

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FOCAL COMMUNICATIONS, CORP.,
et al.,

Debtors.

Chapter 11

Case 02-13709 (KJC)

Jointly Administered

Hearing: TBD

Objection Deadline: August 18, 2003 at 4:00 p.m.

**FIFTH MONTHLY AND FINAL APPLICATION OF
KLETT ROONEY LIEBER & SCHORLING, CO-COUNSEL TO THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS, FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Name of Applicant:	Klett Rooney Lieber & Schorling
Authorized to Provide Professional Services to:	Official Committee of Unsecured Creditors
Date of Retention:	January 10, 2003 <i>nunc pro tunc</i>
Period for which compensation and reimbursement is sought:	January 10, 2003 through June 30, 2003
Amount of monthly fees sought as actual, reasonable and necessary:	\$37,024.00
Amount of monthly expenses sought as actual, reasonable and necessary:	\$1,184.60
Amount of final fees sought as actual, reasonable and necessary:	\$190,609.72
Amount of final expenses sought as actual, reasonable and necessary:	\$67,969.07
This is a(n): <input type="checkbox"/> monthly <input type="checkbox"/> interim <input checked="" type="checkbox"/> final application.	

Prior Monthly Applications:

<u>Dated Filed</u>	<u>Period Covered</u>	<u>Requested Fees/ Expenses</u>	<u>Approved Fees (80%)/ Expenses</u>	<u>Docket No.</u>	<u>CNO Docket No.</u>
03/20/03	01/10/03-02/28/03	\$63,813.50/ \$8,167.28	\$51,050.80/ \$8,167.28	392	475
04/25/03	03/01/03-03/31/03	\$27,522.50/ \$ 3,554.09	\$22,017.60/ \$ 3,554.09	536	676
05/28/03	04/01/03-04/30/03	\$29,575.50/ \$ 675.40	\$23,660.01/ \$ 675.40	718	891
06/25/03	05/01/03-05/31/03	\$35,277.50/ \$ 1,519.19	\$28,222.00/ \$ 1,519.19	931	989

Prior Interim Fee Applications:

<u>Date Filed</u>	<u>Interim Fee Application</u>	<u>Period Covered</u>	<u>Requested Fees/Expenses</u>	<u>Date Order Entered</u>
4/15/03 498	First	1/10/03 – 2/28/03	\$63,813.50 \$ 8,167.28	7/22/03* 1006

*The Court reduced Klett Rooney's fees by \$2,603.28. That reduction is reflected in the total amount requested herein.

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COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Klett Rooney Lieber & Schorling ("Klett Rooney"), co-counsel to the Official Committee of Unsecured Creditors (the "Committee"), hereby submits this fifth monthly and final application for compensation and reimbursement of expenses (the "Final Application") for legal services performed during the period commencing January 10, 2003 through and including June 30, 2003 (the "Final Application Period") as co-counsel to Committee in this proceeding. In support hereof, Klett Rooney respectfully represents as follows:

INTRODUCTION

1. On December 19, 2002 (the "Petition Date"), the Debtors commenced their respective reorganization cases by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of Delaware (the "Court").

2. The Debtors are continuing in possession of their respective properties and are operating and managing their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

3. The Official Committee of Unsecured Creditors was appointed by the Office of the United States Trustee in these cases on January 8, 2003. The Committee subsequently selected Klett Rooney and Akin Gump Strauss Hauer & Feld (“Akin Gump”) as its co-counsel.

4. By order of the Court entered on February 20, 2003, Klett Rooney was retained as co-counsel to the Committee *nunc pro tunc* to January 10, 2003.

JURISDICTION

5. This Court has jurisdiction over the Final Application under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) and (M).

6. The statutory bases for the relief requested herein are Sections 105(a), 330 and 331 of the Bankruptcy Code.

TERMS AND CONDITIONS OF COMPENSATION OF KLETT ROONEY

7. Subject to Bankruptcy Court approval, Klett Rooney seeks payment for compensation on an hourly basis, plus reimbursement of actual, necessary expenses incurred by Klett Rooney during the Final Application Period. The rates charged by Klett Rooney in this case do not differ from the rates charged to Klett Rooney’s non-bankruptcy clients.

8. With regard to the period June 1, 2003 through June 30, 2003 (the “June Time”), a summary of the hours spent, the names of each professional and paraprofessional rendering services to the Committee during the June Time, the regular customary billing rates and the total value of time incurred by each of the Klett Rooney attorneys rendering services to the Committee is attached hereto as Exhibit “A.” A copy of the computer generated time entries

reflecting the time recorded for these services, organized in project billing categories in accordance with the United States Trustee's Guidelines For Reviewing Applications For Compensation And Reimbursement of Expenses Filed Under 11 U.S.C. § 330 (the "Guidelines"), is attached hereto as Exhibit "B." A statement of expenses incurred by Klett Rooney during the June Time is attached hereto as Exhibit "C." All time entries and requested expenses are in compliance with Local Rule No. 2016-2.¹

9. On January 23, 2003, this Court entered an Order Under 11 U.S.C. §§ 105(a) and 331 Establishing Procedures For Interim Compensation and Reimbursement of Expenses for Professionals and Committee Members (the "Administrative Order"). Pursuant to the Administrative Order, Klett Rooney and other professionals retained in this case are authorized to file and to serve upon the Debtors and the parties identified in the Administrative Order monthly fee applications (a "Monthly Fee Application") of their fees and expenses. After the expiration of a twenty (20) day objection period, each professional may file a certificate of no objection or a certificate of partial objection with the Court, after which the Debtors are authorized to pay each professional an amount equal to the lesser of (i) eighty (80%) of the fees and one hundred (100%) of the expenses requested in the Application or (ii) 80% of the fees and 100% of the expenses not subject to an objection

10. In accordance with the Administrative Order, Klett Rooney filed and served upon the Debtors and the other parties identified in the Administrative Order the Monthly Applications identified in the cover sheet to this Final Application.

¹ Klett Rooney has also attempted to ensure that this Application complies with the Guidelines. To the extent the Guidelines conflict with local rules, in particular, Local Rule 2016-2, Klett Rooney has chosen to comply with such local rule. Klett Rooney will supplement this Application with additional detail or information upon request.

11. All services and costs for which compensation is requested by Klett Rooney in this Final Application were reasonable and necessary and were performed for and on behalf of the Committee during the Final Application Period.

CASE STATUS

12. Klett Rooney currently is not aware of (a) the amount of cash on hand or on deposit in the Debtors' estates; (b) the amount and nature of accrued unpaid administrative expenses; (c) the Debtors' operating profit or loss; or (d) the amount of unencumbered funds in the Debtors' estate.

13. On April 30, 2003, the Debtors filed a Second Amended Joint Plan of Reorganization (the "Plan") in connection with these cases. The Court entered an order confirming the Plan on June 20, 2003.

NARRATIVE SUMMARY DESCRIPTION OF SERVICES RENDERED ON A PROJECT SUMMARY BASIS

14. From the outset of this case, Klett Rooney has taken an active role as co-counsel to the Committee. All of the professional services that Klett Rooney rendered to the Committee during the June Time are set forth in detail in Exhibit "B," segregated according to project billing categories pursuant to the Guidelines. A brief description of certain services deserving specific mention are highlighted below, by project category:

(A) Asset Disposition. (Total Hours: 12.4; Total Fees: \$5,138.00)

15. This category involves sales, leases (§ 365 matters), abandonment and related transaction work.

(B) Case Administration. (Total Hours: 24.0; Total Fees: \$5,542.50)

16. This category relates to maintaining the docket and pleadings; filings with the Court; review of notices of appearances; maintaining services lists and contacts with the United States Trustee.

(C) Claims Administration. (Total Hours: 12.1; Total Fees: \$5,128.00)

17. This category includes handling specific claim inquiries, drafting, reviewing and revising bar date motions, as well as analyses and allowances of claims.

(D) Other Professionals Fee/Employment Applications. (Total Hours: 13.7; Total Fees: \$3,663.00)

18. This category includes preparation and review of employment and fee applications for co-counsel and other professionals.

(E) Fee - Employment Objections. (Total Hours: 0.4; Total Fees: \$168.50)

19. This category includes analysis and objections to fee and employment applications submitted by other professionals retained in these cases.

(F) Litigation. (Total Hours: 6.7; Total Fees: \$2,459.00)

20. This category relates to litigation matters and adversary proceedings.

(G) Meetings of Creditors. (Total Hours: 2.6; Total Fees: \$1,005.00)

21. This category includes preparation for and attendance at the conference of creditors, the § 341 meeting, and other creditor committee meetings.

(H) Plan and Disclosure Statement. (Total Hours: 32.4; Total Fees: \$12,945.00)

22. This category includes matters relating to preparation and/or filing of a Plan of Reorganization and extensions of exclusivity.

(I) Klett Rooney Fee Applications. (Total Hours: 6.0; Total Fees: \$975.00)

23. This category includes preparation of employment and fee applications for Klett Rooney.

COMPENSATION REQUESTED

24. Klett Rooney expended 110.3 hours during the June Time in furtherance of its efforts on behalf of the Committee. Klett Rooney requests allowance of compensation in the amount of \$37,024.00 for legal services rendered during the June Time at a blended hourly rate of \$335.67.

25. This Final Application also seeks final approval of all fees and expenses incurred by Klett Rooney since the Retention Date. The total amount of fees and expenses for which Klett Rooney seeks final approval is \$258,578.79 (\$190,609.72 fees and \$67,969.07 expenses).

REIMBURSEMENT OF EXPENSES

26. During the June Time, Klett Rooney incurred certain necessary expenses in rendering legal services to the Committee as set forth in Exhibit "C". Telecopying services completed in-house by Klett Rooney were charged at \$0.75 per page. In order to more efficiently handle the voluminous copying of pleadings served and filed in this case, Klett Rooney on occasion retained third-party duplication service providers. Klett Rooney seeks reimbursement only for the actual expenses charged by and owed to such third-party services.

27. Klett Rooney seeks reimbursement for its reasonable, necessary and actual expenses incurred during the June Time in the total amount of \$1,184.60.

LEGAL STANDARD

28. Section 330(a)(1) of the Bankruptcy Code allows the payment of:

- (A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and
- (B) reimbursement for actual, necessary expenses.

11 U.S.C. § 330(a)(1). Reasonableness of compensation is determined by the “market-driven approach” which considers the nature, extent and value of the services provided by the professional and the cost of comparable services in non-bankruptcy contexts. See Zolfo Cooper & Co., v. Sunbeam-Oster Co., 50 F.3d 253, 258 (3d Cir. 1995); In re Busy Beaver Building Ctr., Inc., 19 F.3d 833, 849 (3d Cir. 1994). Thus, “the baseline rule is for firms to receive their customary rates.” Zolfo Cooper, 50 F.3d at 259.

29. In accordance with its practice in non-bankruptcy matters, Klett Rooney has calculated its compensation requested in this Final Application by applying its standard hourly rates. Klett Rooney’s calculation is based upon hourly rates that are well within the range of rates that are charged by comparable firms in similar bankruptcy cases. Accordingly, Klett Rooney’s rates should be determined to be reasonable under Section 330 of the Bankruptcy Code.

30. Klett Rooney’s fees during the Final Application Period are also reasonable under the prevailing legal standard and should be allowed. The amount of these fees is not unusual given the complexity and size of the Debtors’ Chapter 11 cases. Klett Rooney’s

fees are commensurate with fees that other attorneys of comparable experience and expertise have charged and been awarded in similar Chapter 11 cases. Accordingly, Klett Rooney's fees are reasonable pursuant to Section 330 of the Bankruptcy Code.

31. Section 330(a)(1)(B) of the Bankruptcy Code permits reimbursement for actual, necessary expenses. Klett Rooney's legal services and expenses incurred during the Final Application Period are set forth in this Final Application and constitute only those necessary expenses that were incurred for the benefit of the Debtors' estates. Klett Rooney has properly requested reimbursement only of actual, necessary and appropriate legal expenses.

32. Except as permitted by Bankruptcy Rule 2016, no agreement or understanding exists between Klett Rooney and/or any third person for the sharing or division of compensation. All of the services for which compensation is requested in this Final Application were rendered at the request of and solely on behalf of the Debtors.

33. Pursuant to the standards set forth in Sections 330 and 331 of the Bankruptcy Code, Klett Rooney submits that the compensation requested is for actual and necessary services and expenses, and is reasonable, based upon the nature, extent and value of such services, the time spent thereon, and the costs of comparable services in a case under the Bankruptcy Code.

34. The time records annexed to this Application for the June Time constitute only a general statement of the services rendered and time expended without description of the pressure and constraints under which Klett Rooney actually rendered these services. The considerable challenge of these cases have been attended to and managed by Klett Rooney at all levels, promptly, expertly, and often to the exclusion of other matters in Klett Rooney's office.

Klett Rooney submits, therefore, that its fees and expenses were actual, necessary, reasonable, and justified, and should be allowed in full.

NOTICE

35. No trustee or examiner has been appointed in these Chapter 11 cases. Notice of this Application has been given to: (a) the Debtors; (b) the United States Trustee; (c) counsel to the Debtors; (d) counsel to the Debtors' Prepetition Senior Secured Lenders; and (e) all parties requesting notice in these cases. In light of the nature of the relief requested herein, Klett Rooney submits that no other or further notice is required.

NO PRIOR REQUEST

36. No prior request for the relief sought in this Final Application has been made to this or any other court.

WHEREFORE, Klett Rooney respectfully requests that the Court enter the attached Order (i) approving and directing payment for fees and expenses incurred during the June Time in the total amount of \$38,208.60; (ii) directing the Debtor to pay Klett Rooney any amounts outstanding pursuant to the 20% holdback provision of the Administrative Order; and (iii) granting final approval of all fees and expenses incurred by Klett Rooney since the Retention Date in the total amount of \$258,578.79.

Dated: July 29, 2003

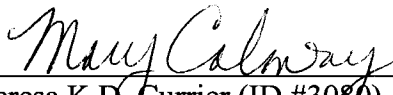
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.

Michael S. Stamer
Jonathan L. Gold
590 Madison Avenue
New York, NY 10022
(212) 872-1000

-and-

KLETT ROONEY LIEBER & SCHORLING

A Professional Corporation

By: 

Teresa K.D. Currier (ID #3080)
Mary F. Caloway (ID #3059)
The Brandywine Building
1000 West Street, Suite 1410
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(302) 552-4200

Co-Counsel to the Official Committee of Unsecured
Creditors

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CERTIFICATION

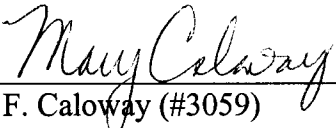
Mary F. Caloway, an attorney admitted to practice before the court of the State of Delaware, hereby certifies that:

1. I am a Shareholder of Klett Rooney Lieber & Schorling, a Professional Corporation, ("Klett Rooney"). Klett Rooney was retained by the Official Committee of Unsecured Creditors as co-counsel pursuant to an order of this Court. This certification is made in support of the Fifth Monthly and Final Application of Klett Rooney Lieber & Schorling, Co-Counsel to the Official Committee of Unsecured Creditors, for Compensation and Reimbursement of Expenses (the "Final Application") and in compliance with Local Rule 2016-2 of this Court, setting forth the Contents of Application for Compensation and Expenses (the "Guidelines").

2. I have read the Final Application and I certify that the Final Application substantially complies with the Guidelines.

Dated: July 29, 2003

**KLETT ROONEY LIEBER & SCHORLING
A Professional Corporation**

By: 
Mary F. Caloway (#3059)
The Brandywine Building
1000 West Street, Suite 1410
Wilmington, DE 19801
(302) 552-4200

Co-Counsel to the Official Committee of Unsecured
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