

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS**

\_\_\_\_\_, Individually and on Behalf of  
All Others Similarly Situated,

Plaintiff,

v.

UNITI GROUP INC. f/k/a  
COMMUNICATIONS SALES & LEASING,  
INC., MARK A. WALLACE and KENNETH  
A. GUNDERMAN,

Defendants. . .

**COMPLAINT FOR VIOLATIONS OF THE  
FEDERAL SECURITIES LAWS**

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiff \_\_\_\_\_ ("Plaintiff"), by her attorneys, except for her own acts, which are based on knowledge, alleges the following based upon the investigation of counsel, which included a review of United States Securities and Exchange Commission ("SEC") filings by Uniti Group Inc. f/k/a Communications Sales & leasing, Inc. ("Uniti" or the "Company"), as well as regulatory filings and reports, securities analyst reports and advisories by the Company, press releases and other public statements issued by the Company, and media reports about the Company. Plaintiff believes that additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery:

**NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of all investors who purchased or otherwise acquired Uniti securities between April 20, 2015, and February 15, 2019, inclusive (the "Class Period"), seeking remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

## **JURISDICTION AND VENUE**

2. The federal law claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331. Section 27 of the Securities Act (15 U.S.C. §78aa.). This Court has jurisdiction over each Defendant named herein because each Defendant is an individual who has sufficient minimum contacts with this District so as to render the exercise of jurisdiction by the District Court permissible under traditional notions of fair play and substantial justice .

4. Venue is proper in this District pursuant to Section 27 of the Exchange Act, and 28 U.S.C. § 1391(b) because certain of the acts alleged herein, including the preparation and dissemination of material false and/or misleading information, occurred in this District.

## **PARTIES**

5. Plaintiff \_\_\_\_\_ purchased Uniti securities within the Class Period and, as a result, was damaged thereby. Plaintiff's certification evidencing transactions is attached hereto as Exhibit A.

6. Defendant Uniti is a Maryland corporation with its principal executive offices located at 10802 Executive Center Drive, Benton Building Suite 300, Little Rock, Arkansas 72211. On February 27, 2017, the Company changed its name from Communications Sales & Leasing, Inc. to Uniti Group Inc. The Company's common stock traded on the NasdaqGS under the ticker symbol "CSAL" from the beginning of the Class Period to February 24, 2017, and under the ticker symbol "UNIT" from February 27, 2017, to the end of the Class Period.

7. Defendant Kenneth A. Gunderman ("Gunderman") was the Company's Chief Executive Officer ("CEO") and President at all relevant times.

8. Defendant Mark A. Wallace ("Wallace") was the Company's Chief Financial Officer ("CFO") , Treasurer and Executive Vice President at all relevant times.

9. Defendants in paragraphs 7-8 are collectively referred to herein as the "Individual Defendants."

10. Each of the Individual Defendants:

- (a) directly participated in the management of the Company;
- (b) was directly involved in the day-to-day operations of the Company at the highest levels;
- (c) was directly or indirectly involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein;
- (d) was directly or indirectly involved in the oversight or implementation of the Company's internal controls;
- (e) was aware of or deliberately recklessly disregarded the fact that the false and misleading statements were being issued concerning the Company; and/or
- ( t) approved or ratified these statements in violation of the federal securities laws.

11. Because of the Individual Defendants' positions within the Company, they had access to undisclosed information about Uniti's business. operations, operational trends, financial statements. markets and present and future business prospects via access to internal corporate

documents (including the Company's operating plans, budgets and forecasts and reports of actual operations and performance), conversations and connections with other corporate officers and employees, attendance at management and Board meetings and committees thereof and via reports and other information provided to them in connection therewith.

12. As officers of a publicly held company whose securities were, and are, registered with the SEC pursuant to the federal securities laws of the United States, the Individual Defendants each had a duty to disseminate prompt, accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, markets, management, earnings and present and future business prospects, and to correct any previously-issued statements that had become materially misleading or untrue, so that the market price of the Company's publicly-traded securities would be based upon truthful and accurate information. The Individual Defendants' misrepresentations and omissions during the Class Period violated these specific requirements and obligations.

13. The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of Uniti's reports to the SEC, press releases, and presentations to securities analysts, money and portfolio managers, and institutional investors, *i.e.*, the market. Each Individual Defendant was provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, each of these defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded

herein, as those statements were each "group-published" information, the result of the collective actions of the Individual Defendants.

14. Each of the Individual Defendants are liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Uniti securities by disseminating materially false and misleading statements and/or concealing material adverse facts. The scheme: (i) deceived the investing public regarding Uniti's business, operations, management and the intrinsic value of its securities and (ii) caused Plaintiff and other shareholders to purchase Uniti securities at artificially inflated prices.

### **SUBSTANTIVE ALLEGATIONS**

#### **A. Background**

15. On March 26, 2015, Uniti filed a Form 8-K with the SEC disclosing approval of its spin-off from Windstream Holdings, Inc. ("Windstream"). Simultaneously, Windstream became Uniti's main customer.

16. Uniti now identifies itself as a real estate investment trust ("REIT") specialized in acquisition and construction of essential-to-survival infrastructure in the communications industry.

#### **B. Material Misstatements and Omissions during the Class Period**

17. The Class Period begins on April 20, 2015, when Uniti began trading on the NasdaqGS. In the previously filed Information Statement, Uniti made the following representations:

It is our pleasure to welcome you as a shareholder of our company, Communications Sales & Leasing, Inc. ("CS&L"). Following the distribution of no less than 80.1 percent of the outstanding shares of CS&L common stock by Windstream Holdings, Inc. to its shareholders, ***CS&L will be an independent, publicly traded real estate investment trust that will own, acquire and lease distribution systems serving the communications infrastructure industry and potentially other industries. We will strive to be a significant provider of capital and financing to the communication industry.***

Our initial properties will include, among other things, an extensive communications distribution system, comprised of approximately 66,000 route miles of fiber optic cable lines, 235,000 route miles of copper cable lines, and central office land and buildings across 37 states that are currently owned by Windstream. This distribution system will be leased to Windstream Holdings on a long-term, triple-net basis. We expect to diversify our tenant base in the future by acquiring additional properties and leasing them to other local, regional and national telecommunications providers. We also expect to grow and diversify our portfolio through the acquisition of properties in different geographic markets, and in different asset classes.

Our goal at CS&L is to create value for our shareholders and we plan to accomplish this by growing our dividend distributions over time. CS&L initially expects to pay an annual dividend of \$2.40 per share.

Emphasis added.

18. The statements in paragraphs 16 above were materially false and/or misleading because they misrepresented and failed to disclose the following adverse facts pertaining to the Company's business, operations, and prospects, which were known to Defendants or recklessly disregarded by them. Specifically, Defendants failed to disclose that: (i) Uniti's financial results were not sustainable because its customer Windstream had defaulted on its unsecured notes; and (ii) as a result of the foregoing, Defendants' statements about Uniti's business, operations, and prospects, were false and misleading and/or lacked a reasonable basis.

**C. The Truth Begins to Emerge**

19. On September 21, 2017, hedge fund Aurelius Capital Master, Ltd. ("Aurelius"), the owner of more than 25% of Windstream's unsecured notes due 2023, provided written notice to Windstream that the spin-off of Uniti constituted a sale and leaseback in breach of the notes' indenture.

20. On February 15, 2019, United States District Judge Jesse M. Furman released its Findings of Facts and Conclusions of Law declaring that Windstream breached the indenture and awarding Aurelius a monetary judgement in the amount of \$310,459,959.10 plus interest.

21. On this news, the price of the Uniti's common stock declined \$7.47 from a close of \$19.98 per share of Uniti common stock on February 15, 2019, to a close of \$12.51 per share of Uniti common stock on February 19, 2019, ***a drop of approximately 37.39 percent.***

22. Over the course of the next three trading days, the price of the Uniti's common stock continued to plummet to close at \$9.23 on February 22, 2019, ***an overall decline of 53.80 percent.***

#### **ADDITIONAL SCIENTER ALLEGATIONS**

23. As alleged herein, Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth in detail in this complaint, Defendants, by virtue of their receipt of information reflecting the true facts regarding Uniti, their control over, and/or receipt and/or modification of Uniti's allegedly materially misleading statements and/or their associations with the Company which made them privy to confidential proprietary information concerning Uniti, participated in the fraudulent scheme alleged herein.

#### **LOSS CAUSATION AND ECONOMIC LOSS**

24. During the Class Period, as detailed herein, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the Company's stock price,

and operated as a fraud or deceit on acquirers of the Company's securities. As detailed above, when the truth about Uniti's misconduct and its lack of operational and financial controls was revealed, the value of the Company's common stock declined precipitously as the prior artificial inflation no longer propped up its stock price. The decline in Uniti's common stock price was a direct result of the nature and extent of Defendants' fraud finally being revealed to investors and the market. The timing and magnitude of the common stock price decline negates any inference that the loss suffered by Plaintiff and other members of the Class was caused by changed market conditions, macroeconomic or industry factors or Company-specific facts unrelated to the Defendants' fraudulent conduct. The economic loss, i.e., damages, suffered by Plaintiff and other Class members was a direct result of Defendants' fraudulent scheme to artificially inflate the Company's stock price and the subsequent significant decline in the value of the Company's share, price when Defendants' prior misrepresentations and other fraudulent conduct was revealed.

25. At all relevant times, Defendants' materially false and misleading statements or omissions alleged herein directly or proximately caused the damages suffered by the Plaintiff and other Class members. Those statements were materially false and misleading through their failure to disclose a true and accurate picture of Uniti's business, operations and financial condition, as alleged herein. Throughout the Class Period, Defendants publicly issued materially false and misleading statements and omitted material facts necessary to make Defendants' statements not false or misleading, causing Uniti's securities to be artificially inflated. Plaintiff and other Class members purchased Uniti's securities at those artificially inflated prices, causing them to suffer the damages complained of herein.

**PRESUMPTION OF RELIANCE; FRAUD-ON-THE-MARKET**

26. At all relevant times, the market for Uniti securities was an efficient market for the



following reasons, among others:

- (a) Uniti common stock met the requirements for listing, and was listed and actively traded on the NasdaqGS, a highly efficient market;
- (b) During the Class Period, Uniti securities were actively traded, demonstrating a strong presumption of an efficient market;
- (c) As a regulated issuer, Uniti filed with the SEC periodic public reports during the Class Period;
- (d) Uniti regularly communicated with public investors via established market communication mechanisms;
- (e) ) Uniti was followed by securities analysts employed by major brokerage firms who \vTote reports that were distributed to the sales force and certain customers of brokerage firms during the Class Period. Each of these reports was publicly available and entered the public marketplace; and
- (f) Unexpected material news about Uniti was rapidly reflected in and incorporated into the Company's stock price during the Class Period.

27. As a result of the foregoing, the market for Uniti securities promptly digested current information regarding Uniti from all publicly available sources and reflected such information in Uniti's stock price. Under these circumstances, all purchasers of Uniti securities during the Class Period suffered similar injury through their purchase of Uniti's securities at artificially inflated prices and a presumption of reliance applies.

28. Alternatively, reliance need not be proven in this action because the action involves omissions and deficient disclosures. Positive proof of reliance is not a prerequisite to recovery pursuant to ruling of the United States Supreme Court in *Affiliated Ute Citizens of Utah v. United*

*States*, 406 U.S. 128 (1972). All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered the omitted information important in deciding whether to buy or sell the subject security. Here, the facts withheld are material because an investor would have considered the Company's financials and adequacy of internal controls over financial reporting when deciding whether to purchase and/or sell stock in Uniti.

**NO SAFE HARBOR; INAPPLICABILITY OF BESPEAKS CAUTION  
DOCTRINE**

29. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the material misrepresentations and omissions alleged in this Complaint.

30. To the extent certain of the statements alleged to be misleading or inaccurate may be characterized as forward looking, they were not identified as "forward-looking statements" when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

31. Defendants are also liable for any false or misleading "forward-looking statements" pleaded because, at the time each "forward-looking statement" was made, the speaker knew the "forward-looking statement" was false or misleading and the "forward-looking statement" was authorized and/or approved by an executive officer of Uniti who knew that the "forward-looking statement" was false. Alternatively, none of the historic or present-tense statements made by the defendants were assumptions underlying or relating to any plan, projection, or statement of future economic performance, as they were not stated to be such assumptions underlying or relating to any projection or statement of future economic performance when made, nor were any of the projections or forecasts made by the defendants expressly related to or stated to be dependent on

those historic or present-tense statements when made.

### **CLASS ACTION ALLEGATIONS**

32. Plaintiff brings this action on behalf of all individuals and entities who purchased or otherwise acquired Uniti's securities on the public market during the Class Period, and were damaged, excluding the Company, the defendants and each of their immediate family members, legal representatives, heirs, successors or assigns, and any entity in which any of the defendants have or had a controlling interest (the "Class").

33. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Uniti securities were actively traded on the NasdaqGS. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Uniti or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions. As of March 6, 2019, Uniti had more than 180 million shares of common stock outstanding. Upon information and belief, these shares are held by thousands if not millions of individuals located geographically throughout the country and possibly the world. Joinder would be highly impracticable.

34. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by the defendants' respective wrongful conduct in violation of the federal laws complained of herein.

35. Plaintiff has and will continue to fairly and adequately protect the interests of the members of the Class and his retained counsel competent and experienced in class and securities

litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

36. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by the defendants' respective acts as alleged herein;

(b) whether the defendants acted knowingly or with deliberate recklessness in issuing false and misleading financial statements;

(c) whether the price of Uniti securities during the Class Period was artificially inflated because of the defendants' conduct complained of herein; and

(d) whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

37. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

**COUNT I**  
**Violation of Section 10(b) and Rule 10b-5 Against All Defendants**

38. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

39. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (1) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (2) cause Plaintiff and

other members of the Class to purchase Uniti securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, each of the Defendants took the actions set forth herein.

40. Defendants: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business that operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Uniti securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

41. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business, operations and future prospects of Uniti as specified herein.

42. These Defendants employed devices, schemes, and artifices to defraud while in possession of material adverse non-public information, and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Uniti's value and performance and continued substantial growth, which included the making of, or participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Uniti and its business operations and future prospects in the light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business that operated as a fraud and deceit upon the purchasers of Uniti securities during the Class Period.

43. Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (1) Individual Defendants were high-level executives, directors, and/or agents at the Company during the Class Period and members of the Company's management team or had control thereof; (2) each Individual Defendant, by virtue of his responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's financial condition; (3) each Individual Defendant enjoyed significant personal contact and familiarity with the other Individual Defendant and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (4) each Individual Defendant was aware of the Company's dissemination of information to the investing public which they knew or recklessly disregarded was materially false and misleading.

44. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Uniti's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and misstatements of the Company's financial condition throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

45. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Uniti's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Uniti's publicly-traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trade, and/or on the absence of material adverse information that was known to or recklessly disregarded by Defendants but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired Uniti's securities during the Class Period at artificially high prices and were or will be damaged thereby.

46. At the time of said misrepresentations and omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding Uniti's financial results, which was not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their Uniti securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices that they paid.

47. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act, and Rule 10 b-5 promulgated thereunder.

48. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

49. This action was filed within two years of discovery of the fraud and within five years of plaintiffs purchases of common stock giving rise to the cause of action.

**COUNT II**

**The Individual Defendants Violated Section 20(a) of the Exchange Act**

50. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

51. The Individual Defendants acted as controlling persons of Uniti within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, agency, ownership and contractual rights, and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements that Plaintiff contends are false and misleading. The Individual Defendants provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Plaintiff to have been misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or to cause the statements to be corrected.

52. In particular, each of these Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

53. As set forth above, Uniti, the Individual Defendants each violated Section 10(b), and Rule 10b-5 promulgated thereunder, by their acts and omissions as alleged in this Complaint.

54. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of



Defendants' wrongful conduct Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

55. This action was filed within two years of discovery of the fraud and within five years of Plaintiffs purchases of common stock giving rise to the cause of action.

**PRAYER FOR RELIEF**

WHEREFORE. Plaintiff prays for relief and judgment as follows:

- (a) Determining that this action is a proper class action, certifying Plaintiff as class representative under Federal Rule of Civil Procedure 23 and Plaintiff's counsel as class counsel;
- (b) Awarding compensatory damages in favor of Plaintiff and the other members of the Class against all Defendants, jointly and severally, for all damages sustained as a result of the defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees;
- (d) Granting extraordinary equitable and/or injunctive relief as permitted by law; and
- (e) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a jury trial.