

Never-ending One.Tel story may still be going in 2016

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August 12, 2011

ONE.TEL'S special purpose liquidator has estimated his job will take until January 2016, almost 15 years after the telephone company's collapse in May 2001. In his latest annual accounts, Paul Weston nominated the date as the likely completion of his litigation against Publishing & Broadcasting Ltd and News Ltd, which were One.Tel's largest shareholders.

Mr Weston, a partner of the accounting firm Pitcher Partners, is fighting in the NSW Court of Appeal to retain his right to sue the two companies and their nominees on the One.Tel board, including James Packer and Lachlan Murdoch. In May, Justice Julie Ward dismissed his case, saying several extensions to the court's deadline for proceeding with the suit had been invalidly granted. The first procedural hearing for Mr Weston's appeal against Justice Ward's decision is expected next month.

Mr Weston also has proceedings on foot relating to court approval of his recent remuneration, in which the Australian Securities and Investments Commission intervened. In January Mr Weston reimbursed fees of \$195,851 pending the outcome of an appeal.

He is also defending a case brought by One.Tel's creditors, led by Optus, aggrieved by his remuneration since 2003 of more than \$3 million and his expenditure on legal fees of more than \$8 million.

Since last year the costs of the suit against PBL and News, including the appeal, have been met by an unidentified litigation funder.

Meanwhile, One.Tel's general purpose liquidator, Steve Sherman, has told creditors the company's founder and chief executive, Jodee Rich, lodged a new proof of debt late last year claiming \$79 million in damage to the value of his One.Tel shares. Mr Sherman rejected the proof of debt and Mr Rich filed a challenge in the NSW Supreme Court. After talks with Mr Sherman, Mr Rich withdrew the court challenge and his damages claim, but retained his right to refile. In his annual report to creditors, Mr Sherman said Mr Rich had told him the outcome of Mr Weston's suit against PBL and News "would in his [Mr Rich's] opinion give clarity to a number of issues on which the proof of debt claims relied".

In September, the same month Mr Rich lodged the new proof of debt, he announced he had decided against proceeding with his own damages suit against PBL and News.

Mr Rich submitted a similar proof of debt as a shareholder to Mr Sherman in 2007, relying on a January 2007 High Court decision relating to the Sons of Gwalia collapse, which opened the way for shareholders with damages claims against failed companies to rank alongside unsecured creditors.

Federal Parliament has since changed the Corporations Act so that shareholders rank behind other creditors, but the change was not designed to be retrospective.

Mr Sherman also rejected Mr Rich's 2007 proof of debt, which was for a "claim range" of \$84 million to \$1.6 billion.