

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

IN RE WORLDCOM, INC. ERISA LITIGATION :

MASTER FILE
02 Civ. 4816 (DLC)

This Document Relates to: All Actions :

**ORDER AND FINAL JUDGMENT AWARDING ATTORNEY'S FEES AND COSTS TO
VIVIEN PLAINTIFFS**

The motion of counsel for Plaintiffs in *Vivien v. WorldCom, Inc.*, No. 02-01329 WHA (N.D.Cal.) ("Vivien Counsel") came on for hearing before the Court on October 15, 2004. In its Opinion and Order dated October 18, 2004 ("October 18 Order"), this Court found that the Vivien Counsel were entitled to reimbursement of \$5,533.48 in expenses through November 17, 2002, and for some compensation for their services through that date. In the October 18 Order, the Court reserved its decision on the extent to which Vivien Counsel should be awarded attorney's fees pending receipt from those attorneys of their contemporaneous billing records. In its Order and Final Judgment dated October 26, 2004 ("Order and Final Judgment"), the Court reserved jurisdiction to award such fees and costs out of funds reserved therein for possible payment of additional attorney's fees and costs.

Following the filing of the October 18 Order, the Court received and reviewed declarations from all of the Vivien Counsel to which they attached their contemporaneous time records and documentation of their expenses through November 17, 2002. The Court then issued a Memorandum Opinion and Order dated November 15, 2004 ("November 15 Order"), in which it held that Lewis, Feinberg, Renaker & Jackson, P.C. ("the Lewis firm") was entitled to \$100,000; denied all further fees for the pre-appointment time of Vivien Counsel; held that Elizabeth Cabraser

was not entitled to payment for work from November 19, 2002 through July 31, 2004; and held that the Lewis firm should be awarded its expenses from March 18, 2002 up to June 28, 2002. The issues having been duly heard,

IT IS HEREBY ORDERED AND ADJUDGED:

1. The following amounts shall be paid from the funds reserved pursuant to Paragraph 17 of the Order and Final Judgment ("Paragraph 17") in reimbursement of the \$5,533.48 in expenses awarded in the October 18 Order:

Schatz & Nobel: \$5,054.70

AARP Foundation Litigation: \$478.78

1. \$397.73 shall be paid from the funds reserved pursuant to Paragraph 17 in reimbursement of the Lewis firm's expenses from March 18, 2002 to and including June 28, 2002.

2. \$100,000 shall be paid from the funds reserved pursuant to Paragraph 17 to the Lewis Firm for attorneys' fees for its pre-appointment work.

3. The Court further finds as follows:

- a. This Order resolves all claims for the fees and expenses of Vivien Counsel through November 17, 2002;
- b. Entry of final judgment with respect to the request of Vivien Counsel for such fees and expenses will not impede the continuation of the claims in this case with respect to the non-settling defendants;
- c. The legal and factual issues pertinent to the request of Vivien Counsel for such fees and expenses are generally separate and distinct from the legal and factual issues pertinent to the continuing claims in the ERISA action with respect to the non-settling defendants; and

d. The Court previously has entered final judgment with respect to the settlement of Plaintiffs' claims against certain defendants and with regard to several motions for attorney's fees and expenses, including the request of Vivien Counsel for fees and costs for work through November 17, 2002.

5. By reason of the foregoing, this Court hereby finds that, pursuant to F.R.Civ.P. 54(b), there is no just reason for delay of entry of this final judgment and hereby directs its entry.

SO ORDERED this 29th day of November, 2004.



HONORABLE DENISE COTE

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
NEW YORK