

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

United States Bankruptcy Court Northern District of Illinois, Eastern Division		<input type="checkbox"/> CH 7 <input type="checkbox"/> CH 13 <input checked="" type="checkbox"/> CH 11 PLEASE CHECK CHAPTER
Name of Debtor K-mart Corporation		Case Number 02 B 02474 PROOF OF CLAIM
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		
Name of Creditor (The person or other entity to whom the debtor owes money or property) Wilbur Amos		File Claim Form With: United States Bankruptcy Court P. O. Box A3613 Chicago, Illinois 60690-3612 Creditor # _____ THIS SPACE IS FOR COURT USE ONLY
Name and Address Where Notices Should be Sent c/o Moffett Law Firm, P.C. 6065 Roswell Road, Suite 810 Atlanta, Georgia 30328-4018 Telephone No. _____		
<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. <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: Pending lawsuit (copy attached)		<input type="checkbox"/> Check here if this claim amends <input type="checkbox"/> replaces a previously filed claim dated: _____
1. BASIS FOR CLAIM <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 from _____ to _____ (date) (date) <input type="checkbox"/> Retiree benefits as defined in 11 U.S. C. § 1114 (a)		
2. DATE DEBT WAS INCURRED: _____		3. IF COURT JUDGMENT, DATE OBTAINED: _____
4. Total Amount of Claim at Time Case Filed: \$ <u>See attached Complaint</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.		
5. Secured claim <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: \$ _____		6. Unsecured Priority Claim <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 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.
7. CREDITS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 8. 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. ANY ATTACHMENT MUST BE 8-1/2" BY 11" 9. DATE-STAMPED COPY: 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.		THIS SPACE IS FOR COURT USE ONLY KP 612 3/18/02 BANKRUPTCY
Date: 03-11-02	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) Wilbur Amos <i>Wilbur Amos</i>	
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.		

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

WILBUR AMOS,

Plaintiff,

vs.

K MART CORPORATION,

Defendant.

CIVIL ACTION FILE NO. ^{2000A} 2439

Plaintiff demands a jury trial.

COMPLAINT

COMES NOW WILBUR AMOS, Plaintiff in the above-styled action, and respectfully shows to this Honorable Court the following:

1.

That Defendant K MART CORPORATION is a corporation subject to the jurisdiction and venue of this Court, which may be served with process through its Registered Agent, to-wit: Corporation Process Company, at 180 Cherokee St. N.E., Marietta, Georgia.

2.

That on or about Sunday, August 2, 1998, at approximately 1:00 P.M., Plaintiff slipped and fell on Defendant's premises located at 1140 Roswell Rd., Marietta, Georgia.

3.

That at the time of the subject incident, Plaintiff was an invitee of the Defendant.

4.

That the Defendant's premises were unsafe and constituted a hazardous condition.

5.

That the Defendant was negligent in the maintenance of its premises.

6.

That the Defendant either knew or should have known, of the hazardous/unsafe condition of its premises.

7.

That Plaintiff did not have actual knowledge of the specific hazard/unsafe condition of the Defendant's premises.

8.

That the negligence of the Defendant's employee is imputed to the Defendant.

9.

That the aforesaid incident was caused solely and wholly through the negligence of the Defendant and its employee, without any negligence on the part of the Plaintiff contributing thereto.

10.

That as the direct and proximate result of the Defendant's negligence, as aforesaid, Plaintiff has suffered and continues to suffer from serious personal injuries, was forced to seek medical treatment and incurred expenses therefrom, loss of earnings, and suffered pain of body and mind.

11.

That the Defendant is indebted to Plaintiff in an amount to be shown by the evidence at trial for Plaintiff's medical expenses, loss of earnings, and pain and suffering caused by the Defendant's negligence.

WHEREFORE, Plaintiff Wilbur Amos prays:

- (a) That summons issue requiring the Defendant to be and appear in this Court within the time provided by law to answer this Complaint;
- (b) That Plaintiff have Judgment against Defendant for a just and equitable sum that will fairly and adequately compensate Plaintiff for the loss and damages Plaintiff has sustained and will sustain, plus interest as provided by law and costs of Court; and,
- (c) For such other and further relief as the Court deems just and proper.

Respectfully submitted,

EZOR & OLENS, P.C.



SAMUEL S. OLENS
Georgia State Bar No. 551540

EZOR & OLENS, P.C.
3715 Northside Parkway
Bldg. 300, Suite 600
Atlanta, Georgia 30327
(404) 525-7777

IN THE STATE COURT FOR THE COUNTY OF COBB
STATE OF GEORGIA

WILBUR AMOS,

PLAINTIFF,

VS.

: CIVIL ACTION

: FILE NO.: 2000a-2439-3

K MART CORPORATION,

DEFENDANT.

ANSWER

Comes now K MART CORPORATION, defendant herein, and in filing its response to the complaint of the plaintiff shows to this court the following:

FIRST AFFIRMATIVE DEFENSE

The complaint of the plaintiff fails to state a claim against this defendant on which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

This defendant is not indebted to plaintiff in any amount, inasmuch as this defendant was not negligent in any particular as alleged by plaintiff or otherwise.

THIRD AFFIRMATIVE DEFENSE

Any injury or damage to this plaintiff, which defendant

denies, resulted solely and proximately from plaintiff's own negligence.

FOURTH AFFIRMATIVE DEFENSE

In specifically responding to the numbered paragraphs of plaintiff's complaint, this defendant shows to this Court the following:

-1-

The allegations of numbered paragraph 1 of plaintiff's complaint are admitted.

-2-

This defendant is without sufficient knowledge to admit or deny the allegations of numbered paragraphs 2, 3, and 7 of plaintiff's complaint and the same are therefore denied.

-3-

The allegations of numbered paragraphs 4, 5, 6, 8, 9, 10, and 11 of plaintiff's complaint are hereby denied.

WHEREFORE, this defendant having fully answered prays its lawful discharge.

This 17th day of May, 2000.

KINNEY, KEMP, SPONCLER, JOINER & THARPE

BY: 

F. GREGORY MELTON, ATTORNEY FOR
DEFENDANT, GA. BAR NO. 501550

P.O. Box 398
Dalton, GA. 30722-0398

MOFFETT LAW FIRM, P.C.

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FEI #58-2251665

March 13, 2002

Kmart Corporation
c/o Trumbull Services
Post Office Box 426
Windsor, Connecticut 06095

**Re: K-mart Corporation, et al.
U.S. Bankruptcy Court ND IL
Case No.: 02 B 02474**

Dear Sir or Madam:

Enclosed please find the original and two (2) copies of the Proof of Claim, in connection with the above styled civil action. Please file the original with the Court and return the copy stamped "filed" in the envelope provided for your convenience.

Thank you for your cooperation in this matter.

Kindest regards,

MOFFETT LAW FIRM, P.C.



F. Glenn Moffett, Jr.

Enclosures