

ZUCKERMAN SPAEDER LLP
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 (202) 778-1800
 Norman. L. Eisen (DC Bar No. 435051)*
 Graeme Bush (GB-7994)

Hearing Date: November 12, 2003

Time: 11:00 a.m.

Special Counsel for the Official Committee of
 Unsecured Creditors of Metromedia Fiber Network, Inc., et al.

**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

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 In re: : Chapter 11
 :
 : Case Nos.
 METROMEDIA FIBER : 02-22736 (ASH) through 02-22742 (ASH);
 NETWORK, INC. et al., : 02-22744 (ASH) through 02-22746 (ASH);
 : 02-22749 (ASH); 02-22751 (ASH)
 Debtors. : through 02-22754 (ASH)
 :
 : (Jointly Administered)
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**THIRD AND FINAL FEE APPLICATION OF ZUCKERMAN SPAEDER LLP,
 AS SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED
 CREDITORS OF METROMEDIA FIBER NETWORK, INC., ET AL.
 FOR ALLOWANCE AND APPROVAL OF FEES FOR SERVICES
 RENDERED AND EXPENSES INCURRED**

Name of Applicant:	Zuckerman Spaeder LLP
Authorized to Provide Professional Services to:	The Official Committee of Unsecured Creditors of Metromedia Fiber Network, Inc., <u>et al.</u>
Date of Retention:	November 7, 2002

Period for Which Compensation and Reimbursement is Sought:	Final Period: July 1, 2003 through July 31, 2003 ¹	Total Period: November 7, 2002 through July 31, 2003
Amount of Compensation Sought as Actual, Reasonable, and Necessary:	\$ 53,078.50	543,197.00
Amount of Expense Reimbursement Sought as Actual, Reasonable, and Necessary:	\$ 3,540.73	53,748.61
Total Professional Hours:	141.50	1554.95
Total Paraprofessional Hours:	0.00	81.40
This is a Final Fee Application. Two Previous Applications Have Been Made.		

¹ Pursuant to paragraph 3.3.4 of the Litigation Trust established under the Plan of Reorganization (Plan Supplement Exhibit 2) any fees and/or expenses to be paid after July 31, 2003 will be submitted to and paid by the Litigation Trust.

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**THIRD AND FINAL FEE APPLICATION OF ZUCKERMAN SPAEDER LLP,
AS SPECIAL COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF METROMEDIA FIBER NETWORK, INC., ET AL.
FOR ALLOWANCE AND APPROVAL OF FEES FOR SERVICES
RENDERED AND EXPENSES INCURRED**

TO THE HONORABLE ADLAI S. HARDIN, JR.
UNITED STATES BANKRUPTCY JUDGE:

Zuckerman Spaeder LLP ("Zuckerman Spaeder"), as special counsel to the
Official Committee of Unsecured Creditors of Metromedia Fiber Network, Inc. et al. (the
"Committee"), submits this Application (the "Application") for approval and allowance of
compensation for services rendered and reimbursement of expenses incurred during the Final
Compensation Period (July 1 through July 31, 2003) in the amount of \$56,619.23. This

Application is submitted pursuant to sections 330, 331 and 503(b) of title 11 of the United States Code (the "Bankruptcy Code"), and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and to the Order Pursuant to sections 105(a) and 331 of the Bankruptcy Code Establishing Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals, dated June 5, 2002 (the "Fee Procedures Order"). Zuckerman Spaeder requests entry of an order allowing Zuckerman Spaeder (a) total compensation in the amount of \$543,197.00 for professional services rendered and (b) reimbursement of expenses incurred in connection therewith in the amount of \$53,748.61, during the period from November 7, 2002 through July 31, 2003 (the "Total Compensation Period"). The amounts requested consist of:

- (i) compensation for professional services rendered during the period July 1, 2003 through July 31, 2003 (the "Final Compensation Period") in the amount of \$53,078.50, and reimbursement of actual and necessary expenses incurred during the Final Compensation Period in the amount of \$3,540.73;
- (ii) compensation for professional services rendered during the period February 1, 2003 through June 30, 2003 (the "Second Interim Period") in the amount of \$233,292.50, and reimbursement of actual and necessary expenses incurred during the Second Interim Period in the amount of \$28,282.33, which amounts were previously awarded to Zuckerman Spaeder by this Court pursuant to the Second Compensation Order (as defined in this Application); and
- (iii) compensation for professional services rendered during the period November 5, 2002 through January 31, 2003 (the "First Interim Period") in the amount of \$256,826.00, and reimbursement of actual and necessary expenses incurred during the First Interim Period in the amount of

\$21,925.55, which amounts were previously awarded to Zuckerman Spaeder by this Court pursuant to the First Compensation Order (as defined in this Application).

In support of the Application, Zuckerman Spaeder respectfully represents as follows:

Background

1. Metromedia Fiber Network, Inc. and certain of its subsidiaries² (hereinafter, collectively referred to as "Debtors") filed Voluntary Petitions for relief under Chapter 11 of Title 11, United States Code in this Court on May 20, 2002.

2. The Debtors have continued to operate and manage their businesses and properties as debtors-in-possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

3. On May 29, 2002, the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed the Committee in these chapter 11 cases. No trustee or examiner has been appointed in these chapter 11 cases.

4. By order dated and entered August 21, 2003, this Court confirmed the Second Amended Plan of Reorganization of Metromedia Fiber Network, Inc. et al. (the "Plan"). The Plan's Effective Date occurred on September 8, 2003. Thus, the Debtors have emerged from bankruptcy as of September 8, 2003.

Jurisdiction and Venue

² Metromedia Fiber Network Services, Inc.; AboveNet Communications, Inc.; SiteSmith, Inc.; PAIX.net, Inc.; Metromedia Fiber Network of Illinois, Inc.; MFN Purchasing, Inc.; Metromedia Fiber National Network, Inc.; Metromedia Fiber Network International, Inc.; MFN International, L.L.C.; MFN Japan Backhaul, Inc.; and MFN Europe Finance, Inc.

5. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Referral of Cases to Bankruptcy Judges of the United States District Court for the Southern District of New York (Ward, Acting C.J.), dated July 10, 1984. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).

**Compliance With Guidelines and Order Governing
Applications for Compensation and Reimbursement of Expenses**

6. This Application has been prepared pursuant to the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on April 19, 1995 (the "Local Guidelines") and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 adopted on January 30, 1996 (the "UST Guidelines" and, together with the Local Guidelines, the "Guidelines"). A Certification pursuant to the Guidelines is attached hereto as Exhibit "A."

Retention of Zuckerman Spaeder

7. In accordance with the this Court's Order Pursuant to Section 1103(a) of the Bankruptcy Code, Authorizing the Employment and Retention of Zuckerman Spaeder LLP as Special Counsel to the Official Committee of Unsecured Creditors, entered December 4, 2002 (the "Retention Order"), the Committee was authorized to employ and retain Zuckerman Spaeder as its attorneys in these chapter 11 cases.

8. Zuckerman Spaeder is a multi-city law firm with offices in Washington, D.C.; Baltimore, Maryland; Wilmington, Delaware; Miami, Florida; and Tampa, Florida. Zuckerman

Spaeder specializes in both civil and criminal litigation. Many of the firm's attorneys are former federal prosecutors and the firm is nationally known for its investigative practice. The firm also has a substantial bankruptcy practice and has frequently represented creditors in bankruptcy matters. The firm's attorneys have written and lectured widely on litigation, investigations and bankruptcy topics. Zuckerman Spaeder enjoys an AV rating from Martindale-Hubbell.

Summary of Application

9. Zuckerman Spaeder seeks interim compensation for professional services rendered to the Committee during the Final Compensation Period in the amount of \$53,078.50, and reimbursement of actual and necessary expenses incurred in connection with the rendition of services during the Final Compensation Period in the amount of \$3,540.73. During the Final Compensation Period, Zuckerman Spaeder's attorneys and paraprofessionals expended a total of 141.50 hours for which compensation is requested.

10. A schedule setting forth the number of hours expended by each of the partners, associates and paraprofessionals at Zuckerman Spaeder who rendered services to the Committee during the Final Compensation Period (July 1 – July 31, 2003), their respective hourly rates, and the year of bar admission for each Zuckerman Spaeder attorney is attached hereto as Exhibit "B." A schedule specifying the categories of expenses for which Zuckerman Spaeder is seeking reimbursement and the amount for each such expense category is attached hereto as Exhibit "C." Pursuant to Section II.D of the UST Guidelines, a schedule setting forth a description of the project categories utilized in this case, the number of hours expended by Zuckerman Spaeder partners, associates and paraprofessionals by project category, and the aggregate fees associated with each project category is attached hereto as Exhibit "D."

11. Zuckerman Spaeder maintains computerized records of the time spent by all its attorneys and paraprofessionals for the services rendered during the Final Compensation Period. Copies of these computerized records are attached hereto as Exhibit "E" and are being furnished to the court, counsel to the Debtors and the U.S. Trustee in the format specified by the UST Guidelines.

**Order Establishing Procedures for Interim
Compensation and Reimbursement of Expenses of Professionals**

12. By the Fee Procedures Order, this Court established certain procedures for interim compensation and reimbursement of expenses of those professionals specifically retained by order of the Court. Briefly summarized, the procedures provide that professionals retained in these cases may seek interim compensation on a monthly basis by serving, on or before the 20th day of the month following the month for which compensation is sought, a fee and expense statement on the U.S. Trustee, counsel for the Debtors and counsel for any statutory committees appointed in these cases. The Fee Procedures Order provides that, absent any objection served on the professional seeking compensation or reimbursement in a particular statement, the Debtors shall pay eighty percent (80%) of the fees and one-hundred percent (100%) of the expenses set forth in such monthly statement. The Fee Procedures Order also sets forth the procedures that apply in the event that any party in interest objects to the monthly fee statement of any professional. Furthermore, the Fee Procedures Order provides that (a) approximately every 120 days, but no more than every 150 days, each of the professionals shall serve and file with the Court an application for interim or final Court approval and allowance, pursuant to sections 330 and 331 of the Bankruptcy Code of the compensation and reimbursement of expenses requested; (b) if a professional fails to file timely (as defined in the Procedures Order) any such application, such professional (i) shall be ineligible to receive further monthly

payments of fees and (ii) may be required to disgorge all fees paid in accordance with the procedures established in the Fee Procedures Order; and (c) neither the payment of, nor the failure to pay, in whole or in part, monthly compensation and reimbursement as provided in the Fee Procedures Order shall have any effect on the Court's interim or final allowance of compensation and reimbursement of any professionals.

13. In accordance with the Fee Procedures Order, during the Final Compensation Period, Zuckerman Spaeder seeks allowance of and compensation for services and reimbursement of expenses incurred from July 1 – July 31, 2003, and has received from the Debtors certain payments on account thereof, in the following amounts:

Fee Period	Fees Requested	Expenses Requested	Total Requested	Total Paid To Date	Remaining Unpaid Amounts
July 1, 2003 through July 31, 2003	\$53,078.50	\$3,540.73	\$56,619.23	\$46,003.53	\$10,615.70

As set forth above, Zuckerman Spaeder seeks allowance and payment for fees and reimbursement of expenses totaling \$56,619.23. This amount represents 100% of fees and expenses incurred during the period July 1, 2003 through July 31, 2003, which 80% of said fees and 100% of said expenses were sought in a prior monthly fee statement, but not in an interim application.

First Interim Fee Application

14. On March 7, 2003, Zuckerman Spaeder filed its first interim application for allowance and approval of fees for services rendered and expenses incurred for the period November 5, 2002 through January 31, 2003 (the "First Interim Fee Application"). In its First Interim Fee Application, Zuckerman Spaeder sought allowance of compensation in the amount of \$256,826.00 and reimbursement of expenses in the amount of \$21,925.55. On March 27, 2003, this Court entered an order (the "First Compensation Order") awarding these amounts in full.

Second Interim Fee Application

15. On August 3, 2003, Zuckerman Spaeder filed its second interim application for allowance and approval of fees for services rendered and expenses incurred for the period February 1, 2003 through June 30, 2003 (the "Second Interim Fee Application"). In its Second Interim Fee Application, Zuckerman Spaeder sought allowance of compensation in the amount of \$233,292.50 and reimbursement of expenses in the amount of \$28,282.33. On August 19, 2003, this Court entered an order (the "Second Compensation Order") awarding these amounts in full.

Third and Final Fee Application

16. With this Third and Final Fee Application, Zuckerman Spaeder files its final fee application, which reflects expenses and fees for July 1 through July 31, 2003, and which amount was subject of a monthly fee application for that period. As set forth above, Zuckerman Spaeder seeks allowance of and payment for fees and reimbursement of expenses totaling \$56,619.23 for the Final Compensation Period (July 1 through July 31, 2003), and allowance of \$596,945.61 for aggregate expenses and fees incurred during the Total Compensation Period (November 7, 2002 through July 31, 2003).

**Summary of Significant Services Provided by
Zuckerman Spaeder During the Final Compensation Period**

17. In accordance with the Guidelines, the following summarizes, by specific project categories, the legal services performed by the Zuckerman Spaeder partners, associates and paraprofessionals during the Final Compensation Period. Zuckerman Spaeder maintains time records in the regular course of its business and practice, with entries made by each professional and paraprofessional contemporaneously with the rendering of the service. Such records, annexed hereto as Exhibit "E" reflect the substantial amount of time devoted by Zuckerman Spaeder's professionals to these chapter 11 cases and the important, complex, and difficult issues encountered by the Committee and dealt with by Zuckerman Spaeder on the Committee's behalf.

18. As a result of the various pleadings filed and hearings conducted in these chapter 11 cases, this Court is generally familiar with the nature of professional services rendered by Zuckerman Spaeder in furtherance of its professional obligations to the Committee. Zuckerman Spaeder does not believe it necessary or useful to burden the Court with every detail of every service performed by Zuckerman Spaeder on behalf of the Committee during the Final Compensation Period. Nevertheless, Zuckerman Spaeder summarizes in some detail herein the major activities to which Zuckerman Spaeder partners, associates and paraprofessionals have devoted substantial effort and attention during the Final Compensation Period on behalf of the Committee.

A. **Case Administration (Matter 001)**

19. Zuckerman Spaeder expended 23.90 hours at an aggregate charge of \$9,472.50 on these matters during the Final Compensation Period.

B. **Litigation: Senior Secured Party Claims (Matter 002)**

20. Zuckerman Spaeder expended 64.45 hours at an aggregate charge of \$24,216.75 on these matters during the Final Compensation Period.

C. **Litigation: Other Claims (Matter 003)**

21. Zuckerman Spaeder expended 53.15 hours at an aggregate charge of \$19,389.25 on these matters during the Final Compensation Period.

Disbursements

22. As set forth in Exhibit "C" hereto, Zuckerman Spaeder has incurred \$3,540.73 in expenses in providing professional services during the Final Compensation Period. With respect to photocopying expenses, Zuckerman Spaeder charges its clients \$.20 per page. With respect to facsimile expenses, Zuckerman Spaeder charges for out-going facsimile transmissions because long distance facsimiles are not readily determinable. Such facsimilies are charged at \$ 1.00 per page. Each of these categories of expenses does not exceed the maximum rate set by the Guidelines. These charges are intended to cover Zuckerman Spaeder's direct operating costs, which costs are not incorporated into hourly billing rates. Only clients who actually use services of the types set forth in Exhibit "C" are separately charged for such services. The effect of including such expenses as part of the hourly billing rates would impose that cost upon clients who do not require extensive photocopying and other facilities and services.

23. The time constraints frequently imposed by the circumstances of these cases have required Zuckerman Spaeder's professionals and other employees at times to devote time during the evenings and on weekends to the performance of legal services on behalf of the Committee. These extraordinary services were essential in order to meet deadlines and satisfy

the demands of the Committee and the relatively accelerated pace of these chapter 11 cases. Zuckerman Spaeder has not, however, charged for overtime despite the fact that, Zuckerman Spaeder's professionals and other employees were required to work in the evenings and on weekends. Consistent with firm policy, attorneys and other employees of Zuckerman Spaeder who worked late into the evenings or on weekends were reimbursed for their reasonable meal and transportation costs. Zuckerman Spaeder's regular practice is not to include components for those charges in overhead when establishing billing rates and to charge its clients for these and all other out-of-pocket disbursements incurred during the regular course of the rendition of services. The reimbursement amounts do not exceed those set forth in the Guidelines.

24. In addition, due to the national nature of the Debtors' business, long distance telephone calls have been required. On several occasions, overnight delivery of documents and other materials was required as a result of emergencies necessitating the use of such express services. These disbursements are not included in Zuckerman Spaeder's overhead for the purpose of setting billing rates. Zuckerman Spaeder has made every effort to minimize its disbursements in these cases. The actual expenses incurred in providing professional services were absolutely necessary, reasonable, and justified under the circumstances to serve the needs of the Committee.

Determination Of Zuckerman Spaeder's Requested Fee

25. In seeking compensation in these chapter 11 cases, Zuckerman Spaeder has utilized its 2002 hourly rate structure in accordance with the Guidelines for the period from November 5, 2002 through and including December 31, 2002, and has utilized its 2003 hourly rate structure for the period from January 1, 2003 through and including July 31, 2003.

26. For the period November 5, 2002 through and including December 31, 2002 and the period January 1, 2003 through and including July 31, 2003, Zuckerman Spaeder maintained hourly rates respectively in the following ranges for attorneys and paraprofessionals performing services in this engagement:

Partners	\$295 - \$500 per hour
Associates	\$175 - \$290 per hour
Paraprofessionals	\$100 - \$200 per hour

27. For purposes of this Application, Zuckerman Spaeder has calculated its request for compensation by multiplying (a) the hours of time spent on services rendered on behalf of the Committee, by (b) the hourly rate assigned to each attorney or paraprofessional rendering such services. The compensation sought herein is requested without prejudice to Zuckerman Spaeder's entitlement to seek such additional and reasonable compensation for any additional services rendered in these chapter 11 cases at the conclusion thereof upon the filing of an appropriate application therefore.

28. In accordance with the criteria enunciated for evaluating the fair and reasonable value of legal services in 11 U.S.C. § 330 and in the Guidelines, Zuckerman Spaeder

represents (a) that the services rendered by Zuckerman Spaeder were necessary and beneficial to the Committee at the time rendered; (b) were consistently performed in a timely manner commensurate with the complexity, importance and nature of the issues involved; and (c) that the compensation sought herein is reasonable based upon the customary compensation charged by comparably skilled practitioners in non-bankruptcy cases.

29. Zuckerman Spaeder deems the fair and reasonable value of its professional services rendered during the Final Compensation Period to be the sum of \$53,078.50. Based upon the total attorneys' and paraprofessionals' time expended, Zuckerman Spaeder believes the Final Compensation Period compensation requested herein to be appropriate. Accordingly, Zuckerman Spaeder respectfully requests that the Court allow compensation for professional and paraprofessional services rendered in the amount of \$53,078.50.

30. By this Application, Zuckerman Spaeder also seeks reimbursement of its actual, reasonable and necessary expenses incurred during the Final Compensation Period in the amount of \$3,540.73. Accordingly, Zuckerman Spaeder respectfully requests that the Court allow reimbursement of expenses in the amount of \$3,540.73.

31. In these chapter 11 cases, Zuckerman Spaeder respectfully submits that the services for which it seeks compensation in this Application were necessary and beneficial to the Committee. Zuckerman Spaeder further submits that the compensation requested herein is reasonable in light of the nature, extent, and value of such services to the Committee and all parties in interest.

32. Whenever possible, Zuckerman Spaeder sought to minimize the costs of Zuckerman Spaeder's services by using talented junior attorneys and paraprofessionals to handle the more routine aspects of case administration. A small group of Zuckerman Spaeder attorneys was utilized for the vast majority of the work in these cases to minimize the costs of intra-Zuckerman Spaeder communication and education about these cases and the issues occasioned by the Debtors' circumstances.

33. In summary, the services rendered by Zuckerman Spaeder were necessary and beneficial to the Committee at the time rendered, and were consistently performed in a timely manner commensurate with the complexity, importance and nature of the issues involved, and approval of the compensation sought herein is warranted.

34. As set forth in the certification of Norman L. Eisen attached hereto as Exhibit "A," the compensation requested by Zuckerman Spaeder is based on the customary compensation charged by comparably skilled practitioners in matters other than cases under the Bankruptcy Code.

35. No agreement or understanding exists between Zuckerman Spaeder and any other person for sharing of compensation received or to be received for services rendered in or in connection with these chapter 11 cases, nor shall Zuckerman Spaeder share or agree to share the compensation paid or allowed from the Debtors' estates for such services with any other person.

WHEREFORE, Zuckerman Spaeder respectfully requests that the Court issue and enter an order:

(a) granting it an allowance of \$56,619.23 for services and fees during the Final Compensation Period including: (i) compensation for professional and paraprofessional services rendered in the amount of \$53,078.50 during the Final Compensation Period and (ii) reimbursement of actual, reasonable and necessary expenses incurred in the amount of \$3,540.73 during the Final Compensation Period.

(b) authorizing total compensation in the amount of \$543,197.00 for professional services rendered and reimbursement of expenses incurred in connection therewith in the amount of \$53,748.61, during the Total Compensation Period, which amounts are comprised of:

- i. compensation for professional services rendered during the Final Compensation Period in the amount of \$53,078.50 and reimbursement of actual and necessary expenses incurred during the Final Compensation Period in the amount of \$3,540.73;
- ii. compensation for professional services rendered during the Second Interim Period in the amount of \$233,292.50 and reimbursement of actual and necessary expenses incurred during the Second Interim Period in the amount of \$28,282.33;
- iii. compensation for professional services rendered during the First Interim Period in the amount of \$256,826 and reimbursement of actual and necessary expenses incurred during the First Interim Period in the amount of \$21,925.55; and

(c) granting such other and further relief as this Court deems just and proper.

Dated: Washington, D.C.
October 22, 2003

ZUCKERMAN SPAEDER LLP

By: /s/ Norman L. Eisen
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