FORM B10 (Official Form 10) (4/98) USBC, Illinois Northern (4/1/98)

*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,** _____ **Division**

__ CH 7 __ CH13 X CH11
**PLEASE CHECK CHAPTER**

Name of Debtor: KMART CORPORATION

Case Number: 02-02474

# 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

**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 of Creditor (The person or other entity to whom the debtor owes money or property)
LILLIAN OSTERMANN

☐ 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

Name and Address Where Notices Should be Sent
Jeffrey A. Morse, P.C.
80 Cutter Mill Road, Suite 411
Great Neck, NY 11021
Telephone No (516) 498-8100

*Account or other number by which creditor identifies debtor*

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

**1. BASIS FOR CLAIM**

☐ Goods sold
☐ Money loaned
☐ Taxes
☐ Retiree benefits as defined in 11 U.S.C § 1114(a)
☐ Services performed
☒ Personal injury/wrongful death
☐ Other _____
☐ Wages, salaries, and compensation (Fill out below)
Your social security number _____
Unpaid compensation for services performed
from _____ (date) to _____ (date)

**2. DATE DEBT WAS INCURRED:** 10/12/96

**3. IF COURT JUDGMENT, DATE OBTAINED:**

**4. Total Amount of Claim at Time Case Filed:** $ 3,000,000.00
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

☐ 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**

☐ 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 arrearage and other charges at time case filed included in secured claim above, if any $ _____

**6. 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 $4,300), *earned within 90 days before 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 $1,950* of deposits toward purchases, 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) _____

**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 acknowledgement 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**

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
APR 4 2002
KENNETH S. GARDNER
MAILROOM - MM

Date: 4/2/02

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)
JEFFREY A. MORSE, P.C.
By: Richard G. Martino, Esq. Richard G. Martino

*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

1425
04/04/02

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

----------x

**LILLIAN OSTERMAN,**

Plaintiff,

-against-

**K-MART CORPORATION** and **ALLSTATE BUILDING SERVICES, INC.,**

Defendants.

----------x

Index No. 018590/98

Plaintiff designates Queens County as the place of trial

The basis of the venue is: plaintiff resides in Queens County

**SUMMONS**

Plaintiff resides at
66-07 65th Avenue
Fresh Meadows, NY 11365
County of Queens

To the Above Named Defendant:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons to serve a notice of appearance, on the plaintiff's attorneys, within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Great Neck, New York
July 24, 1998

**HODES & MORSE**
Attorneys for Plaintiff
80 Cutter Mill Road
Great Neck, NY 11021
(516) 466-9600

RECEIVED
AUG 24 1998
COUNTY CLERK
QUEENS COUNTY

**Defendant's Address:**
**K-MART CORPORATION**
3100 West Big Beaver Road
Troy, Michigan 48084

**ALLSTATE BUILDING SERVICES, INC.**
535 Broadhollow Road
Melville, New York 11747

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

----------x

**LILLIAN OSTERMAN,**

Plaintiff,

-against-

**K-MART CORPORATION** and **ALLSTATE BUILDING SERVICES, INC.,**

Defendants.

----------x

Index No.

**VERIFIED COMPLAINT**

Plaintiff, **LILLIAN OSTERMAN**, by her attorneys, **HODES & MORSE**, complaining of defendants, alleges as follows:

**FIRST**: Plaintiff is, and at all times hereinafter mentioned, was a resident of the State of New York, County of Queens.

**SECOND**: Upon information and belief, defendant **K-MART CORPORATION** (hereinafter referred to as "**K-MART**") is, and at all times hereinafter mentioned, was a foreign corporation duly authorized to do business in the State of New York.

**THIRD**: Upon information and belief, defendant **ALLSTATE BUILDING SERVICES, INC.** (hereinafter referred to as "**ALLSTATE**") is, and at all times hereinafter mentioned, was a domestic corporation duly organized and existing pursuant to the laws of the State of New York.

**FOURTH**: Upon information and belief, defendant **K-MART CORPORATION** (hereinafter referred to as "**K-MART**") does, and at all times hereinafter mentioned, did own the K-Mart store located at 61-11 188 Street, Fresh Meadows, New York (hereinafter referred to as the "store"), and all floors located therein.

**FIFTH**: Upon information and belief, defendant **K-MART** does, and at all times hereinafter mentioned, did operate the K-Mart store located at 61-11 188 Street, Fresh Meadows, New York (hereinafter referred to as the "**store**"), and all floor located therein.

**SIXTH**: Upon information and belief, defendant **K-MART** does, and at all times hereinafter mentioned, did manage, maintain, supervise and control the store, and all floor located therein.

**SEVENTH**: Defendant K-MART does, and at all times hereinafter mentioned, did business in the State of New York.

**EIGHTH**: Defendant **K-MART** is subject to the personal jurisdiction of the courts of the State of New York, pursuant to the provisions of CPLR Section 302(a)(1), in that it transacts business and, at all times hereinafter mentioned, transacted business, within the state, and the cause of action herein arises out of said transaction of business; defendant **K-MART** committed a tortious act within the State of New York, resulting in the injuries and damages to plaintiff.

**NINTH**: Upon information and belief, defendant **ALLSTATE** does, and

at all times hereinafter mentioned, did have the obligation to and did in fact render maintenance, cleaning, custodial and related services for the store and all floors located therien.

**TENTH:** On or about October 12, 1996, plaintiff, while walking upon and lawfully present in the store, did slip and fall due to a defective and dangerous condition on the floor thereat, and as a direct result, sustained the injuries hereinafter set forth.

**ELEVENTH**: The aforesaid accident and the injuries resulting to the plaintiff therefrom were caused solely by the negligence of the defendants, their agents, servants and/or employees, without any negligence on the part of the plaintiff contributing thereto.

**TWELFTH**: Defendants, **K-MART** and **ALLSTATE** were negligent in that said defendants, their agents, servants, representatives and/or employees, negligently operated, supervised, maintained, managed and controlled the store and the floor; negligently and carelessly stacked and placed bottles in a display; improperly stacked bottles; stacked or placed too many bottles on top of one another in a display; incorrectly and improperly stacked bottles so as to place too much weight upon the bottles on the lowest levels of the display; negligently and carelessly stacked bottles in a display without determining, considering and taking into account the number and weight of bottles which could be properly and safely stacked without causing damage

or leakage to bottles in the display; failed to correct a dangerous and hazardous condition, to wit, a leaking bottle; negligently and carelessly caused and created the aforesaid dangerous condition, by improperly stacking bottles and/or failing to correct the leak or remove the leaking bottle from the display; negligently and carelessly allowed and/or permitted a wet and slippery condition to exist and remain upon the floor; negligently and carelessly spilled and/or allowed to spill and/or failed and omitted to keep said floor free from dangerous and slippery substances; negligently and carelessly failed and omitted to block off, rope off or otherwise prevent persons from walking across or upon said dangerous, hazardous and slippery floor; negligently failed to provide safe pathways of ingress and egress and safe floors to walk upon; negligently failed and omitted to post warnings and other signs of said dangerous, hazardous and slippery substances and conditions; did allow to exist and remain upon said floor dangerous, hazardous and slippery substances and conditions; in failing to correct and remedy same or improperly correcting and improperly remedying same; in failing and omitting to remove a hazardous and slippery element or substance upon said floor and render safe said floor, or improperly and/or inadequately doing so; negligently and carelessly caused and created or directed and/or allowed a third-party to cause and create the aforesaid dangerous and hazardous condition; negligently failed and omitted to cause said dangerous condition to be treated, remedied and/or corrected, notwithstanding the fact that defendant had knowledge and notice thereof;

violated the applicable laws, statutes, ordinances, codes, rules and regulations, in failing to give and provide adequate warnings of said dangerous condition; in failing to properly, safely and adequately remove a slippery substance and condition from the floor, in failing to maintain the aforesaid floor in a safe condition, free from dangerous conditions and defects, and to protect plaintiff from the dangerous conditions thereupon existing; did allow to exist and remain upon its premises a floor which failed to meet minimum safety guidelines for resistance to slippage, in failing to correct and/or remedy a slippery and dangerous condition upon the aforesaid floor; and did otherwise fail to act with due care under the circumstances then and there prevailing.

**THIRTEENTH**: Defendants, their agents, servants, employees and/or representatives, had actual and/or constructive notice of the aforesaid condition(s), and/or created and caused same.

**FOURTEENTH**: As a result of the aforesaid occurrence, plaintiff, **LILLIAN OSTERMAN**, suffered severe injuries which are permanent in nature, was rendered sick, sore, lame and disabled, sustained severe pain and suffering, was confined to hospital, bed and home, was and will be caused to expend large sums of money for medical aid and attention and has been and will be prevented from attending to her usual occupation and vocation for a long period of time, all to plaintiff's damage in the sum of **THREE MILLION ($3,000,000.00) DOLLARS.**

**WHEREFORE**, plaintiff demands judgment against defendants, and each

of them, in the sum of **THREE MILLION ($3,000,000.00) DOLLARS**, for the costs and disbursements of this action, and for such other, further and equitable relief as may be deemed proper.

Dated: Great Neck, NY
August 5, 1998

Yours, etc.

**HODES & MORSE**
Attorneys for Plaintiff
80 Cuttermill Road
Great Neck, NY 11021
(516) 466-9600

## ATTORNEY'S VERIFICATION

STATE OF NEW YORK )
) ss.:
COUNTY OF NASSAU )

The undersigned, an attorney admitted to practice in the courts of New York State, states as follows:

I am the attorney of record for **LILLIAN OSTERMAN**, the plaintiff in the within action; I have read the foregoing **COMPLAINT**, and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by the plaintiff is that he/she resides in a different county than where my office is located.

The grounds of my belief as to the matters not stated upon my own knowledge are as follows:

Books, records, discussion with client and papers in my file.

I affirm that the foregoing statements are true under the penalties of perjury.

Dated: Great Neck, New York
August 6, 1998

JEFFREY A. MORSE

## CERTIFICATION

The foregoing VERIFIED COMPLAINT is hereby certified, pursuant to 22 N.Y.C.R.R. 130-1.1-a.

Dated: Great Neck, New York
August 6, 1998

JEFFREY A. MORSE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

----------x

**LILLIAN OSTERMANN,**

Plaintiff,

-against-

**K-MART CORPORATION** and **ALLSTATE BUILDING SERVICES, INC.,**

Defendants.

----------x

Index No. 98-018590

**VERIFIED BILL OF PARTICULARS**

Plaintiff, **LILLIAN OSTERMANN,** by her attorneys, **HODES & MORSE**, as and for her verified bill of particulars, alleges as follows:

1. None

2. The plaintiff currently resides at 166-07 65th Avenue, Flushing, New York 11365.

3. The plaintiff's date of birth is October 3, 1944.

4. The accident occurred on October 12, 1996 at approximately 12:15 p.m. at K-Mart store 4831, located at 61-11 188th Street, Fresh Meadows, New York 11365.

5. Defendant, **K-MART CORPORATION** (hereinafter referred to as **"K-MART")** was negligent in that said defendant, its agents, servants, representatives and/or employees, negligently operated, supervised, maintained, managed and controlled the store and the floor; negligently and carelessly stacked and placed

bottles in a display; improperly stacked bottles; stacked or placed too many bottles on top of one another in a display; incorrectly and improperly stacked bottles so as to place too much weight upon the bottles on the lowest levels of the display; negligently and carelessly stacked bottles in a display without determining, considering and taking into account the number and weight of bottles which could be properly and safely stacked without causing damage or leakage to bottles in the display; failed to correct a dangerous and hazardous condition, to wit, a leaking bottle; negligently and carelessly caused and created the aforesaid dangerous condition, by improperly stacking bottles and/or failing to correct the leak or remove the leaking bottle from the display; negligently and carelessly allowed and/or permitted a wet and slippery condition to exist and remain upon the floor; negligently and carelessly spilled and/or allowed to spill and/or failed and omitted to keep said floor free from dangerous and slippery substances; negligently and carelessly failed and omitted to block off, rope off or otherwise prevent persons from walking across or upon said dangerous, hazardous and slippery floor; negligently failed to provide safe pathways of ingress and egress and safe floors to walk upon; negligently failed and omitted to post warnings and other signs of said dangerous, hazardous and slippery substances and conditions; did allow to exist and remain upon said floor dangerous, hazardous and slippery substances and conditions; in failing to correct and remedy same or improperly correcting and improperly remedying same; in failing and omitting to remove a hazardous and slippery

element or substance upon said floor and render safe said floor, or improperly and/or inadequately doing so; negligently and carelessly caused and created or directed and/or allowed a third party to cause and create the aforesaid dangerous and hazardous condition; negligently failed and omitted to cause said dangerous condition to be treated, remedied and/or corrected, notwithstanding the fact that defendant had knowledge and notice thereof; violated the applicable laws, statutes, ordinances, codes, rules and regulations, in failing to give and provide adequate warnings of said dangerous condition; in failing to properly, safely and adequately remove a slippery substance and condition from the floor, in failing to maintain the aforesaid floor in a safe condition, free from dangerous conditions and defects, and to protect plaintiff from the dangerous conditions thereupon existing; did allow to exist and remain upon its premises a floor which failed to meet minimum safety guidelines for resistance to slippage, in failing to correct and/or remedy a slippery and dangerous condition upon the aforesaid floor; and did otherwise fail to act with due care under the circumstances then and there prevailing.

6. Plaintiff sustained the following injuries as a result of the occurrence:

- left knee internal derangement;
- oblique tear of the posterior horn of the medial meniscus of the left knee, communicating with the inferior meniscal surface;
- pain, swelling and buckling of left knee;
- cervical radiculopathy;

- aggravation, exacerbation and reactivation of pre-existing cervical disc bulges at C4-5 and C5-6 and related degeneration and dessication of the cervical spine;
- aggravation, exacerbation and reactivation of pre-existing disc bulges at L4-5 and L5-S1 and related degeneration and dessication of the lumbar spine;
- postconcussion headache syndrome;
- bilateral carpal tunnel syndrome.
- aggravation, exacerbation and reactivation of pre-existing vitreous detachments in both eyes;
- floaters and flashing lights;
- sequelae of the above injuries.

7. All of the above injuries are permanent, except those of a superficial nature.

All of plaintiff's injuries were attendant with extreme pain and suffering and involved the surrounding nerves, tendons, muscles, ligaments, blood vessels, bones, cartilage and other tissues.

All of the above injuries resulted in limitation of range of motion and restriction of normal function of the affected areas.

All of the above injuries have required extensive medical care and treatment and will, in the future, require additional medical care and treatment.

The above injuries and disabilities did and will, in the future, result in plaintiff's loss of the enjoyment of life and its normal pursuits and pleasures.

8. Plaintiff was not confined to a hospital.

9. Not applicable.

10. Not applicable in that plaintiff has no claim for lost earnings herein.

11. Not applicable.

12. a. physicians' services:

Joseph Carfi, M.D.
North Shore Physical Medicine
1575 Hillside Avenue
New Hyde Park, NY 11010

Richard Parker, M.D.
Orthopedist
179 Westbury Avenue
Carle Place, NY

David Fastenberg, M.D.
Orthopedist — OPR
Long Island Vitreo-Retinal
Consultants, P.C.
600 Northern Blvd.
Great Neck, NY 11021

Victor Chehebar, M.D.
Neurologist
560 Northern Blvd.
Great Neck, NY 11021

b-f. none

g-h. included in a.

i-j. none

NOTE: Plaintiff's health care providers were paid, in whole or in part, by Oxford Health Plans, Inc., 476 Wheeler Farm Road, Norwalk, CT 06854, ID No. OX624111.010.

13. Not applicable.

14. Plaintiff respectfully declines to set forth said statutes, regulations, rules, ordinances and laws at this time, but will ask the court to take judicial notice of same at the trial of this action.

15-17. See response 5.

18. Improper demand -- evidentiary.

19-20. See response 5

21. Not applicable.

22-23. See response 5.

24. Not applicable.

25. Plaintiff was shopping on the date of the accident.

26-27. Defendant has knowledge of the dates that actual notice was given to them and the names of the persons receiving same on its behalf. Defendant, by one or more of its agents, servants or employees, had knowledge of and/or created and/or caused the defective or dangerous condition.

Said defective and dangerous condition was visible and apparent and in existence for a sufficient period of time prior to plaintiff's accident to permit defendant to have known of or been able to ascertain and discover its existence and to correct or remedy same and/or prevent plaintiff's accident.

Additional particulars regarding notice will be provided after the completion of discovery and examinations before trial.

28. See response 12. An authorization to obtain copies of the records of Oxford Health Plans, Inc. is simultaneously provided herewith.

29. Oxford Health Plans, Inc. has asserted a lien against plaintiff's recovery. The amount of said lien is not yet known as treatment and coverage are continuing.

30. Improper demand.

Dated: Great Neck, New York
November 10, 1998

**HODES & MORSE**
Attorneys for Plaintiff
80 Cutter Mill Road
Great Neck, NY 11021
(516) 466-0900

TO:

**STEPHEN CIVARDI, ESQ.**
Attorney for Defendant
**K-MART CORPORATION**
94 Willis Avenue
Mineola, NY 11501

## ATTORNEY VERIFICATION

STATE OF NEW YORK )
) ss.:
COUNTY OF NASSAU )

The undersigned, an attorney admitted to practice in the courts of New York State, states as follows:

I am the attorney of record for **LILLIAN OSTERMANN**, the plaintiff in the within action; I have read the foregoing **BILL OF PARTICULARS**, and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by the plaintiff is that she resides in a county other than that in which my office is located.

The grounds of my belief as to the matters not stated upon my own knowledge are as follows:

Books, records, discussion with client and papers in my file.

I affirm that the foregoing statements are true under the penalties of perjury.

Dated: Great Neck, New York
November 10, 1998

**JEFFREY A. MORSE**

## CERTIFICATION

The foregoing **VERIFIED BILL OF PARTICULARS** is hereby certified, pursuant to 22 N.Y.C.R.R. 130-1.1-a.

Dated: Great Neck, New York
November 10, 1998

**JEFFREY A. MORSE**

## AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK )
) ss.:
COUNTY OF NASSAU )

**PATRICIA H. MOLFESE**, being duly sworn, deposes and says:

I am not a party to the action, am over eighteen (18) years of age and reside in Bayside, New York.

On November 10, 1998, I served the within **VERIFIED BILL OF PARTICULARS** and **RESPONSE TO COMBINED DEMANDS** by depositing a true copy thereof in ast-paid wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within New York State, addressed to the following person(s) at the last known address(es) set forth after each name:

**STEPHEN CIVARDI, ESQ.**
94 Willis Avenue
Mineola, NY 11501

Patricia H. Molfese
**PATRICIA H. MOLFESE**

Sworn to before me this
10th day of November, 1998

Notary Public
JEANE BRODSKY
Notary Public, State of New York
No. 01BR4710189
Qualified in Nassau County
Commission Expires 6/30/02

Index No.:
Calendar No.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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LILLIAN OSTERMAN,

Plaintiff,

- against -

K-MART CORPORATION and ALLSTATE BUILDING SERVICES, INC.,

Defendants.

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**VERIFIED BILL OF PARTICULARS**

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**HODES & MORSE**
Attorneys for Plaintiff
Office and Post Office Address, Telephone
80 Cutter Mill Road
Great Neck, NY 11021
(516) 466-9600


---

**TO:** STEPHEN CIVARDI, ESQ.
94 Willis Avenue
Mineola, NY 11501

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

----------x

Index No.: 018590/98

LILLIAN OSTERMANN,

Plaintiff,

- against -

K-MART CORPORATION and ALLSTATE BUILDING SERVICES, INC.,

Defendants.

----------x

**SUPPLEMENTAL VERIFIED BILL OF PARTICULARS**

Plaintiff, **LILLIAN OSTERMANN**, by her attorneys, **JEFFREY A. MORSE, P.C.**, supplementing her prior verified bill of particulars dated November 10, 1998, heretofore served pursuant to the demand of defendant therefor, alleges as follows:

1. Supplementing the answers to numbers "6" and "7" of plaintiff's verified bill of particulars:

6. Plaintiff sustained the following injuries:

- left knee internal derangement
- left knee oblique tear of the posterior horn of the medial meniscus, requiring arthroscopic surgery, partial medial meniscectomy and abrasion arthroplasty with chondroplasty
- post-surgical scarring, left knee
- pain, swelling and buckling of left knee
- left knee musculoskeletal dysfunction

- shooting pains and numbness from lower back into left leg
- left leg weakness
- contusions over extremities
- cervical radiculopathy
- aggravation, exacerbation and reactivation of pre-existing cervical disc bulges at C4-5 and C5-6 and related degeneration and desiccation of the cervical spine
- aggravation, exacerbation and reactivation of pre-existing disc bulges at L2-3 and L3-4 and related degeneration and desiccation of the lumbar spine
- aggravation, exacerbation and reactivation of pre-existing disc bulges at L4-5 and L5-S1 and related degeneration and desiccation of the lumbar spine
- post-concussion headache syndrome
- bilateral carpal tunnel syndrome
- aggravation, exacerbation and reactivation of pre-existing vitreous detachments in both eyes
- floaters and flashing lights
- lumbosacral radiculopathy
- left wrist pain and stiffness
- sequela of the above injuries

All of plaintiff's injuries were attendant with extreme pain and suffering and involved the surrounding nerves, tendons, muscles, ligaments, blood vessels, bones, cartilage and other tissues.

All of plaintiff's injuries are permanent except those of a superficial nature.

All of the above injuries resulted in limitation of range of motion and restriction of normal function of the affected areas.

All of the above injuries have required extensive medical care and treatment, and will, in the future, require additional medical care and treatment.

The above injuries and disabilities did and will, in the future, result in plaintiff's loss of enjoyment of life and its normal pursuits and pleasures.

2. Supplementing the answer to number "8" of plaintiff's verified bill of particulars:

8. Plaintiff was confined to Day-Op Center of Long Island, Inc., 110 Willis Avenue, Mineola, New York, on June 18, 1997, for arthroscopy, partial medial meniscectomy and abrasion arthroplasty with chondroplasty of the left knee.

3. Supplementing the answer to number "12" of plaintiff's verified bill of particulars:

12. (a) Physician's Services -

Dov Berkowitz, M.D. and Richard L. Parker, M.D.
Orthopedic Surgeons
South Nassau Orthopedic Surgery
and Sports Medicine, P.C.
125 South Service Road
Jericho, NY 11753

Joseph Carfi, M.D.
North Shore Physical Medicine
& Rehabilitation, P.C.
1575 Hillside Avenue
New Hyde Park, NY 11040

David M. Fastenberg, M.D.
Ophthalmologist
Long Island Vitreo-Retinal
Consultants, P.C.
600 Northern Boulevard
Great Neck, NY 11021

Victor Chehebar, M.D.
Neurologist
560 Northern Boulevard
Great Neck, NY 11021

(b) Hospital Services -

Day-Op Center of Long Island, P.C.
110 Willis Avenue
Mineola, NY 11501
6/18/97 - Arthroscopy, partial medial meniscectomy and arthroplasty, left knee

(c) Surgical Services - included in "(b)", above

(d) Nursing Services - included in "(b)", above

(e) Dental Services - not applicable

(f) Ambulance Services - not applicable

(g) X-ray Services -

Long Island Medical Service
1575 Hillside Avenue
New Hyde Park, NY 11040
10/30/96 - MRI, left knee
11/4/96 - MRI, lumbar spine
11/5/96 - MRI, cervical spine

**Note:** Plaintiff's health care providers were paid in whole, or in part, by Oxford Health Plans, Inc., 476 Wheeler Farm Road, Norwalk, CT, 06854, ID Number OX624111.010; an original authorization to obtain copies of updated records of same, is being served simultaneously herewith.

Dated: Great Neck, New York
July 2, 2001

Yours, etc.,

**JEFFREY A. MORSE, P.C.**
Attorneys for Plaintiff
Office & P.O. Address
80 Cutter Mill Road
Great Neck, NY 11021
(516) 498-8100

**TO: LAW OFFICES OF STEPHEN CIVARDI**
Attorneys for Defendant, **K-MART**
265 Sunrise Highway, Suite 30
Rockville Centre, NY 11570
(516) 678-9797

## ATTORNEY'S VERIFICATION

I, the undersigned, an attorney admitted to practice in the courts of New York State, state that I am the attorney of record for **LILLIAN OSTERMANN**, plaintiff in the within action; I have read the foregoing **SUPPLEMENTAL VERIFIED BILL OF PARTICULARS**, and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by the plaintiff, is that she resides in a different county than where my office is located.

The grounds for my belief as to all matters not stated upon my own knowledge are as follows:

Books, records, discussions with client and papers in my file.

I affirm that the foregoing statements are true under the penalties of perjury.

Dated: Great Neck, New York
July 2, 2001

RICHARD G. MARTINO

# CERTIFICATION

The foregoing **PLAINTIFF'S SUPPLEMENTAL VERIFIED BILL OF PARTICULARS**, are hereby certified pursuant to 22 NYCRR 130-1.1.

Dated: Great Neck, New York
July 2, 2001

/S/
**RICHARD G. MARTINO**

## AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK )
) ss.:
COUNTY OF NASSAU )

**JEANE BRODSKY**, being duly sworn, deposes and says:

I am not a party to the action, am over eighteen (18) years of age and reside in Great Neck, New York.

On July 2, 2001, I served a copy of the within **PLAINTIFF'S SUPPLEMENTAL VERIFIED BILL OF PARTICULARS**, by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within New York State, addressed to the following person(s) at the last known address(es) set forth after each name:

**LAW OFFICES OF STEPHEN CIVARDI**
Attorneys for Defendant, **K-MART**
265 Sunrise Highway, Suite 30
Rockville Centre, NY 11570

**JEANE BRODSKY**

Sworn to before me this
2nd day of July, 2001.

/S/
Notary Public

RICHARD G. MARTINO
NOTARY PUBLIC, STATE OF NEW YORK
NO. 4894047
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES APRIL 20, ~~19~~ 2003

Index No.: 018590/98

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

LILLIAN OSTERMANN,

Plaintiff,

- against -

K-MART CORPORATION and ALLSTATE BUILDING SERVICES, INC.,

Defendants.

**SUPPLEMENTAL VERIFIED BILL OF PARTICULARS**

**JEFFREY A. MORSE, P.C.**
Attorney for Plaintiff
Office and Post Office Address, Telephone
80 Cutter Mill Road
Great Neck, NY 11021
(516) 498-8100

**TO: LAW OFFICES OF STEPHEN CIVARDI**
Attorneys for Defendant, **K-MART**
265 Sunrise Highway, Suite 30
Rockville Centre, NY 11570
(516) 678-9797

Index No.:
Calendar No.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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LILLIAN OSTERMAN,

Plaintiff,

- against -

K-MART CORPORATION and ALLSTATE BUILDING SERVICES, INC.,

Defendants.

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**SUMMONS and COMPLAINT**

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**HODES & MORSE**
Attorneys for Plaintiff
Office and Post Office Address, Telephone
80 Cutter Mill Road
Great Neck, NY 11021
(516) 466-9600


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**TO: K-MART CORPORATION**
3100 West Big Beaver Road
Troy, Michigan 48084

ALLSTATE BUILDING SERVICES, INC.
535 Broadhollow Road
Melville, NY 11747