

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE)
) No. 04 B 13638
RCN CORPORATION, et al.)

NOTICE OF MOTION TO LIFT STAY

See attached service list.

Please take notice that on the 30th day of July, 2004, at 10:00a.m., I shall appear before the Honorable Judge Robert D. Drain, or any other Judge sitting in his stead, in the courtroom usually occupied by him in the Alexander Hamilton Custom House, New York City, New York and then and there present for hearing PETITIONER, BARBARA REDMOND'S MOTION TO LIFT STAY, a copy of which is herewith served upon you.

One of the Attorneys for Barbara Redmond

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MOTION TO LIFT STAY

The petitioner, Barbara Redmond, by her attorneys Mark S. Dym, Mark Weiner and Gessler Hughes Socol Piers Resnick & Dym, Ltd., pursuant to Title 11, section 362(d)(1), respectfully requests this Court to modify the stay entered on May 27, 2004. The petitioner states:

1. Petitioner filed a lawsuit against RCN Telecom Services of Illinois, Inc. and various other defendants in the Circuit Court of Cook County, Illinois, on March 23, 2003, case number 03 L 3624.

2. The basis of the lawsuit are personal injuries suffered on or about November 12, 1999, as the result of the negligence by RCN Telecom Services of Illinois, Inc.

3. As a result of this incident, the petitioner has expended and will continue to expend large sums of money for hospital and medical treatments related to the injuries.

4. RCN Telecom Services of Illinois, Inc. was named or covered by liability insurance for such claims made by the petitioner in her lawsuit against RCN Telecom Services of Illinois, Inc.

5. The insurance referred to in paragraph 4 was issued by Amerisure Insurance Companies.

6. The insurance policy was in full force and effect on the date of the incident.

7. Since petitioner's claim is covered by liability insurance, and the debtor's insurer has assumed full responsibility for defending it, continuation of the State Court action should be permitted as the hardship to the petitioner considerably outweighs any hardship to the debtor, IN Re Bock Laundry Machine Co., 37 B.R. 564(N.D. Ohio 1984).

8. Continuation of the State Court action would not effect the status of the bankruptcy estate or the debtor and would result in a resolution of the issues, In Re Abrantes Const. Corp., 132 B.R. 234(N.D.N.Y. 1991).

9. Continuation of the State Court case does not interfere with the bankruptcy case and does not prejudice the interests of other creditors, In Re Abrantes, 132 B. R. at 237, 238.

10. Continuation of the State Court case is in the best interests of judicial economy and the expeditious and economical resolution of litigation, In Re Abrantes, 132 B.R. at 238.

Petitioner moves this Honorable Court for the entry of an Order modifying the current stay in this cause so as to permit the continuation of the State Court action in the Circuit Court of Cook County, Illinois, under case number 03 L 3624.

One of the Attorneys for Barbara Redmond

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CERTIFICATE OF SERVICE

The undersigned, an attorney, on oath states that he served a true and complete copy of the foregoing pleading via email on July 1, 2004, to, and by mailing a copy to Mr. Neal Unger:

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