

**Maloney Decl.**

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

JOHN J. RIGAS, TIMOTHY J. RIGAS,  
MICHAEL J. RIGAS, and MICHAEL C. MULCAHEY

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: 02 Cr. 1236 (LBS)  
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**DECLARATION OF MICHAEL F. MALONEY**

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U S DISTRICT COURT SDNY

1. I am a Managing Director in the Disputes and Investigations practice of Navigant Consulting, Inc.

2. In January, 2003, Navigant was retained by three law firms (the "Law Firms") representing members of the "Rigas Family" (John J. Rigas, Timothy J. Rigas, Michael J. Rigas, and James P. Rigas) to provide professional consulting services (the "Engagement Letter"). I was the Engagement Manager on the project.

3. The services provided pursuant to the Engagement Letter included, without limitation, assisting the Law Firms and the Rigas Family by reviewing documents in the criminal case brought by the U.S. Department of Justice against John Rigas, Timothy Rigas, Michael Rigas and Michael Mulcahey, in their capacity as former employees and management of Adelphia Communications Corp. ("Adelphia").

4. Specifically, Navigant was asked to review a small subset of what I recall to be over 400 CDs containing documents relevant to the case produced by the government (the “Government CD Production”).

5. We were not instructed by the Law Firms or the Rigas Family to review all of the Government CD Production. At the commencement of our work, the significant majority of the Government CD Production review was being conducted by members of the Rigas Family (the “Rigas Team”), as opposed to counsel or Navigant. My impression was that the Law Firms and the Rigas Family decided to have the Rigas Team perform this portion of the review in order to save money.

6. I recall that many of the documents in the Government CD Production were in “tiff” format which meant that they could only be reviewed electronically on a page by page basis instead of by document. I also recall that the documents in the Government CD Production were not searchable.

7. Due to the size and condition of the Government CD Production, and the decision by the Law Firms and the Rigas Family that the Rigas Team (which was of modest size) would assume responsibility for reviewing the significant majority of the Government CD Production, the process of reviewing this information was extremely cumbersome and, ultimately, in my view, ineffective. The end result, in my view, is that the Government CD Production was likely not adequately reviewed in preparation for the criminal trial (which began in early 2004).

8. In my view, if the Government CD Production had been in searchable format and contained some amount of searchable “coding” (e.g., dates, document titles, custodians), the review may have been more effective in preparation for the criminal trial.

9. Throughout the period before the criminal trial, I recall various large document productions being made by Buchanan Ingersoll (“Buchanan”), Adelphia’s former outside law firm. I recall more than one large production occurring very close in time to the start of the criminal trial. Because of the late timing and the volume of documents, the entire Buchanan population, of which Navigant was asked by the Law Firms and the Rigas Family to review portions of, in my view was not adequately reviewed in preparation for the criminal trial.

10. When Navigant was first retained, a small team (approximately three full time Navigant professionals) was assigned to the engagement. My recollection is that Navigant was asked by the Law Firms and the Rigas Family to begin with a small team because there were not sufficient funds available for a larger Navigant budget that would have permitted additional staffing at that point.

11. In my view, if Navigant had been given a larger budget at the commencement of our Engagement, we were in a position to add, and would have added, additional skilled professional resources to our team. Had that occurred, I believe the review of documents in the case from the commencement of our Engagement until August 2003 likely may have been much more productive and effective.

12. Sometime after the Bankruptcy Court ordered additional defense funding on August 1, 2003, Navigant was given the authority by the Law Firms and the Rigas Family, to expand the Navigant team significantly, resulting in a team of between 10 and 20 professionals.

13. In summary, I believe that there was not sufficient funding or resources available to review the Government CD Production and the Buchanan document populations in a manner that

may have necessarily identify all of the critical documents in preparing the defense for the criminal trial.

14. The facts stated in this Declaration are true and correct to the best of my knowledge, information and belief. I make this Declaration pursuant to the penalties applicable for unsworn falsification to authority.

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

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Michael Maloney

DATED: September 30, 2011