

United States Bankruptcy Court
Southern District of New York

Ret. September 1, 2004

In re :
RCN CORPORATION, et al. : Case No. 04-13638 (RDD)
Debtors, : Chapter 11
(Jointly Administered)
Address: 105 Carnegie Center :
Princeton, NJ 08540 :
Employer's Tax Identification :
(EIN) Nos.: 22-349853 :

**NOTICE OF MOTION FOR A BRIDGE ORDER EXTENDING TIME TO FILE A
MOTION FOR NON-DISCHARGEABILITY AND AN ORDER MODIFYING
AUTOMATIC STAY PURSUANT TO 11 U.S.C. SECTION 362(d) AND TO EXTEND
DEADLINE TO FILE ADVERSARIAL COMPLAINT UNDER 11 U.S.C. 523(a)(6).**

Creditor, Marie DeWees has filed papers with the court seeking relief from the automatic stay pursuant to 11 U.S.C. § 362(d) for the purpose of allowing the New Jersey Superior Court to determine the value of any debt by the debtor, RCN Corporation in *Marie D. DeWees v. RCN Corporation, et al.* and to extend the filing deadline to file an adversarial complaint seeking an order of nondischargeability pursuant to 11 U.S.C. 523.

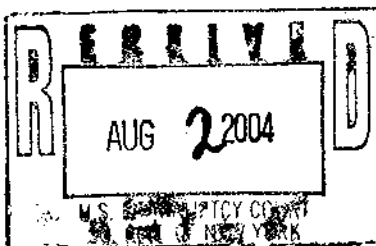
Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the within motion for relief from the automatic Stay, or if you want the Court consider your views on the motion, then on or before September 1, 2004, you or your attorney must:

File with a court a written response explaining your position at:

United States Bankruptcy Court, Southern District of New York
One Bowling Green
New York, NY 10004-1408

If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.




You must also mail a copy to:

Jon W. Green, Esq.
Green & Savits, LLC
35 Airport Road – Suite 350
Morristown, NJ 07960

Attend the hearing scheduled to be held on September 1, 2004 at 10:00 a.m., Courtroom 610, United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, NY 10004-1408.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: July 28, 2004


Jon W. Green, Esq. (JWG 2308)
Green & Savits, LLC
35 Airport Road – Suite 350
Morristown, NJ 07960
(973) 695-7777

RCN Corporation
Case No. 04 -13638
Master Service List

Debtors

RCN Corporation
105 Carnegie Center
Princeton, NJ 08540
Attention: General Counsel

Debtors' Counsel

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, NY 10036-6522
Attention: Jay M. Goffman and
Frederick Morris

United States Trustee

The Office Of The United States Trustee
33 Whitehall Street, 21st floor
New York, NY 10004
Attention: Paul K. Schwartzberg
Tel: (212) 510-0500
Fax: (212) 668-2255
E-mail: Paul.Schwartzberg@usdoj.gov

Ad Hoc Committee of Noteholders

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005
Attention: Dennis Dunne
Tel: (212) 530-5000
Fax: (212) 530-5219
E-mail: Ddunne@milbank.com

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005
Attention: Deirdre A. Sullivan
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**Counsel To Agent For Debtors' Prepetition
Senior Credit Facility**

Simpson, Thacher & Bartlett LLP
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**Counsel To Agent For Debtors' Prepetition
Junior Credit Facility**

Paul, Hastings, Janofsky & Walker LLP
75 E. 55th Street, First Floor
New York, NY 10022
Attention: Michael K. Chernick
E-mail: michaelchernick@paulhastings.com

**Counsel To Indenture Trustee For Debtors'
Senior Notes**

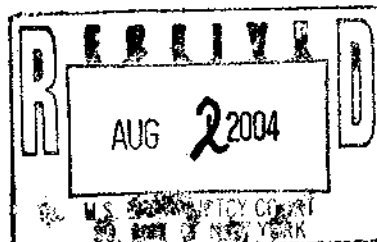
Kelley Drye & Warren LLP
101 Park Avenue
New York, NY 10178
Attention: Debra SuDock

Government Agencies

Securities and Exchange Commission
233 Broadway, Suite 600
New York, NY 10279

Internal Revenue Service
Insolvency Unit
290 Broadway, 5th floor
New York, NY 10007

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554



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E-mail: frank.white@agg.com
(Attorneys for Verizon Operating Telephone Companies)

**United States Bankruptcy Court
Southern District of New York**

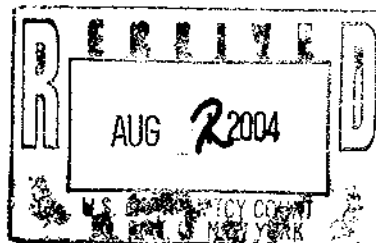
In re	:	Case No. 04-13638 (RDD)
RCN CORPORATION, et al.	:	Chapter 11
Debtors,	:	(Jointly Administered)
Address: 105 Carnegie Center	:	
Princeton, NJ 08540	:	
Employer's Tax Identification	:	
(EIN) Nos.: 22-349853	:	

CERTIFICATION OF JON W. GREEN, ESQ. IN SUPPORT OF CREDITOR, MARIE DEWEES'S MOTION FOR AN ORDER MODIFYING AUTOMATIC STAY PURSUANT TO 11 U.S.C. SECTION 362 (d) AND FOR AN EXTENSION OF THE DEADLINE TO FILE AN ADVERSARIAL COMPLAINT PURSUANT TO 11 U.S.C. 523(a) (6).

I, JON W. GREEN, of full age hereby certifies as follows:

1. I am an attorney at law of the State of New Jersey, the State of New York and of the federal district court for the Southern District of New York and am the attorney for the Creditor, Marie DeWees. In such capacity, I am fully familiar with the facts that I am about to relate below.

2. I, and my firm, represent Marie DeWees in the matter of *Marie DeWees v. RCN Corporation, et al.*, Docket Number MID-L-3645-02, which was filed in the Law Division, State of New Jersey, and County of Mercer on or about January 12, 2000. (A copy of the filed complaint is attached hereto as Exhibit 1). The filed complaint alleges that Ms. DeWees was terminated from her employment on January 13, 1998 because of illegal gender and age discrimination which, if proven to be true, violates the New Jersey Law Against Discrimination, N.J. Stat. Ann. 10:5-1, et. seq.



3. The state court case was litigated up to the time that trial was to commence. However, on February 5, 2003, the Law Division granted summary judgment to the defendants and dismissed Ms. DeWees's state court complaint with prejudice. (See Order Granting Summary Judgment dated February 5, 2003 attached as Ex. 2.) Ms. DeWees filed a Notice of Appeal on February 14, 2003. (See Ex. 3 attached hereto). Briefs were filed by all parties to the action and oral argument was heard before the Appellate Division on December 17, 2003. To date, the Appellate Division has not decided the appeal on the merits.

4. However, upon notification through RCN's employment counsel that defendant RCN Corporation had filed Chapter 11 bankruptcy on May 27, 2004, the Appellate Division dismissed the appeal without prejudice pending the lifting of the automatic stay by this Court. (See Ex. 4 attached hereto.) The Appellate Division has agreed to decide the merits of the appeal once this Court lifts the stay.

Lifting the Automatic Stay Under 11 U.S.C. 362(d)

5. Ms. DeWees seeks an Order of this Court to lift the automatic stay so that this Court may abstain in favor of the New Jersey courts to determine the value of the debt that the debtor RCN Corporation may owe to Ms. DeWees. Certainly, New Jersey's courts are in the best position to determine both the merits of Ms. DeWees' discrimination claims under New Jersey law and the value of those claims. (See annexed letter brief at pp. 3-4). The very next step towards that determination is for the New Jersey Appellate Division to decide whether summary judgment dismissing Ms. DeWees' state court complaint should be reversed. It is the undersigned's strong belief based on my seventeen years of practice in employment law on behalf of employees and, of course, based on the existing case-law and appellate record that the

Appellate Division will reverse the Law Division's granting of summary judgment and remand for a trial on the merits.

6. Accordingly, on behalf of Ms. DeWees, I respectfully request that the Court enter an Order granting relief modifying the automatic stay pursuant to U.S.C. § 362 (d) for the purpose of permitting the parties to proceed with the state court litigation of *Marie DeWees v. RCN Corporation, et al.*, Docket Number MER-L-3645-02, Superior Court, Appellate Division, State of New Jersey so that the debt can be determined. (The Appellate Division docket # is A-3034-02T3). At minimum, this Court should allow the Appellate Division to decide the appeal on the merits; if the Appellate Division should affirm the judgment, the case will be over anyway and if it reverses, the assets of the debtor will not be affected since a trial on the merits will still remain. Additionally, as explained in Paragraph 9 below, there may be insurance coverage that would cover the value of Ms. DeWees' state discrimination claims which could result in Ms. DeWees seeking to lift the stay and limit her recovery to the monetary limits of that policy.

Extending the Deadline For Filing Adversarial Complaint Under 11 U.S.C. 523(a)(6)

7. Ms. DeWees' state court complaint alleges that she suffered illegal intentional discrimination and that RCN Corporation's conduct was either especially egregious or malicious which, under New Jersey law, could legally suffice for an award of punitive damages. (See Ex. 1 at ¶ 14.) Accordingly, Ms. DeWees asserts that RCN's potential debt to her may not be dischargeable under 11 U.S.C. 523 (a) (6).

8. A review of the filings with this Court indicates that the first creditors meeting took place on June 29, 2004 which would leave Ms. DeWees until August 28, 2004 to file an adversarial proceeding to challenge the non-dischargeability of the debt. Ms. DeWees seeks an extension of this deadline for two reasons. First, if the Appellate Division affirms the trial

court's grant of summary judgment the case will come to an end unless the New Jersey Supreme Court grants a petition for certification and reverses or in the case of a split decision, the New Jersey Supreme reverses after an automatic right of appeal. Second, it is entirely possible that RCN Corporation has insurance to cover any judgment or settlement that might be reached in this matter.

9. During the course of the state court law suit, the defendants were asked to produce any documentation of insurance coverage that covered Ms. DeWees' discrimination claims. A declaration page was produced that indicated coverage under RCN's worker's compensation policy with policy limits of \$500,000 provided that it involved an illness. However, no other insurance policy was produced. A review of this Court's docket indicates that in another discrimination matter that was filed in New Jersey's courts in 2002, an employment practices liability policy with coverage of \$10,000,000.00 was in place which ultimately led this Court to grant relief from the automatic stay to Jennifer Schuman. (See Ex. 5 attached hereto). That policy indicates that it was a renewal of previous EPLI policy. Thus, it is entirely possible that there is insurance coverage that covers Ms. DeWees' claims which may be satisfied out the proceeds of that policy and not affect the assets of the debtor's estate.


10. Our firm will be shortly serving a notice to debtor's counsel seeking discovery of applicable insurance policies and if they exist, to determine whether the carrier is covering the claim or has disclaimed on coverage and the remaining coverage under the policy. We expect to serve this notice within the next two weeks.

11. Thus, if the grant of summary judgment to the debtor, RCN Corporation is affirmed, the necessity of filing an adversarial proceeding is nullified. Alternatively, if the

Appellate Division reverses and remands Ms. DeWees' discrimination claims for trial, it may be determined that insurance may cover the value of Ms. DeWees' claims and there is no need to proceed against the assets of RCN. Therefore, Ms. DeWees would request that this Court extend the filing deadline to no longer than 30 days after the final decision of the New Jersey appellate courts' final determination whether summary judgment should be reversed and the matter be remanded for trial. Because the return date of September 1, 2004 is after the non-dischargeability filing deadline of August 28, 2004, it is respectfully requested that the Court extend the deadline until this motion will be heard.

12. Finally, a Proof of Claim has been sent via Federal Express to the Clerk's Office on July 26, 2004 for filing on July 27, 2004. (See Ex. 6 attached hereto.)

I certify that the foregoing statements made by me are true. I am aware that if any foregoing statements made by me are willfully false, I am subject to punishment.


Jon W. Green, Esq. (J WG 2308)
Green & Savits, LLC
35 Airport Road – Suite 350
Morristown, NJ 07960
(973) 695-7777
Attorney for Marie DeWees

Dated: July 28, 2004

EXHIBIT 1

DEUTSCH RESNICK GREEN & GRAMIGNA
A Partnership of Professional Corporations
959 S. Springfield Avenue
Springfield, N.J. 07081
(973) 258-1000
Attorneys for Plaintiffs

JAN 12 2000

JUDE DEL PREORE
DEPUTY CLERK OF SUPERIOR COURT

MARIE DEWEES and PAMELA J. PERNOT

Plaintiffs,

v.

RCN CORPORATION, DAVID MCCOURT
MICHAEL MAHONEY, and KENNETH
KNUDSEN

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY

Civil Action

Docket No.: L-175-00

COMPLAINT AND JURY DEMAND
R. 4:5-1 CERTIFICATION AND
DESIGNATION OF TRIAL COUNSEL

Marie DeWees and Pamela Pernot, by way of complaint against the defendants and each of them, hereby say:

FIRST COUNT

(Gender and Age Discrimination – Marie DeWees)

1. Plaintiff, Marie DeWees, an individual, resides at 70 Van Lieus Road, Ringoes, County of Hunterdon, State of New Jersey, (hereinafter sometimes referred to as "DeWees").
2. Plaintiff, Pamela Pernot, an individual, resides at 1284 Cowperthwaite Road, Bedminster, County of Somerset, State of New Jersey, (hereinafter sometimes referred to as "Pernot").
3. Defendant, RCN Corporation, is, upon information and belief, a New Jersey corporation, and has its principal offices at 105 Carnegie Center, Princeton, Mercer County, State of New Jersey, (hereinafter sometimes referred to as "RCN").
4. Defendant, David McCourt, an individual, resides in Hopewell Township, Mercer

County, State of New Jersey, (hereinafter sometimes referred to as "McCourt").

5. Defendant, Michael Mahoney, an individual, resides in Washington's Crossing, Buchs County, State of Pennsylvania, (hereinafter sometimes referred to as "Mahoney").

6. Defendant, Kenneth Knudsen, an individual, resides in Chester, Morris County, State of New Jersey, (hereinafter sometimes referred to as "Knudsen").

7. Plaintiff, DeWees, was employed by Defendant, RCN, from May, 1988 to January 13, 1998. During the period that Plaintiff, DeWees, was employed by Defendant, RCN, she always performed all of her duties and fulfilled all of her responsibilities in a manner that more than met Defendant, RCN,'s not only reasonable but highest expectations in all respects.

8. During the ten (10) years that Plaintiff, DeWees, was employed by Defendant, RCN, and particularly during the period that she served Defendant, RCN, in the capacities of Senior Vice President - Marketing and Operations and, thereafter Senior Vice President - Customer Service, she was continuously subjected to unlawful discrimination and received differential treatment on the basis of her sex and age, which, at the time of her termination, was 50. The defendants and each of them engaged in such unlawful gender and age discrimination, perpetuated a "boys club" atmosphere and created an environment where women, including the plaintiff, DeWees, not only were continuously treated differently and less favorably than their male counterparts with respect to the terms and conditions of their employment, e.g., pay and stock options, but faced a "glass ceiling" as well.

9. In July 1997, Plaintiff, DeWees, was transferred from the position of Senior Vice President of Marketing Operations which she had occupied since June or July, 1996, to the position of Senior Vice President of Customer Service despite the fact that her performance as Senior Vice

President of Marketing Operations more than met defendants' expectations. Scott Jarus, then in his mid-thirties, replaced her as Senior Vice President of Operations, a much more important and higher level position than that of Senior Vice President of Customer Service. This personnel action was motivated by illegal gender and/or age discrimination and was the first step to terminating plaintiff DeWees' employment.

10. Defendant, RCN, switched Plaintiff, DeWees' position from Senior-V.P. Marketing and Operations to Senior V.P. Customer Service in order to set her up to fail. The Customer Service Department was understaffed, functioning poorly and, in general, a hornet's nest. Those employees in it were poorly trained and managed. Defendant, RCN, knowingly and intentionally put her in a "no-win" position to justify its pre-made decision to terminate her employment.

11. Defendants made sarcastic statements to plaintiff, DeWees, alluding to her resigning. When their suggestions to resign were not taken, defendants fired Plaintiff, DeWees.

12. As a direct and proximate result of the gender and age discrimination in which the defendants and each of them engaged both during the course of Plaintiff, DeWees', employment by Defendant, RCN, and in connection with her termination, Plaintiff, DeWees, has suffered economic losses, including but not limited to, unequal pay, back pay, front pay, severance pay, benefits, stock options, perks and other compensation to which she was entitled and/or which her male counterparts received and/or are still receiving from Defendant, RCN.

13. As a result of Defendant's unlawful discrimination both during her employment and in connection with her termination, Plaintiff DeWees, suffered severe emotional distress and psychological harm and trauma as well as physical symptoms associated therewith, continues to do so and will for the foreseeable future.

14. The gender and age discrimination engaged in by defendants and each of them, as described herein, is egregious and was engaged in intentionally and with willful indifference to its consequences by the Defendant, RCN, and its upper management, in particular, defendants McCourt and Mahoney.

15. Defendants conduct and their actions, as described hereinabove, are in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

WHEREFORE, Plaintiff, DeWees, seeks judgment against the defendants RCN Corporation, David McCourt and Michael Mahoney, awarding her compensatory damages, including but not limited to, back pay, front pay, stock options, and compensation for the emotional distress which she suffered, punitive damages, counsel fees, reasonable costs and fees and such other relief as the Court may deem just and appropriate under the circumstances.

SECOND COUNT

(Gender and Age Discrimination – Pamela Pernot)

1. Plaintiff, Pamela Pernot repeats and re-alleges each and every allegation contained in Paragraphs 1 - 17 of Count One as if fully set forth herein.

2. Plaintiff, Pernot, having spent two (2) years as the Promotions Manager for Defendant, RCN's, predecessor-in-interest, C-Tec Cable, was hired by Defendant, RCN, in July, 1996, as Director of Marketing. Plaintiff, Pernot, was terminated for reasons relating to her gender and age by Defendant, RCN, on May 19, 1998.

3. During the period that Plaintiff, Pernot, was employed by Defendant, RCN, she was continuously discriminated against and treated differently based upon her gender and her age (which, at the time she was terminated, she was age 51). Plaintiff continuously received lesser compensation,

including but not limited to pay and stock options, than her male counterparts.

4. Additionally, Plaintiff was harassed and abused for reasons relating to her sex and age and otherwise compelled to work in an environment which was hostile to women and particularly a woman of plaintiff Pernot's age.

5. Plaintiff, Pernot, while employed by Defendant, RCN, performed all of her duties and performed all of her responsibilities in a manner that not only met but exceeded her employer's not only reasonable but highest expectations in all respects.

6. Plaintiff Pernot's termination occurred as a direct and proximate result of a systematic effort on the part of Defendant, RCN, and, in particular, Defendant Knudsen, to force her out for reasons relating to her sex and age. These efforts included, but were not limited to, taking away her staff and responsibilities and giving them to her much younger male counterpart, i.e., Mike Daley, Director of Sales Operations, who was then in his early thirties. When Plaintiff Pernot did not resign, she was terminated.

7. The pretextual reason given to Plaintiff, Pernot, by Defendants, RCN, and Knudsen, was that the Marketing Department of which Plaintiff was the Director, was being eliminated. However, this turned out not to be true. The Marketing Department is still in existence. A male in his thirties, David Fitts, performed and/or supervised essentially all of the duties and functions formerly supervised and/or performed by Plaintiff, Pernot and/or employees of Defendant, RCN, working in her Department.

8. As a direct and approximate result of the gender and age discrimination in which the defendants and each of them engaged both during the course of Plaintiff, Pernot's employment by Defendant, RCN, and in connection with her termination, Plaintiff, Pernot, has suffered economic

losses, including but not limited to, unequal pay, back pay, front pay, severance pay, benefits, stock options, perks and other compensation to which she was entitled and/or which her male counterparts received and are still receiving from Defendant, RCN.

9. As a result of Defendant's unlawful discrimination both during her employment and in connection with her termination, plaintiff, Pernot, suffered severe emotional distress and psychological harm and trauma as well as physical symptoms associated therewith, continues to do so and will for the foreseeable future.

10. The gender and age discrimination engaged in by defendants, and each of them, as described herein, is egregious and was engaged in intentionally and with willful indifference to its consequences by the Defendant, RCN, and its upper management, in particular, defendants McCourt and Knudsen.

11. Defendants conduct and their actions, as described above, are in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

WHEREFORE, Plaintiff Pamela Pernot, seeks judgment against the defendants RCN Corporation, Kenneth Knudsen and David McCourt awarding her compensatory damages, including but not limited to, back pay, front pay, stock options and compensation for the emotional distress which she suffered, punitive damages, counsel fees, court costs and fees and such other relief as the Court may deem just and appropriate under the circumstances.

DEUTSCH RESNICK GREEN & GRAMIGNA
A Partnership of Professional Corporations
Attorneys for Plaintiffs

Date: January 12, 2000

By: 

John W. Green

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

DEUTSCH RESNICK GREEN & GRAMIGNA
A Partnership of Professional Corporations
Attorneys for Plaintiff

Dated: January 12, 2000

By: 

Jon W. Green

CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned attorney for plaintiff hereby certifies that the within matter is not the subject of any other action on arbitration proceeding pending or contemplated, nor are there any other parties known to plaintiff who should be joined in this proceeding.

DEUTSCH RESNICK GREEN & GRAMIGNA
A Partnership of Professional Corporations
Attorneys for Plaintiff

Dated: January 12, 2000

By: _____

Jon W. Green

DESIGNATION OF TRIAL COUNSEL

Plaintiffs, Pamela Pernot and Marie DeWees, hereby designates Jon W. Green as trial counsel pursuant to R. 4:5-1(c).

**DEUTSCH RESNICK GREEN &
GRAMIGNA**

A Partnership of Professional Corporations
Attorneys for Plaintiffs

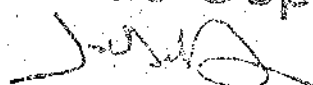
By: 

Jon W. Green

Dated: January 12, 2000

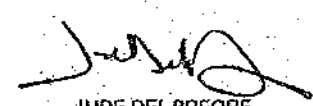
EXHIBIT 2

DONALD F. FRELAN
CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

A True Copy

JUDE DEL PREORE
Deputy Clerk of Superior Court

COLLIER, JACOB & MILLS, P.C.
580 Howard Avenue
Somerset, New Jersey 08873
(732) 560-7100
Attorneys for Defendants

FEB 05 2003


JUDE DEL PREORE
DEPUTY CLERK OF SUPERIOR COURT

MARIE DEWEES,

Plaintiff,

vs.

RCN CORPORATION, DAVID
McCOURT, MICHAEL MAHONEY, and
KENNETH KNUDSEN,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MERCER COUNTY
Docket No. L-175-00

Civil Action

**ORDER GRANTING SUMMARY
JUDGMENT**

THIS MATTER having been opened to the Court on motion of defendants RCN Corp., David C. McCourt, Michael J. Mahoney and Kenneth R. Knudsen for summary judgment dismissing portions of plaintiff Marie DeWees' claims as to RCN Corp., David C. McCourt, Michael J. Mahoney and Kenneth R. Knudsen, and the Court having considered the papers submitted and having heard oral argument, and good cause appearing for the issuance hereof,

IT IS on this 5TH day of February, 2003,

ORDERED that summary judgment shall be and hereby is granted in favor of RCN Corp., David C. McCourt, Michael J. Mahoney and Kenneth R. Knudsen; and

~~IT IS FURTHER ORDERED that all claims for damages relating to stock options, claims for actions arising prior to September 31, 1997, claims for punitive damages, claims for wrongful termination based on gender and age, as well as any and all claims against defendant David C. McCourt, shall be and are hereby dismissed in their entirety and with prejudice, and~~

IT IS FURTHER ORDERED that plaintiff's abandoned claims, including claims for hostile work environment, gender harassment, intentional or negligent infliction of emotional distress, claims for unequal pay or disparate impact, claims for monetary damages after February 2000, as well as any and all claims against defendant Kenneth R. Knudsen, shall be and are hereby dismissed in their entirety and with prejudice; and

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all parties within seven (7) days from the date hereof.

THIS ORDER WAS ENTERED IN OPEN COURT AND A RECORD WAS MADE OF THE COURT'S FACTUAL AND LEGAL DETERMINATIONS.



ANDREW J. SMITHSON, J.S.C.

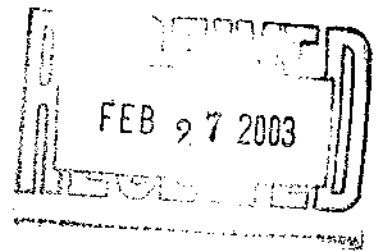
The motion was:

Opposed: ✓

Unopposed:

EXHIBIT 3

NOTICE OF APPEAL



SUPERIOR COURT OF NEW JERSEY - APPELLATE DIVISION

TITLE OF ACTION AS CAPTIONED BELOW

Marie DeWees

Plaintiff,

ATTORNEY OF RECORD

Jon W. Green Lucas, Esq.

Green Lucas Savits & Marose, LLC

Address: 111 Northfield Avenue
West Orange, NJ 07052

Phone No. (973) 736-4949

Attorney For: Plaintiff

APPELLATE DIVISION

FEB 14 2003

En F. [Signature]
CLERK

ON APPEAL FROM:

Defendants.

Superior Court, Law Division, Mercer County

L-175-00

[Trial Docket or Indictment No.]

Andrew J. Smithson, J.S.C.

[Trial Court Judge]

Civil (X) Criminal () Juvenile ()

Notice is hereby given that plaintiff appeals to the Superior Court of N.J., Appellate Division, from the Judgment (X) Order () Other (Specify) () entered in this action on February 5, 2003 in favor of defendants, RCN Corporation, David McCourt, Michael Mahoney and Kenneth Knudsen.

If appeal is from less than the whole, specify what parts or paragraphs are being appealed:

Are all issues as to all parties disposed of in the Action being appealed? Yes (x) No ().

If not, is there a certification of final judgment entered pursuant to R.4:42-2?

Priority Under R.1:2-5 Yes () No (x) Applicable section under the Rule ____.

In criminal, quasi-criminal, and juvenile cases...Not incarcerated () Incarcerated ()

Confined at : n/a

Give a concise statement of the offense and of the Judgment, date entered and any sentence or disposition imposed.

NOTICE OF APPEAL HAS BEEN SERVED ON:

<u>Name</u>	<u>Date of Service</u>	<u>Type of Service</u>
Trial Court Judge Andrew J. Smithson, J.S.C.	2/12/03	Regular Mail
Trial Court Clerk/State Agency		
Attorney General or governmental Office Under R.2:5-1(h)		N/A

Other Parties: RCN Corporation, David McCourt, Michael Mahoney and Kenneth Knudsen.

<u>Name and Designation</u>	<u>Attorney Name, Address and Telephone Number</u>	<u>Date of Service</u>	<u>Type of Service</u>
Cynthia Jacob, Esq.	580 Howard Avenue Somerset, NJ 08873	732-560-7100 Feb. 12, 2003	Regular Mail

**I HEREBY CERTIFY THAT I HAVE SERVED
A COPY OF THIS NOTICE OF APPEAL ON
EACH OF THE PERSONS REQUIRED AS
INDICATED ABOVE.**

February 12, 2003
(Date)


Signature of Attorney of Record

2. PRESCRIBED TRANSCRIPT REQUEST FORM HAS BEEN SERVED ON:
(Also indicate if sound recorded)

	<u>Name</u>	<u>Date of Service</u>	<u>Amount of Deposit</u>
Administrative Office of the Courts Chief, Court Reporting Services	Bill Mullen Mercer Vicinage Law Library P.O. Box 8068 Trenton, NJ 08650	2/12/03	
Court Reporter's Supervisor/ (sound recorded) Clerk of Court or Agency	J&J Court Transcribers, Inc.	2/12/03	\$150.00

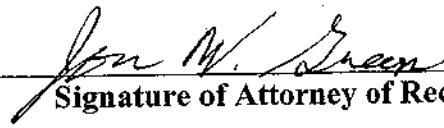
Court Reporter

N/A

**I HEREBY CERTIFY THAT I SERVED THE PRESCRIBED COURT
TRANSCRIPT REQUEST FORM ON EACH OF THE ABOVE PERSONS
AND PAID THE DEPOSIT AS REQUIRED BY R.2:5-3(d).**

February 12, 2003

Date


Signature of Attorney of Record

I HEREBY CERTIFY THAT:

- ☐ There is no verbatim record.
- ☐ Transcript is in the possession of the Attorney of record.
- ☐ A Motion for Abbreviation of Transcript has been filed
with the Court or Agency below.
- ☐ A Motion for Free Transcript has been filed with the Court
below.

Date

Signature of Attorney of Record

CIVIL CASE INFORMATION STATEMENT

TITLE IN FULL

FOR OFFICIAL USE ONLY:

APPEAL DOCKET NO.

NOTICE OF APPEAL FILED:

Marie DeWees,

VS.

RCN Corporation, David McCourt,
Michael Mahoney and Kenneth
Knudsen

DATE SENT: February 12, 2003

APPELLANT'S ATTORNEY(S): ☒ Plaintiff ☐ Defendant ☐ Other (Specify)

NAME	ADDRESS	TELEPHONE	CLIENT
Jon W. Green	111 Northfield Ave.	973-736-4949	Marie DeWees
Green Lucas Savits & Marose	West Orange, NJ 07052		

RESPONDENT'S ATTORNEY(S)*:

NAME	ADDRESS	TELEPHONE	CLIENT
Cynthia Jacob	580 Howard Ave	732-560-7100	RCN Corporation,
Collier Jacob & Mills	Somerset, NJ 08873		David McCourt, Michael Mahoney and Kenneth Knudsen

*Indicate which parties, if any, did not participate below or who were no longer party to the action at the time of entry of the order/judgment being appealed.] *Kenneth Knudsen

GIVE DATE AND SUMMARY OF TERMS OF JUDGMENT ENTERED BELOW:

Does this determination dispose of all issues as to all parties? Yes ☒ No ☐
 If not, has it been certified as final pursuant to R.4:42-2? Yes ☐ No ☐
 (If not, leave to appeal must be sought. R.2:2-4, 2:5-6.)
 Is the validity of a statute, executive order, franchise or constitutional provision of the state questioned? (R.2:5-1(h)). Yes ☐ No ☐

GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

Plaintiff is claiming that her termination was discriminatory based on gender and age in violation of NJLAD-NJSA 10:5-1 *et. seq.* Defendants moved for summary judgment which was granted by Hon. Andrew Smithson on February 5, 2003, which was scheduled by the court to be heard on the first day of trial.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THIS APPEAL, AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R.2:6-2(a) (5).
 Appellant or cross appellant only.

- 1) Did the law division Judge improperly weigh the evidence when granting summary judgment on Plaintiff's gender and age discrimination claims.
- 2) Did the law division Judge improperly use a standard of "pretext plus" in determining that defendants' motion for summary judgment be granted.

All civil appeals will be screened under the Civil Appeals Settlement Program to determine their potential for settlement or, in the alternative, a simplification of issues, abbreviation of transcript and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question.

State whether you think this case may benefit from a conference. Yes ___ No X
A negative response will not necessarily rule out the scheduling of a pre-argument conference.

Explain your answer:

The parties have a fundamental legal dispute with regard to the recoverability of damages on lost stock options. Without this issue being decided, the parties are too far apart to benefit from a conference.

IS THERE ANY CASE NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

(A) Arises from substantially the same case or controversy as this appeal?

Yes ___ No X

(B) Involves an issue that is substantially the same, similar, or related to an issue in this appeal?

Yes ___ No X

IF YES, STATE:

Case Name:

Docket No:

DO YOU EXPECT TO FILE A LETTER BRIEF (Rule 2:6-2(b))?

Yes ___ No X

The time in which to file your brief and appendix is governed by court rule unless modified by court order. If any circumstances exist which might justify a shorter or longer period of time within which to file your brief and appendix other than that provided by Rule 2:6-11, give a detailed explanation. Your answer does not alter the time limit set forth in the Rules of Court.

In the event there is any change with respect to any entry on the Case Information Statement, appellant shall have a continuing obligation to file an amended Case Information Statement on the prescribed form.

Marie DeWees, Appellant

February 12, 2003
Date

Jon W. Green


Signature of Counsel of Record

EXHIBIT 4

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3034-02T3

MARIE DEWEES,

Plaintiff-Appellant,

v.

RCN CORPORATION, DAVID MCCOURT,
MICHAEL MAHONEY and KENNETH KNUDSEN,

Defendants-Respondents.

Argued: December 17, 2003 - Decided: JUL 21 2004

Before Judges Kestin, Axelrad and
Winkelstein.

On appeal from the Superior Court of New
Jersey, Law Division, Civil Part, Mercer
County, L-175-00.

Glen D. Savits argued the cause for
appellant (Green & Savits, attorneys; Jon W.
Green and, with Mr. Savits, on the brief).

Cynthia M. Jacob argued the cause for
respondents (Collier, Jacob & Mills,
attorneys; Ms. Jacob, of counsel and on the
brief with Franco Mazzei).

PER CURIAM

Plaintiff, Marie Dewees, sued in the Law Division,¹ alleging unlawful discrimination in employment on the basis of age and gender as proscribed in the Law Against Discrimination, N.J.S.A. 10:5-1 to -42. Defendant RCN Corporation (RCN) was the employer. Defendants David McCourt, Michael Mahoney and Kenneth Knudsen² were alleged to be executives of the corporate employer. All defendants have been jointly represented throughout.

Plaintiff appeals from the trial court's order granting summary judgment to all defendants, dismissing the complaint. Since oral argument of the appeal, RCN has filed a voluntary petition in the United States Bankruptcy Court for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C.A. §§ 101-1330. RCN has invoked the automatic stay provisions of 11 U.S.C.A. § 362(a)(1). Manifestly, the appeal must be stayed in respect of RCN until the Bankruptcy Court grants plaintiff relief from the stay or the bankruptcy proceedings are concluded without prejudice to plaintiff's claims.

As far as we know, defendants McCourt and Mahoney are not bankruptcy debtors. Therefore, the automatic stay provision

¹ The complaint was initially filed on behalf of plaintiff and another claimant whose claims were severed and litigated separately.

² Plaintiff is not pursuing any claims against defendant Knudsen.

does not apply to plaintiff's claims against them as individuals.

We cannot determine, on the existing record, the extent to which the potential liability of the individual defendants can be separated, if at all, from the potential liability of the corporate defendant. It seems clear, however, that the unlawful discrimination claims advanced in the complaint cannot be fruitfully and fully adjudicated until RCN's status and its amenability to judgment are clarified.

Accordingly, we dismiss the appeal without prejudice to its reinstatement on motion without further fee once relief from the automatic stay has been granted or the bankruptcy proceedings have concluded.

I hereby certify that the foregoing
is a true copy of the original on file
in my office.

John F. Flynn

CLERK OF THE APPELLATE DIVISION

EXHIBIT 5



American International Companies®

POLICY NUMBER:
214-24-46

EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY

RENEWAL OF:
872-93-00

- ☐ AIO Insurance Company
☐ American Home Assurance Company
☐ American International Pacific Insurance Company
☐ American International South Insurance Company
☐ Birmingham Fire Insurance Company of Pennsylvania
☐ Granite State Insurance Company
☐ Illinois National Insurance Company
☒ National Union Fire Insurance Company of Pitts., PA
☐ National Union Fire Insurance Company of Louisiana
☐ New Hampshire Insurance Company
- (each of the above being a capital stock company)

NOTICE: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OF THIS POLICY IS GENERALLY LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE THEREUNDER WITH YOUR INSURANCE AGENT OR BROKER.

NOTICE: THE LIMIT OF LIABILITY AVAILABLE TO PAY JUDGMENTS OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED FOR LEGAL DEFENSE. AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE RETENTION AMOUNT.

NOTICE: THE INSURER DOES NOT ASSUME ANY DUTY TO DEFEND. HOWEVER THE INSURED MAY UNDER CERTAIN CONDITIONS TENDER THE DEFENSE OF A CLAIM. IN ALL EVENTS, THE INSURER MUST ADVANCE DEFENSE COSTS PAYMENTS PURSUANT TO THE TERMS HEREIN PRIOR TO THE FINAL DISPOSITION OF A CLAIM.

DECLARATIONS

ITEM 1. NAMED ENTITY: RCN CORPORATION

MAILING ADDRESS: 105 CARNEGIE CENTER
PRINCETON, NJ 08540

STATE OF INCORPORATION OR STATE OF FORMATION OF THE NAMED ENTITY:
Delaware

ITEM 2. SUBSIDIARY COVERAGE: any past, present or future Subsidiary of the Named Entity

ITEM 3. POLICY PERIOD: From: April 12, 2002 To: April 12, 2003
(12:01 A.M. standard time at the address stated in Item 1.)

ITEM 4. LIMIT OF LIABILITY: \$10,000,000 aggregate for all loss combined (including Defense Costs)

ITEM 5. RETENTION:
Judgments, Settlements and
Defense Costs (non-indemnifiable Loss) None

7034040

67547 (4/97) INSU Archive Copy

RR 15 2804-09:01 FR BIG MERGERS & ACQUISITIONS

Judgements, Settlements and Defense Costs
(Company and Indemnifiable Loss)

\$150,000

for Loss arising from Claims alleging the same
Employment Practices Violation or related
Employment Practices Violation (waivable under
Clause 6 in certain circumstances)

ITEM 6. CONTINUITY DATES:

- A. All coverages (other than Outside Entity Coverage): April 12, 1999
B. Outside Entity Coverage: Per Outside Entity: April 12, 1999

ITEM 7. PREMIUM:

+ \$856 Surcharge

ITEM 8.

NAME AND ADDRESS OF INSURER (hereinafter "Insurer"):
(This policy is issued only by the insurance company indicated below.)

National Union Fire Insurance Company of Pittsburgh, Pa.

175 Water Street

New York, NY 10038

7034040

67547 (4/97)

INSU Archive Copy

IN WITNESS WHEREOF, the Insurer has caused this
Declarations Page by its President, a Secretary and a du
the Insurer.

Elizabeth M. Tuck
SECRETARY

Po

AUTHORIZED REPRESENTAT

COUNTERSIGNATURE DATE

C

J&H MARSH & MCLENNAN INC
1166 AVENUE OF THE AMERICAS
38th FLOOR
NEW YORK, NY 10036

7034040

67547 (4/97) INSU
Archive Copy

EXHIBIT 6

Express

USA Airbill

FedEx
Tracking
Number

8464 2016 2420

Form
FD-550

0215

Base price and fees

7/26/14

Sender's FedEx
Account Number

0888-24 73-5

JON GREEN

Phone (973) 645-7777

GREEN & SAVITS, LLC

35 AIRPORT RD STE 250

Dept./Floor/Suite/Room

DORRIS TOWN

State NJ

ZIP 07960-4642

Internal Billing Reference
Letters will appear on invoice

UNITED STATES BANKRUPTCY COURT

1 FedEx location, print address

We cannot deliver to P.O. boxes or P.O. ZIP codes.

ONE BOWLING GREEN

New York

State NY

ZIP 10004

Dept./Floor/Suite/Room

By using this Airbill you agree to the service conditions on the back of this Airbill
and in our current Service Guide, including terms that limit our liability.Questions? Visit our Web site at fedex.com
or call 1.800.Go.FedEx® 800.463.3339.

0273425942

4a Express Package Service

Packages up to 150 lbs.
Delivery commitment may be later in some areas.☒ FedEx Priority Overnight
Next business morning☐ FedEx Standard Overnight
Next business afternoon☐ FedEx First Overnight
Earliest next business morning
delivery to select locations☐ FedEx 2Day
Second business day
FedEx Envelope rate not available. Minimum charge: One-pound rate.☐ FedEx Express Saver
Third business day

4b Express Freight Service

Packages over 150 lbs.
Delivery commitment may be later in some areas.☐ FedEx 1Day Freight*
Next business day☐ FedEx 2Day Freight
Second business day☐ FedEx 3Day Freight
Third business day

* Call for Confirmation

* Declared value limit \$500

5 Packaging

☒ FedEx Envelope*☐ FedEx Pak*
Includes FedEx Small Pak, FedEx
Large Pak, and FedEx Study Pak☐ Other

6 Special Handling

☐ SATURDAY Delivery☐ HOLD Weekday
at FedEx Location☐ HOLD Saturday
at FedEx LocationFedEx Priority Overnight, FedEx 2Day,
FedEx 1Day Freight, and FedEx 2Day
Freight to select ZIP codes.
Does this shipment contain dangerous goods?

FedEx First Overnight

FedEx Priority Overnight and
FedEx 2Day to select locations☐ No☐ Yes
As per attached
Shipper's Declaration☐ Yes
Shipper's Declaration
not required☐ Dry Ice
Dry Ice, 9 UN 1845☐ Cargo Aircraft Only

7 Payment Bill to:

☒ Sender
Account No. in Section
1 will be billed.☐ Recipient☐ Third Party☐ Credit Card☐ Cash/CheckFedEx Acct. No.
Credit Card No.Exp.
Date

Total Packages

Total Weight

Total Declared Value†

\$.00

FedEx Use Only

† Our liability is limited to \$100 unless you declare a higher value. See back for details.

8 Release Signature

Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature
and agree to indemnify and hold us harmless from any resulting claims.

447

SAS • FedEx Date 5/02 • Pax #157610 • 01961 • X03 FedEx • PRINTED IN U.S.A.

GREEN & SAVITS, LLC

Jon W. Green [†]
Glen D. Savits [†]

Stephanie D. Gironda

[†] Admitted in New York
◆ Certified Civil Trial Attorney

35 Airport Road, Suite 350
Morristown, New Jersey 07960
(973) 695-7777
Fax: (973) 695-7788
www.greensavits.com

Of Counsel
Richard Brown
55 Maple Avenue
Morristown, New Jersey 07960
(973) 451-0077

July 26, 2004

Via Federal Express

Clerk, United States Bankruptcy Court
One Bowling Green
New York, NY 10004

**Re: Proof of Claim of Marie DeWees
In re RCA Corporation, et al.
Case No. 04-13638**

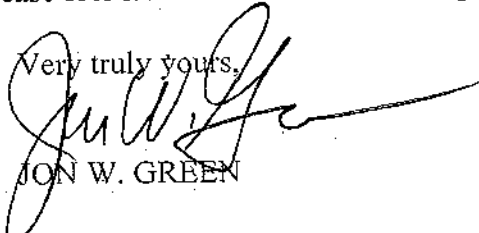
Dear Sir/Madam:

Enclosed please find three (3) originally signed copies of a Proof of Claim executed by Marie DeWees with attached Rider which we request that you please file.

Also enclosed is a self-addressed, stamped envelope for the Court's use in returning the filed copy back to the undersigned.

If you should have any questions, please feel free to contact the undersigned.

Very truly yours,


JON W. GREEN

JWG:lp

Encls.

cc: Marie DeWees (w/o enc.)

CORPORATION
BOX 5043 BOWLING GREEN STATION
YORK, NY 10274-5043

Debtor Against Which Claim is Held
CORPORATION

Chapter 11 Case No.
04-13638 (RDD)
(Jointly Administered)
Case No. of Debtor
Case No: 04-13638(RDD)

This form should not be used to make a claim for an administrative expense
commencement of the case. A request for payment of an
expense may be filed pursuant to 11 U.S.C. § 503.

Name and address of Creditor:
APID: 1-F6-188
ACN (MERGE.DBF,SCHED_NO) SCHEDULE #: 638001420*****
MARIE DEWEES
70 VAN LIEUS ROAD
RINGBROS NJ 08551

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
☐ Check box if you have never received any notices from the bankruptcy court in this case.
☐ Check box if the address differs from the address on the envelope sent to you by the court.



Your claim is scheduled by the Debtor as:
\$0.00 UNSECURED
UNLIQUIDATED
DISPUTED
CONTINGENT

File number:
or other number by which creditor identifies debtor:

Check here if this claim:
☐ replaces ☐ amends a previously filed claim, dated: _____

Basis for Claim:
☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☐ Other _____ (explain)

☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)
☒ Wages, salaries, and compensation (fill out below)
Last Four Digits of your SS#: _____
Unpaid compensation for services performed
from 1/13/98 to 2/29/00

Date debt was incurred:
1/13/98 - 2/29/00

3. If court judgment, date obtained:
N/A

Total Amount of Claim at Time Case Filed: \$ 4,525,000.00 (unsecured nonpriority) + 0 (secured) + 0 (unsecured priority) = 4,525,000.00 (Total)
See Attached Rider

If all or part of your claim is secured or entitled to priority, also complete item 5 or 7 below.
Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemize statement of all interest or additional charges.

Secured Claim.
Check this box if your claim is secured by collateral (including a right of setoff).
Brief Description of Collateral:
☐ Real Estate ☐ Motor Vehicle
☐ Other _____
Value of Collateral: \$ _____
Amount of mortgage and other charges at time case filed included in secured claim, if \$ _____

7. Unsecured Priority Claim.
☐ Check this box if you have an unsecured priority claim
Amount entitled to priority \$ _____
Specify the priority of the claim:
☐ Wages, salaries or commissions (up to \$4,925), earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
☐ Up to \$2,225 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
☐ Other Specify applicable paragraph of 11 U.S.C. § 507(a)(_____).

Unsecured Nonpriority Claim: \$ 4,525,000.00
Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.

Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.
Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien.
DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.
Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

THIS SPACE FOR CREDITOR USE ONLY

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):
Marie Dewees

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

RIDER TO PROOF OF CLAIM

1.	Estimated Damages:	\$3,250,000.00
2.	Estimated pre-judgment interest from 1/13/00 to present at 5 per cent per annum	975,000.00
3.	Estimated attorneys' fees and costs through completion	<u>300,000.00</u>
	Total	\$4,525,000.00

3. On July 30, 2004, I also forwarded copies of the above-listed documents via regular mail to the Creditors (see attached list) by either electronic filing or regular mail.

4. On July 30, 2004, I also forwarded copies of the above-listed documents via Federal Express to Brian Kelly, Esq., Skadden Arps, Four Times Square, New York, New York 10036.

I certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me is willfully false, I am subject to punishment.

GREEN & SAVITS, LLC
Attorneys for Creditor, Marie DeWees

By: 
Louise Petruzelli

Dated: July 30, 2004

Master Service List

RCN Corporation
Via Electronic Filing

Brian Kelly, Esq.
Via Electronic Filing

United States Trustee
Via Electronic Filing

Milbank, Tweed, Hadley & McCloy
Via Electronic Filing

Simpson, Thacher & Bartlett, LLP
Via Electronic Filing

Paul, Hastings, Janofsky & Walker
Via Electronic Filing

Kelley Drye & Warren, LLP
Via Electronic Filing

United States Attorney for the
Southern District of New York
Via Electronic Filing

Tudor Investment Group
Via Electronic Filing

York Capital Management
Via Electronic Filing

HSBC Bank USA
Via Electronic Filing

Lowenstein Sandler
Via Electronic Filing

Esther E. Tryban Telser
Via Electronic Filing

Securities and Exchange Commission
Via Regular Mail

Andrews Kurth, LLP
Via Electronic Filing

Blank Rome, LLP
Via Electronic Filing

Alan D. Halperin, Esq.
Via Electronic Filing

Richard Beheler
Via Electronic filing

Ben H. Logan, Esq.
Via Electronic Filing

Morrison & Foerster, LLP
Via Electronic Filing

Michael Cardozo
Via Electronic Filing

Arnall Golden Gregory LLP
Via Electronic Filing

Patterson, Belknap, Webb & Tyler
via Electronic Filing

Dwyer, Smith, Gardner
Via Electronic Filing

Elena Lazarou, Esq.
Via Electronic Filing

Federal Communications Comm.
Via Regular Mail

Internal Revenue Service
Via Regular Mail