

DOCKET NUMBER: 95-12383

ADV. NUMBER:

JUDGE: M. A. Mahoney

PARTIES: One-to-One Communications, Inc., Munger and Munger, P.L.C.

CHAPTER: 11

ATTORNEYS:

DATE: 11/28/95

KEY WORDS:

PUBLISHED:

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

ONE-TO-ONE COMMUNICATIONS, INC.

Case No. 95-12383-MAM-11

Debtor.

**ORDER AUTHORIZING ALLOWANCE AND PAYMENT
OF ATTORNEYS' FEES AND COSTS**

This matter came on for hearing on the Application for Allowance and Payment of Attorneys Fees and Costs of Munger and Munger, P.L.C. The Court has jurisdiction to hear the matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

The Court reviewed the Application for Allowance and Payment of Attorneys' Fees and Costs of Munger and Munger, P.L.C. and heard the testimony and arguments of counsel at the hearing. Notice was given to all creditors and other interested parties. The Bankruptcy Administrator filed an objection to the fees and expenses. For the reasons indicated below, fees and costs of attorneys for the debtor, Munger and Munger, P.L.C., will be finally allowed in the amount of \$39,000.00 in fees and \$3,750.67 in costs, totalling \$42,750.67 for services rendered from July 13, 1995 through October 10, 1995.

The Bankruptcy Administrator's objections, in general terms, were to the numbers of hours spent on various projects in the case, interoffice conferences, overzealous research time, travel time and results obtained. The Bankruptcy Administrator also requested a breakdown of facsimile and copying charges and Westlaw charges. The Bankruptcy Administrator also

questioned an hourly rate of \$150 for Ms. Herighty, who graduated from law school five years ago.

The Court reviewed the court file and time entries and heard Ms. Herighty's testimony. The Court finds that, in general, the tasks done were necessary and valuable, even though the results were not always favorable. There were some unnecessary hours. Philip Kimble spent at least 7.5 hours in strategy conferences with Kathleen Herighty at \$165 per hour. There were numerous intraoffice conferences. Travel time was charged at full hourly rates, not one-half of normal hourly rates. The Munger team spent large numbers of hours researching and opposing the Motion to Transfer Venue and the Motion to Reconsider the Adequate Assurance Motion and the Motion to Transfer Venue. The research and drafting time involved in these three projects constituted over 40 hours or 10% of the total time worked by the Munger firm. The Munger firm charged 2.45 hours to the estate for research and consultation on withdrawal as counsel issues. These hours should not be charged to the estate. The Court finds the hourly rates to be appropriate for the market (Arizona). Hourly rates varied from \$95 to \$165 per hour. Cutting the hours by 44 assuming an hourly rate of \$100 or 30 hours at an hourly rate of \$150 is appropriate. The time and fees overall were fair and reasonable with this reduction. Therefore, for all of the reasons stated, the Court will allow \$39,000.00 in fees and \$3,750.67 in costs to Munger and Munger, P.L.C.

It is ORDERED that:

1. Fees of \$39,000.00 and expenses of \$3,750.67 are finally allowed to Munger and Munger, P.L.C. as Chapter 11 administrative expenses.
2. Munger and Munger, P.L.C. is authorized to pay the \$15,000 presently held in its trust account toward the fees and costs and is required to credit the \$7,500 received from American Telecom Network, Inc. toward the fees and costs.

3. The remaining balance of \$20,250.67 of unpaid fees and costs will be paid at confirmation of a plan of reorganization or upon further order of the Court.

Dated: November 28, 1995

MARGARET A. MAHONEY
U.S. BANKRUPTCY JUDGE