law	7-6-20	NO	7-6-20
TX 106		Verified Consolidated Shareholder Derivative Complaint for Breach of Fiduciary Duties of Loyalty and Good Faith, Gross Mismanagement, Abuse of Control, Corporate Waste and Unjust Enrichment	7-6-20	NO	7-6-20
TX 107		Unanimous Written Consent in Lieu of a Special Meeting of the Board of Directors of DISH Network Corporation as of April 11, 2018	7-6-20	NO	7-6-20
TX 108		Compilation of Minutes of Meetings of the SLC from May 9, 2018 to Nov. 21, 2018	7-6-20	NO	7-6-20
TX 109		Alico, Inc., Annual Report (Form 10-K)			
TX 110		Chronology of SLC Investigation [Demonstrative]	} See Demonstrative Exhibit List		
TX 111		Interviews Conducted by the SLC [Demonstrative]			



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

DAVID C. O'MARA, ESQ.
311 EAST LIBERTY STREET
RENO, NV 89501

DATE: August 27, 2020
CASE: A-17-763397-B
C/W A-17-764522-B

RE CASE: PLUMBERS LOCAL UNION NO. 519 PENSION TRUST FUND; CITY OF STERLING HEIGHTS POLICE AND FIRE RETIREMENT SYSTEM vs. CHARLES W. ERGEN; JAMES DEFRANCO; CANTEY M. "CANDY" ERGEN; STEVEN R. GOODBARN; DAVID K. MOSKOWITZ; TOM A. ORTOLF; CARL E. VOGEL; GEORGE A. BROKAW; JOSEPH P. CLAYTON; GARY S. HOWARD

NOTICE OF APPEAL FILED: August 25, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW; JUDGMENT; NOTICE OF ENTRY OF JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND; CITY OF
STERLING HEIGHTS POLICE AND FIRE
RETIREMENT SYSTEM,

Plaintiff(s),

vs.

CHARLES W. ERGEN; JAMES DEFRANCO;
CANTEY M. "CANDY" ERGEN; STEVEN R.
GOODBARN; DAVID K. MOSKOWITZ; TOM
A. ORTOLF; CARL E. VOGEL; GEORGE A.
BROKAW; JOSEPH P. CLAYTON; GARY S.
HOWARD,

Defendant(s),

Case No: A-17-763397-B
Consolidated with A-17-764522-B
Dept No: XI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 27 day of August 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

