

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

Ret. July 1, 2004

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|                               |   |                         |
|-------------------------------|---|-------------------------|
| 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.: 22-3498533        | : |                         |

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NOTICE OF MOTION FOR AN ORDER MODIFYING AUTOMATIC  
STAY PURSUANT TO 11 U.S.C. SECTION 362(d)(1)

Creditor, Jennifer Shuman has filed papers with the court seeking relief from the automatic stay pursuant to 11 U.S.C. § 362 for the purpose of proceeding with a settlement with the Debtor's insurer in the matter of Jennifer Shuman v. RCN Corporation, et al., Docket No. MID-L-3645-02, Law Division, State of New Jersey, County of Middlesex.

**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 to consider your views on the motion, then on or before 4:00 p.m., June 29, 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:

Neal M. Unger, Esq.

Neal M. Unger, P.C.  
100 Plainfield Ave., Suite 3  
Edison, NJ 08817

The Order seeking Relief from the Automatic Stay will be presented to the Honorable Robert D. Drain, U.S.B.J. on July 1, 2004 at 12:00 p.m. If objection is filed by 4:00 p.m., June 29, 2004, this matter will be heard on July 1, 2004 at 10:00 a.m.

Please take further notice that objections, if any, to the relief requested in the within application shall be in writing, shall conform to Federal Rules of Bankruptcy Procedure and Local Rules of Bankruptcy Procedure, shall set forth the name of the objectant, the nature and amount of interests held or asserted by objectant against debtor's estate, the basis for objection and specific grounds therefor, and shall be filed with the Bankruptcy Court electronically in accordance with general order M-182 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) by registered users of the Bankruptcy court's case filing system and by all other parties in interest, on a 3.5 inch disk preferably in portable document format (PDF), word/perfect, or any other windows based word processing format with a hard copy delivered directly to chambers and served in accordance with general order M-182, and shall be further served upon: the office of the United States Trustee, 33 Whitehall Street, Suite 2100, New York, NY 1004, Rick Morris, Esq., Skadden, Arps, Slate, Meagher & Flom, LLP, 4 Times Square, New York, NY 10036, Attorney for Debtor, and, Deirdre Sullivan, Esq., Milbank, Tweed, Hadley & McCoy, LLP, 1 Chase Manhattan Plaza, New York, NY 10005-1413, counsel for the creditors' committee, so as to be actually received no later than June 29, 2004 at 4:00 p.m. eastern time. Unless objections are received by that time, there will not be a hearing and the order may be signed.

If an objection is filed prior to 4:00 p.m. June 29, 2004, this matter will be heard on July 1, 2004 at 10:00 a.m. by the Hon. Robert D. Drain, U.S.B.J., Courtroom 6102  
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: June 21, 2004

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Neal M. Unger, Esq.  
100 Plainfield Ave., Suite 3  
Edison, NJ 08817  
(732) 985-8666  
Attorney for Jennifer Shuman

## CERTIFICATION OF SERVICE

I, Neal M. Unger hereby certifies as follows:

1. On June 21, 2004, I caused a true copy of the Notice of Motion for an Order Modifying Automatic Stay, a Certification in Support of Motion for an Order Modifying Automatic Stay, a letter brief and a copy of the proposed form of Order to be filed via Hand Delivery with the Clerk of the United States Bankruptcy Court, Southern District of New York at One Bowling Green, New York, NY 10004-1408 with true copies of same being served upon the United States Trustee, 33 Whitehall Street, Suite 2100, New York, NY 1004, Rick Morris, Esq., Skadden, Arps, Slate, Meagher & Flom, LLP, 4 Times Square, New York, NY 10036, Attorney for Debtor, and counsel for the creditors' committee, Deirdre Sullivan, Esq., Milbank, Tweed, Hadley & McCoy, LLP, 1 Chase Manhattan Plaza, New York, NY 10005-1413.

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

\_\_\_\_\_  
Neal M. Unger, Esq.

Dated: June 21, 2004

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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| In re                         | : | Case No. 04-13638 (RDD) |
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| RCN CORPORATION, et al.       | : | Chapter 11              |
|                               | : |                         |
| Debtors.                      | : | (Jointly Administered)  |
|                               | : |                         |
| Address: 105 Carnegie Center  | : |                         |
| Princeton, NJ 08540           | : |                         |
|                               | : |                         |
| Employer's Tax Identification | : |                         |
| (EIN) Nos.: 22-3498533        | : |                         |

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CERTIFICATION OF NEAL M. UNGER, ESQ. IN SUPPORT OF CREDITOR,  
JENNIFER SHUMAN'S MOTION FOR AN ORDER MODIFYING AUTOMATIC  
STAY PURSUANT TO 11 U.S.C. SECTION 362(d)(1)

I, NEAL M. UNGER, of full age hereby certify as follows:

1. I am an attorney at law of the State of New Jersey and the State of New York, and the attorney for the Creditor, Jennifer Shuman. In such capacity, I am fully familiar with the facts that I am about to relate herein.

2. I represent the plaintiff, Jennifer Shuman in the matter of Jennifer Shuman v. RCN Corporation, et al., Docket No. MID-L-3645-02, which is filed in the Law Division, State of New Jersey, County of Middlesex. This is a gender/pregnancy discrimination matter brought pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq and common law.

3. On March 22, 2004, the parties reached a settlement of the above litigation for a total sum of \$200,000.00.

4. Debtor, RCN Corporation maintains insurance coverage under an Employment Practices Liability Insurance Policy with an American International Insurance Group Company,

National Union Fire Insurance Company of Pittsburg, PA (hereinafter, "AIG"), Policy No. 214-24-46, which provides coverage for plaintiff Jennifer Shuman with regard to the aforementioned settlement. See declarations page attached hereto as Exhibit "A."

5. AIG has agreed to pay the full amount of the monetary settlement to Jennifer Shuman. It is understood that no part of the settlement amount shall come from the bankruptcy estate.

6. Granting the relief sought and permitting Ms. Shuman's settlement to proceed is reasonable since no monies are to be paid by the debtors and, therefore, there is no impairment of the bankruptcy estate. The settlement has no connection with and cannot interfere with the administration of the within matter.

7. Accordingly, I respectfully request that the Court enter an Order granting relief modifying the automatic stay pursuant to 11 U.S.C. § 362 for the purpose of permitting the parties to proceed with consummating settlement reached in the matter of Jennifer Shuman v. RCN Corporation, et al., Docket No. MID-L-3645-02, Law Division, State of New Jersey, County of Middlesex.

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

Date: June 21, 2004

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Neal M. Unger, Esq.  
100 Plainfield Ave., Suite 3  
Edison, NJ 08817  
(732) 985-8666  
Attorney for Jennifer Shuman



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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| In re                         | : | Case No. 04-13638 (RDD) |
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| RCN CORPORATION, et al.       | : | Chapter 11              |
|                               | : |                         |
| Debtors.                      | : | (Jointly Administered)  |
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| Address: 105 Carnegie Center  | : |                         |
| Princeton, NJ 08540           | : |                         |
|                               | : |                         |
| Employer's Tax Identification | : |                         |
| (EIN) Nos.: 22-3498533        | : |                         |

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ORDER MODIFYING AUTOMATIC STAY

**THIS MATTER** having been opened to the Court by Neal M. Unger, Esquire, attorney for Creditor, Jennifer Shuman and the Court having considered the papers submitted, and it appearing to the Court that cause exists under 11 U.S.C. Section 362 (d)(1) to grant the requested relief;

**IT IS ON THIS DAY OF July, 2004,**

**ORDERED** that Jennifer Shuman is hereby granted relief from the Automatic Stay solely for the purpose of proceeding with the settlement reached in the matter of Jennifer Shuman v. RCN Corporation, et al., Docket No. MID-L-3645-02, Law Division, State of New Jersey, County of Middlesex; and

**IT IS FURTHER ORDERED** that the debtor RCN Corporation's employment risks insurance carrier, American International Group shall be permitted to make all settlement payments to Jennifer Shuman as set forth in that certain settlement agreement previously entered into between Jennifer Shuman and RCN Corporation in the matter of Jennifer Shuman v. RCN

Corporation, et al., Docket No. MID-L-3645-02, Law Division, State of New Jersey, County of Middlesex; and

**IT IS FURTHER ORDERED** that a copy of this Order be served upon counsel for the Debtor and the United States Trustee's Office within        days of the date hereof.

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Hon. Robert D. Drain, U.S.B.J.



June 21, 2004

Hon. Robert D. Drain, U.S.B.J.  
United States Bankruptcy Court  
Southern District of New York  
Courtroom 610  
One Bowling Green  
New York, NY 10004-1408

Re: In Re RCN Corporation, et al.  
Case No. 04-13638 (RDD)

Dear Judge Drain:

I represent the creditor, Jennifer Shuman with regard to the above-referenced matter. Kindly accept this letter brief in lieu of a more formal brief in support of Jennifer Shuman's motion for relief from the automatic stay pursuant to 11 U.S.C. § 362.

As described in my Certification, I represent Jennifer Shuman, who is the plaintiff in the New Jersey Superior Court matter of Jennifer Shuman v. RCN Corporation, et al., Docket No. MID-L-3645-02, which is filed in the Law Division, State of New Jersey, County of Middlesex. This is a gender/pregnancy discrimination matter brought pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq and common law.

I am requesting relief from the automatic stay in this matter for the sole purpose of proceeding with a settlement that has been reached between the parties, and which will be paid to Ms. Shuman by the debtor's insurer, National Union Fire Insurance Company of Pittsburg, PA ("AIG"). See declarations page attached to Unger Certification as Exhibit "A." AIG has agreed to pay the full amount of the settlement to Ms. Shuman, and there are no proceeds of the estate of debtor, RCN Corporation that will be affected by permitting the parties to proceed with their settlement in the Superior Court litigation.

Pursuant to 11 U.S.C. 362 (d):

On the request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay-

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

I submit that cause exists for granting the relief requested. As the debtor's insurance company only will be providing payment to Ms. Shuman, this will not affect any property of the debtor's estate. Therefore, neither the debtor or any other creditors could claim any prejudice resulting from the Court granting this relief.

Accordingly, I respectfully request that the Court enter an Order granting relief modifying the automatic stay pursuant to 11 U.S.C. § 362 for the purpose of permitting the parties to proceed with their settlement in the matter of Jennifer Shuman v. RCN Corporation, et al., Docket No. MID-L-3645-02, Law Division, State of New Jersey, County of Middlesex.

Respectfully submitted,

Neal M. Unger, Esq.

cc: Rick Morris, Esq.  
Deirdre Sullivan, Esq.  
United States Trustee

June 21, 2004

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

Re: In Re RCN Corporation, et al.  
Case No. 04-13638 (RDD)

Dear Sir or Madam:

I represent the creditor, Jennifer Shuman with regard to the above-referenced matter. Enclosed herein for filing please find an original and two copies of a Notice of Motion for an Order Modifying Automatic Stay, a Certification of Service, a Certification in Support of Motion for an Order Modifying Automatic Stay, a letter brief, and a copy of the proposed form of Order. Please note that this motion was previously submitted for filing on or about 6/14/04 and the filing fee of \$150.00 paid. I am currently re-filing these papers which have been corrected. I assume that only one filing fee was necessary. Enclosed herein please find a copy of the receipt for the filing fee dated June 15, 2004.

Also, enclosed please find an original and two copies of a Motion for Admission to Practice *Pro Hac Vice* and Order, along with a diskette containing the motion in PDF format and a check in the amount of \$25.00.

Would you kindly return a stamped filed copy to my office in the enclosed self-addressed stamped envelope. Thank you for your attention to this matter.

Very truly yours,

Neal M. Unger, Esq.

Encls.

cc: (w/ Encls.) Rick Morris, Esq. Via UPS Next Day Air  
(w/ Encls.) Deirdre Sullivan, Esq. Via UPS Next Day Air  
(w/ Encls.) Hon. Robert D. Drain, U.S.B.J. (w/ Enc.) Via regular first class mail  
(w/ Encls.) United States Trustee Via UPS Next Day Air