

\*FILE ORIGINAL FOR CHAPTERS 7 and 11, IN DUPLICATE FOR CHAPTER 13, FOR DATE-STAMPED COPY, SEE #9 BELOW

<b>United States Bankruptcy Court</b>		<input type="checkbox"/> CH 7 <input type="checkbox"/> CH 13 <input checked="" type="checkbox"/> CH 11
Northern District of Illinois, Eastern Division		<b>PLEASE CHECK CHAPTER</b>
Name of Debtor <b>KMART CORPORATION, et al.</b>		Case Number <b>02-B02474</b>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503		<b>PROOF OF CLAIM</b>
Name of Creditor (The person or other entity to whom the debtor owes money or property) <b>Judy M. Wood</b>	<input type="checkbox"/> 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.	File Claim Form With:  United States Bankruptcy Court P. O. Box A3613 Chicago, Illinois 60690-3612  Creditor # _____  <b>THIS SPACE IS FOR COURT USE ONLY</b>
Name and Address Where Notices Should be Sent <b>Kelly &amp; West, Attorneys At Law Post Office Box 1118 Lillington, North Carolina 27546 Telephone No. (910) 893-8183</b>	<input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Account or other number by which creditor identifies debtor: <b>Lee County 01 CVS 00781</b>	Check here if this claim <input type="checkbox"/> amends <input type="checkbox"/> replaces   a previously filed claim dated: _____	
<b>1. BASIS FOR CLAIM</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Wages, salaries, and compensation (Fill out below) <input type="checkbox"/> Money loaned <input checked="" type="checkbox"/> Personal injury/wrongful death                      Your social security number _____ <input type="checkbox"/> Taxes <input type="checkbox"/> Other _____                      Unpaid compensation for services performed <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114 (a)                      from _____ to _____ (date)		
<b>2. DATE DEBT WAS INCURRED:</b> <u>September 10, 1999</u>		<b>3. IF COURT JUDGMENT, DATE OBTAINED:</b>
<b>4. Total Amount of Claim at Time Case Filed:</b> \$ <u>in excess of \$10,000.00</u> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
<b>5. Secured claim</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff).  Brief Description of Collateral:  <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____  Value of collateral: \$ _____  Amount of arrearage and other charges at time case filed included in secured claim above, if any: \$ _____	<b>6. Unsecured Priority Claim</b> <input type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300), *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) <input type="checkbox"/> Contributions to an employee benefit plan-11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child -11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental units 11 U.S.C. § 507(a)(8) <input checked="" type="checkbox"/> Other—Specify applicable paragraph of 11 U.S.C. § 507(a) _____ *Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	
<b>7. CREDITS:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. <b>8. SUPPORTING DOCUMENTS:</b> <i>Attach copies of supporting documents</i> , 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. ANY ATTACHMENT MUST BE 8-1/2" BY 11" <b>9. DATE-STAMPED COPY:</b> To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and an additional copy of this proof of claim.		<b>THIS SPACE IS FOR COURT USE ONLY</b> <b>FILED</b> UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS  <b>FEB 25 2002</b>  <b>KENNETH S. GARDNER, CLERK</b> <b>MAILROOM - LL</b> <b>370 2/25/02 ML</b>
Date: <b>2/19/02</b>	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)  <i>[Signature]</i> <b>7</b>	
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.		



6. That on or about September 10, 1999, Defendant K Mart Corporation, or alternatively KMart of North Carolina LLC, acting by and through its agents and employees, including Defendant Charles Adams undertook to fill a prescription for the drug Navane, a psychotropic agent prescribed by Dr. Thomas A. Wilson, a Psychiatrist for the management of manifestations of psychotic disorders.
7. That Defendant K Mart Corporation, or alternatively KMart of North Carolina LLC acting by and through its agents and employees, including Defendant Charles Adams, in attempting to fill the above described prescription dispensed the drug Artane instead of Navane into the bottle marked "Navane". Artane, an antispasmodic drug, was never prescribed for Plaintiff by any of her physicians or other health care providers.
8. That Defendant K Mart Corporation, or alternatively KMart of North Carolina LLC, by and through its agents and employees, Defendant Charles Adams, failed to dispense the medication specifically prescribed for Plaintiff for the treatment and control of psychiatric illness, and symptoms thereof.
9. That Defendant K Mart Corporation, or alternatively K Mart of North Carolina LLC, impliedly warranted to Plaintiff that the drug dispensed (Artane) was in fact the drug prescribed (Navane) and assured Plaintiff that the drug dispensed was the drug prescribed by Doctor Wilson, which warranty and assurance was in fact false, and which Defendant K Mart and its employees, including Defendant Charles Adams knew or should have known was in fact false.
10. That Defendant K Mart Corporation, or alternatively K Mart of North Carolina LLC, by and through its employees including Defendant Charles Adams, when inquired by Plaintiff or members of Plaintiff's family upon realizing that the drug dispensed (Artane) had a different appearance than the drug prescribed and dispensed on previous occasions, expressly warranted and assured Plaintiff that the drug dispensed (Artane) was the same as the drug prescribed (Navane), without making reasonable inquiries of Plaintiff or the dispensed drug, or prescription bottle and Defendant K Mart Corporation and its employee Defendant Charles Adams negligently allowed Plaintiff to administer a drug not prescribed for her and negligently prevented Plaintiff from the administration of a drug that was specifically prescribed for her.

11. That the Defendant Charles Adams was negligent in dispensing the wrong medicine to Plaintiff, in failing to dispense the medicine specifically prescribed to Plaintiff, and failing to take reasonable steps to make sure the medicine actually dispensed was the medicine actually prescribed and intended to be dispensed and said negligence on the part of Defendant Charles Adams is imputed to Defendant K Mart Corporation, or alternatively K Mart of North Carolina LLC, by virtue of the agency relationship existing between the Defendants.
12. That as a proximate result of the negligent conduct of the Defendants K Mart and Charles Adams, the Plaintiff experienced severe psychological illness and manifestation of psychotic symptoms and had to be admitted for extended stay hospital care for psychiatric treatment at Moore Regional Hospital in Pinehurst, North Carolina.
13. That the resulting psychological effects to the Plaintiff as a result of the conduct of the Defendants, and the subsequent care and treatment attendant to Plaintiff, was foreseeable to Defendants in that, among other things, the drug prescribed and not dispensed (Navane) was specifically prescribed to prevent the psychological symptoms, illness, injury, and similar injurious result for which she was admitted and treated in the subsequent hospital stay at Moore Regional Hospital.
14. That as a proximate result of the negligence of Defendants K Mart and Charles Adams, the Plaintiff sustained illnesses and symptoms, aggravated and exacerbated illnesses and symptoms and prolonged the care and treatment thereof, received medical treatment, and incurred medical expenses therefrom, and endured pain and suffering because of her illnesses.
15. As a proximate result of negligence of Defendants and each of them jointly and severally and as a proximate result of Defendants breach of warranty, Plaintiff has been damaged in excess of Ten Thousand Dollars (\$10,000.00).

WHEREFORE, PLAINTIFF PRAYS THE COURT AS FOLLOWS:

1. That Plaintiff have and recover of the Defendants and each of them, jointly and severally, for compensatory damages in an amount in excess of Ten Thousand Dollars (\$10,000.00).
2. That all issues be tried by a jury.

3. That the costs of this action be taxed against the Defendant, including the taxing of interest imposed at the legal rate from the date of filing of the Complaint.
4. For such other and further relief as the Court may deem just, fit and proper.

This 20<sup>th</sup> day of July, 2001.

KELLY & WEST

BY: 

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