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ADA/ American with Disabilities Act of 1990 /Public law 101- 336 (The Bankruptcy Code) means the Bankruptcy Reform Act of 1978, as amended and codified in Title II of the United States Code, 11 U.S.C. §§101-1330 as in effect on the date thereof.	

## OTHER

Treaty President George Bush, Congressman Steny Hoyer, Senator Tom Harkin	
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Please R. Bartels

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is \_\_\_\_\_; or,  
 reported at \_\_\_\_\_;  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is \_\_\_\_\_; or,  
 reported at \_\_\_\_\_;  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is \_\_\_\_\_; or,  
 reported at \_\_\_\_\_;  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is \_\_\_\_\_; or,  
 reported at \_\_\_\_\_;  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 05, 2008.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: August 15, 2008, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including November 13, 08 (date) on August 15, 2008 (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was August 17, 2007. A copy of that decision appears at Appendix \_\_\_\_\_.

[ ] A timely petition for rehearing was thereafter denied on the following date: August 17, 2007, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including September 17, 07 (date) on September 11, 07 (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Please Borthelle

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

All persons born or naturalized in the United States and subject to the jurisdiction thereof, citizens of the United States and of the states wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law. Student Handbook Volume Two page 71

according to the law, its purposes are to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; to provide clear strong, consistent enforceable standards addressing discrimination against individuals with disabilities. The further purpose is to ensure that the federal government plays a central role in enforcing the ADA and to: invoke the sweep of Congressional authority, including the power to enforce the 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities. Page 1

Title I of the ADA Employment Provisions page 9

Title II of the ADA Public Services page 21

Title III of the ADA Accommodations and services operated by private entities page 24

Title IV of the ADA Telecommunication Relay Services?

Title V of the ADA Miscellaneous Provisions P. 30

## STATEMENT OF THE CASE

Please Bartlette, Pro se, Vs. Kmart Corporation et al and for her  
Complaint against Kmart Corporation et Al.  
Bartlette find these words true that was or could have been

Commenced

In January<sup>22</sup>, 2002 for relief under Chapter 11 Title 11 of the  
United States Code, Kmart operated to bar the United States  
(Bartlette) to the extent expected from the Automatic stay.

The Bar Date was July 31, 2002. The Presiding Judge

Susan Pierson Sonderby supported the Plan and Confirmation  
Order. She then carried from one person to the other and  
from one geographical point to the other until all those  
proceded by and through the Plan the Clash is satisfied.

The Kmart Motion to Dismiss by Court Order, is the same  
Kmart Motion to Dismiss all of Bartlettes Claims.

Here is where I make further petition for rehearing  
on behalf of (Bartlette) United States. Then where exclusive  
jurisdiction, venue and Care proceeding under 28 U.S.C. section 1337  
(b) (2) and 1334(a). Kmart operated to Bar the United States (Bartlette)  
When she sought Monetary damages for violation of the Americans with  
Disabilities Act, the Civil Rights Act, the Age discrimination Act in  
employment Act, breach of contract Wrongful discharge and internal  
infliction of emotional distress on May 14 2001 the day of  
Bartlette's termination and on August 17, 2007 CV. # - 2002-100  
was discharged.

In the Care of Honorable Susan Pierson Sonderby's Care and  
keeping are the Care proceeding brought to the front the  
Chapter 11 cases. So that when Kmart on its quest for relief,  
was met head on with the February 25, 2003 Commencement  
to establish the substituted special confirmation  
order (to bear the pressure).

**REASONS FOR GRANTING THE PETITION**

A petition for a Writ of Certiorari to review a case pending in a United States Court of Appeals, before judgement is entered in that court, will be granted only upon showing that the case is of imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court Rule 10. See 28 USC. § 2101(e).

This matter before the court is very important and has called to many its own audience. At first it was a local concern, then a regional concern and now a National concern to see how it will end by the decision that will finalized by its judgement. The District Court called my claim # CV # 2002-100. Kmart was charged for violations of my federal claims. This matter should not be taken lightly. It appears that my civil rights has not been addressed & The act about my termination with Kmart at the time I was already over 60 years had a qualified disability. And the comprehensive protection offered by the ADA was not applied to me or to my charges. A look at the District Courts record shows those things were avoided. Another issue I examined was on May 28, 2002 is a (Court only) Tams Calendar Events entered 05-28-2002, it is the same day that my claims were filed seen as a docket entry before #1. My claims got stuck from the beginning. It again happen mid way the review of the Appellate Court where my number is 07-3716 is unable to move <sup>the court</sup>. The Appellate <sup>court</sup> is unable to move being stuck over an issue <sup>it did</sup> not found based upon Kmart's claims. And the District Court <sup>Kmart</sup> also found that the Bankruptcy Court's confirmation of Kmart's reorganization plan bars the continuation of this case. For the reason stated in our opinion, we find it unnecessary to reach this issue. This then become the basis for being stuck over an issue with conflicting determinations about my claim. There is no enforcement given to my claims. I am starting all over again in our National Court. The Appellate <sup>Court</sup> named some errors, affirmed other things the District Court said I had not done. In the process of time the Appellate too got stuck on the statement made by Kmart. It appears that the Appellate Court could not agree that the Bankruptcy Court's confirmation of the Kmart reorganization plan bars the continuation of this case. Here lies the conflict between both Courts. Please may I further seek the court's indulgence to show how my claims were made secured and protected by the Honorable Susan Pierson Sonderg of the Bankruptcy Court. She had foreknowledge of the power of Kmart to your humble servant and the pleasure that could come my way. She favored the ADA in so doing she capitalized (words) covered me-the Confirmation Order and Plan, and used Capitalized (words) Terms and phrases having having the meaning given to them in the Plan and Confirmation Order. I therefore asked the court to grant Certiorari. This Court has jurisdiction to review the judgement on a writ of Certiorari.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

*Please A. Bartlitte* \_\_\_\_\_

Date: November 7, 2008

App

Please Bartlitt

January 22  
(On June 7, 2002 for relief under chapter 11.

Title 11 of the United States Code 11 U.S.C. Section

101 et seq. as amended [The "Bankruptcy Code"]

The District Court used claim No. 02-302474

as a genuine number. This same number had already been deleted and now caused the reclassified claim number 02-02474 to be hidden or some how disguised.

Dated July 18, 02 and signed. The Bar Date was July 31, 2002. If perchance sick from my disability I could have been forgiven an allowance is there for me under chapter 11.

So, if any Chapter 11 Case had forgotten, by this grace given in the statute we are covered being for yourselves Bartlitt is still in the court, this time the court of Appeals.

The presiding judge Susan Pierson Sondrelby, over the Chapter 11 Cases, she supported the

Plan and Confirmation Order. She then

Covered from one person to the other and

from one geographical point to the other until all those protected by and through

the Court according to the Plan is satisfied.

There was an order stating the right to relief

and to defend such further objections if

any to the claims. The Bankruptcy Court

order did not say Bartlitt never file a

proof of claim. The order did not say the

App

District Court must dismiss her claim what it said relief should be granted, and (for Barthette me) to defend such further objections if any to the claim.

Dease Barttke

for all purpose the Clerk of the Court is directed to file and docket this Confirmation Order in the Chapter 11 cases of each of the Debtors. Barttke charge remain in full force and the Court must move on to discover other assurances.

From the analysis used in the judgement "I find these words true." What was or could have been commenced. Accordingly, the Court hereby Orders Kmeto's motion to Dismiss is granted. Behind my back without a trial another wrong act covering the other.

The District Court used claim No. 02-B02474 as a genuine Number. This same Number had already been deleted and now caused the reclassified claim Number 02-02474 to be hidden or somehow disguised. It surely convey the idea not the fact that Barttke never file a proof of claim.

The court has exclusive Jurisdiction to determine when the Plan complies with the applicable provision of 11 U.S.C. Section 506(b) of Chapter 11 Title 11 as amended (The Bankruptcy Code) and shall be confirmed.

Dated July 18, 02 and signed. The Date was July 31, 2002

If per chance sick from my disability I could have been -forgiven an allowance is there for me under Chapter 11. So if any

Chapter 11 Case had forgotten, by this grace.

Given in the statue we are covered:

Being for yourselves Bartlitt is still in  
the Court, this time the Court of Appeals.

(The Supreme Court)

Notwithstanding any contained herein to the  
contrary, the Bankruptcy Court retains exclusive  
jurisdiction to hear and determine disputes  
concerning retained actions and trust claims  
and any motion to compromise or settle such  
disputes. Despite the foregoing, if the  
Bankruptcy Court is determined not to have  
jurisdiction with respect to the foregoing  
or if the Reorganized Debtors or the Trustee  
on behalf of the Kmart Creditors Trust chooses  
to pursue any retained action or trust claim  
(as applicable) in another court of competent  
jurisdiction, the Reorganized Debtors or the  
Trustee (as applicable) will have authority  
to bring such action in any other court  
of competent jurisdiction.

I am a secured claimholder against loss.

For my continued protection, I am supported  
by the Confirmation Order and Plan, I survived  
the Effective Date and my status is not affected.  
(Even though I am pre-petition claimholder it seems).

There was an Order stating the right to relief  
and to defend such further objections if any to

Please Barttelle  
Document Continued Page 13 of 50  
Statement of the

5

the claims. The Bankruptcy Court Order did not say Barttelle never file a proof of claim. The Order did not say the District Court must dismiss her claim. What it said relief should be granted and for Barttelle (Me) to defend such further objections if any to the claim.

It is then the right of defiance for the court to join with Kmart to interfere. Even to reduced the commitment, modify the intention, or even to attempt to discharge what has already made secure in the Plan for Barttelle/Chapter 11 cases.

Listed for also the court the premise considered without an order it is unable to dismiss saying, Barttelle never filed a proof of claim.

Statement of The Case

Bartlette believes she had a Category "A" charge that falls within the National or Local enforcement plan. Due process took up until May 28, 2002.

I am showing that my commencement was prior to Kmart's Bankruptcy Notice and the Automatic stay issued requested a call for papers whereby, I submitted my claim.

"Petition Date" means January 22, 2002 the date on which Debtors filed their petition for relief in the Chapter 11 Cases.

On June 7, 2002 for relief under Chapter 11 Title 11 of the United States Code U.S.C. Section 101 et seq.

Kmart operated to bar the United States (Bartlette) to the extent expected from the Automatic stay provision of 11 U.S.C. Section 362 Bankruptcy Code Bartlette claim was discharged.

Interest shall be paid on over secured claims as provided for by 11 U.S.C. Section 506 (b) of Chapter 11 Title 11 as amended (the Bankruptcy Code)

Chapter 11 Cases shall remain in full force and effect according to their terms to include request for compensation.

Listed for also the Court to also the premise considered without an Order it is unable to dismiss saying Bartlette never file a proof of claim. This Confirmation Order with respect to each of the Debtors separate Chapter 11 cases

DC

Here again the Presiding Judge Susan Peison Sonderby over the Chapter 11 Cases, she supported the Plan and Confirmation Order. She then covered from one person to the other until all those protected by and through the Plan, the oath is satisfied.

The Knart motion to Dismiss was denied by Court Order is the same Knart motion to dismiss all of Bartlette's claims. Throwing therefore not only Bartlette, but the United States out of the Virgin Islands District Court a very serious issue. I don't see competent jurisdiction, here is where I make petition for rehearing on behalf of (Bartlette) United States.

Then where exclusive jurisdiction, venue, and lone proceeding under 28 U.S.C. Section 1337(b)(2) and 1334(a).

Knart/Court operated to Bar the United States (Bartlette) when she sort monetary damages for violation of Americans with Disabilities Act, The Civil Rights Act, breach of contract wrongful discharge and intentional infliction of emotional distress on May 14, 2001 the day of Bartlette's termination and on August 17, 2001 CV-2002-100 was discharged.

De

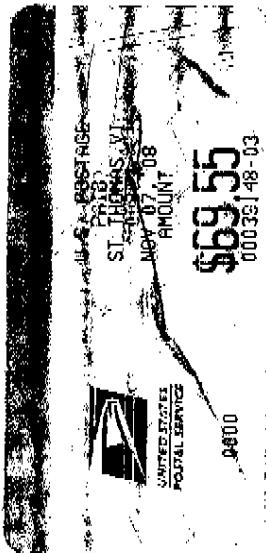
8 In the care of the Honorable Susan Preson Sondrelby's care and keeping are the care proceeding brought to the front the Chapter 11 Cases. So that when Kmart on its quest for relief, was met head on with the February 25, 2003 Commencement to establish the substituted special Confirmation Order - (to bear the pressure).

Barthtte believes she had a category "A" Charge a charge/s that falls within the National or Local enforcement plan. Due process took up until May 28, 2002.

It is then the right of defense for the court to join Kmart to interfere. Even to reduced the commitment, modify the intention, or even to attempt to discharge what has already made secure in the Plan for Barthtte/Chapter 11 Cases. Listed for also the court the premise considered without an Order it is unable to dismiss saying Barthtte never file a proof of claim.

I am showing that my commencement was prior to Kmart's bankruptcy notice and the automatic stay issued requested a call for papers whereby, I submitted my claim.

No. \_\_\_\_\_



IN THE  
SUPREME COURT OF THE UNITED STATES

Please A. Bartlette — PETITIONER  
(Your Name)

VS.

Kmart Corporation ET AL — RESPONDENT(S)

PROOF OF SERVICE

I, Please A. Bartlette, do swear or declare that on this date,  
November 7, 2008, as required by Supreme Court Rule 29 I have  
served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS  
and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding  
or that party's counsel, and on every other person required to be served, by depositing  
an envelope containing the above documents in the United States mail properly addressed  
to each of them and with first-class postage prepaid, or by delivery to a third-party  
commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Atty. Michael L Morgan Ogletree, Deakins, Nash, Smoak & Stewart LLC  
The Phoenix Building, Suite 201, 1336 Beltway Rd. St. Thomas, VI 00802  
Solicitor General of the US Room 950 Pennsylvania Ave.  
Washington DC 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 7, 2008

Please A. Bartlette  
(Signature)

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 07-3716

PLEASE BARTLETTE,

Appellant,

v.

KMART CORPORATION, ET AL.,

Appellee.

SUR PETITION FOR PANEL REHEARING

Present: RENDELL, FUENTES and CHAGARES, Circuit Judges

The Petition for Rehearing filed by the Appellant in the above-entitled matter, having been submitted to the judges who participated in the decision of this court, and no judge who concurred in the decision having asked for rehearing by this panel, the Petition for Rehearing is hereby DENIED.

BY THE COURT,

/s/ Julio M. Fuentes  
Circuit Judge

DATED: 15 August 2008

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 07-3716

THELEASSE BARTLETTE,

Appellant,

v.

KMART CORPORATION, ET AL.,

Appellee.

Appeal from the Order of the District Court  
of the Virgin Islands  
(02-cv-00100)

District Judge: Honorable Curtis V. Gomez

Submitted Under Third Circuit L.A.R. 34.1(a)  
on May 6, 2008

Before: RENDELL, FUENTES, and CHAGARES, Circuit Judges.

JUDGMENT

This cause came on to be considered on the record from the District Court of the Virgin Islands and was submitted under Third Circuit L.A.R. 34.1(a) on May 6, 2008.

On consideration thereof, it is now ORDERED and ADJUDGED that the order of the District Court entered August 24, 2007, be and the same is hereby AFFIRMED. All

of the above in accordance with the opinion of this Court.

Attest:

/s/ Marcia M. Waldron, Clerk

DATED: June 5, 2008

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 07-3716

ILEASE BARTLETTE,

Appellant,

v.

KMART CORPORATION, ET AL.,

Appellee.

Appeal from the Order of the District Court  
of the Virgin Islands

(02-cv-00100)

District Judge: Honorable Curtis V. Gomez

Submitted Under Third Circuit L.A.R. 34.1(a)  
on May 6, 2008

Before: RENDELL, FUENTES, and CHAGARES, Circuit Judges.  
(Filed: June 5, 2008 )

OPINION

*Please Bartlette*  
FUENTES, Circuit Judge.

The District Court granted Kmart's motion to dismiss Please Bartlette's action upon determining that its commencement violated the automatic stay provision in the Bankruptcy Code. See 11 U.S.C. § 362(a)(1). We will affirm.

Bartlette filed a complaint on May 28, 2002, alleging that Kmart improperly terminated her employment. She sought monetary damages for violation of the Americans with Disabilities Act, the Civil Rights Act, the Age Discrimination in Employment Act, breach of contract, wrongful discharge, and intentional infliction of emotional distress. However, on January 22, 2002, following Bartlette's termination, but before she filed her complaint, Kmart petitioned for relief under Title 11 of the United States Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division.

Kmart moved to dismiss Bartlette's complaint arguing that, among other things, it was void under 11 U.S.C. § 362(a)(1). Under § 362(a)(1), Kmart's bankruptcy petition "operate[d] as a stay, applicable to all entities, of -- (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title."

The District Court granted Kmart's motion, noting that Bartlette's claims arose before Kmart's petition, Bartlette did not receive relief from the automatic stay under §

362(a)(1), and "any action from [the District Court] against the debtor would be void *ab initio.*" Supp. Jt. App. 4 & n.2.<sup>1</sup> Bartlette, proceeding pro se, appealed to this Court. We have jurisdiction pursuant to 28 U.S.C. § 1291.

"Consolidating all pre-petition claims against the debtor in one collective proceeding before a bankruptcy court is the essence of bankruptcy." Maritime Elec. Co. v. United Jersey Bank, 959 F.2d 1194, 1207 (3d Cir. 1991). Permitting creditors to continue filing claims against the debtor outside of the bankruptcy proceedings would defeat this purpose. As such, actions taken in violation of the automatic stay provision are voidable. See In re Siciliano, 13 F.3d 748, 750 (3d Cir. 1994); Lampe v. Xouth, Inc., 952 F.2d 697, 700 (3d Cir. 1992). Moreover, "[o]nly the bankruptcy court with jurisdiction over a debtor's case has the authority to grant relief from the stay of judicial proceedings against the debtor." Maritime Elec. Co., 959 F.2d at 1204. In this case, as the District Court noted, there is no indication that Bartlette ever received relief from the automatic stay, which would have permitted her to initiate this action.<sup>2</sup> The District Court did not err in dismissing the complaint.

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<sup>1</sup>The District Court also found that the Bankruptcy Court's confirmation of Kmart's reorganization plan bars the continuation of this case. For the reasons stated in our opinion, we find it unnecessary to reach this issue.

<sup>2</sup>In fact, the record shows that in July 2002 Bartlette, with the assistance of counsel, filed a proof of claim with the Bankruptcy Court. See Supp. Jt. App. 18. We note that the District Court erred in finding that no such claim was filed, although this mistake was harmless. While it appears that her claim was ultimately denied, the Bankruptcy Court, not the District Court of the Virgin Islands, was the correct forum in which to pursue her claim.

For the foregoing reasons, we will affirm.

Supreme Court

Virgin Islands

v. The United States  
Please A. Bartlette

District

Court

Index to Appendices

Appendix

B

November 7, 2002

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

PLEASE BARTLETTE,

Plaintiff,

v.

KMART CORPORATION,

Defendant.

Civil No. 2002-100

Please Bartlette, pro se  
St. Thomas, U.S.V.I.

Bennett Chan, Esq.  
St. Thomas, U.S.V.I.  
For defendant, Kmart Corporation

JUDGMENT

Before the Court is the motion of defendant Kmart Corporation ("Kmart") to dismiss the above-captioned case.

BACKGROUND

Plaintiff, Please Bartlette ("Bartlette") was employed in varying capacities by Kmart until May 14, 2001, when K-mart terminated her employment.

On January 22, 2002, K-mart filed a voluntary petition for relief under Title 11 of the United States Bankruptcy Code in the Northern District of Illinois (the "Bankruptcy Court"). On May 28, 2002, Bartlette filed this action, which seeks monetary damages for employment discrimination, violations of the Americans

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Civil No. 2002-100  
JUDGMENT  
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with Disabilities Act, breach of contract, wrongful discharge and intentional infliction of emotional distress. On June 7, 2002, Kmart filed a Notice of Bankruptcy Filing and Automatic Stay in this action.

Pursuant to Bankruptcy Rule 3003(c)(3), the Bankruptcy Court entered an order on January 16, 2004, requiring potential claimants to complete and execute a proof of claim, and send it with attached documentation, "so that the Proof of Claim is actually received on or before 4:00 p.m., Eastern Standard Time, on February 23, 2004...." See Supplemental Bar Date Order, Jan. 16, 2004, at ¶ A(1) (N.D. Ill., Case No. 02-B02474)<sup>1</sup>. Despite this order, there is no evidence that Bartlette submitted a proof of claim with the Bankruptcy Court at any time.

On April 23, 2004, the Bankruptcy Court confirmed Kmart's Plan of Reorganization. Thereafter, Kmart filed its motion to dismiss.

#### ANALYSIS

Under the Bankruptcy Code, any judicial action against the debtor "that was or could have been commenced" before the filing of a bankruptcy petition is automatically stayed. See 11 U.S.C. § 362 (a)(1); see also *Maritime Elec. Co. Inc. v. United Jersey Bank*, 959 F.2d 1194, 1204 (3d Cir. 1991) (observing that "the

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<sup>1</sup> For the purposes of this action, the Court takes judicial notice of all orders issued by the Bankruptcy Court in Civil No. 02-B02474.

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Civil No. 2902-100  
JUDGMENT  
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automatic stay gives the bankrupt a breathing spell from creditors.... [and] permits a bankrupt to attempt a repayment or reorganization plan..."). Once an automatic stay takes effect, any action from this Court against the debtor would be void ab initio. See *In re Siciliano*, 13 F.3d 748, 750 (3d Cir. 1994).

To determine which actions could commence prior to the bankruptcy petition, the Court considers when the alleged cause of action accrued. See *Matter of M. Frenville Co. Inc.*, 744 F.2d 332, 335 (3d Cir. 1984) (holding that the cause of action arises at the time of the harm); *Jones v. Chemetron Corp.*, 212 F.3d 199, 206 (3d Cir. 2000) ("[I]n most circumstances a 'claim' arises for bankruptcy purposes at the same time...[that] the underlying... cause of action accrues."). If the plaintiff's cause of action accrued prior to the filing of a bankruptcy claim, then the claim is considered pre-petition. See *Frenville*, 744 F.2d at 335; see also *In re Chateaugay Corp.*, 53 F.3d 478, 497 (2d Cir. 1995) ("A claim will be deemed pre-petition when... the relationship between the debtor and the creditor contained all the elements necessary to give rise to a legal obligation-'a right to payment'-under the relevant non-bankruptcy law.")

On May 14, 2001, Bartlette allegedly suffered the harm underlying her complaint, specifically, the termination of her employment. By that date, Bartlette's cause of action accrued,

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and she could have commenced an action against Kmart on each of the several counts in her complaint. Five months later Kmart's bankruptcy petition triggered an automatic stay pursuant to 11 U.S.C. § 362 (a)(1).<sup>3</sup> Because Bartlette's cause of action accrued five months before Kmart filed for bankruptcy, her claims are pre-petition.

"Consolidating all pre-petition claims against the debtor in one collective proceeding before a bankruptcy court is the essence of bankruptcy." *Maritime Elec. Co.*, 959 F.2d at 1207.<sup>4</sup> Accordingly, bankruptcy claimants must participate in reorganization by filing proofs of claim with the bankruptcy court. See *Chemetron Corp. v. Jones*, 72 F.3d 341, 346 (3d Cir. 1995); Bankruptcy Rule 3003 (c). These proofs of claim shall be filed prior to the bar date, established by the bankruptcy court. See *Chemetron Corp.*, 72 F.3d at 346; Bankruptcy Rule 3003 (c). If the bar date passes before the bankruptcy claimant files a proof of claim, the claimant cannot participate in the reorganization without establishing

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<sup>3</sup> There is no indication on the record that Bartlette ever received relief from the automatic stay. Cf. *Maritime Elec. Co.*, 959 F.2d at 1207 (noting that only the bankruptcy court has the jurisdiction to grant such relief).

<sup>4</sup> Notably, under the Bankruptcy Code, a "claim" includes any right to payment "whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured..." 11 U.S.C. § 101(5); see also *Pa. Dep't of Public Welfare v. Davenport*, 495 U.S. 552, 558 (1990) (observing that Congress intended to use the broadest possible definition of a claim, so that the Code "contemplates that all legal obligations of the debtor... will be able to be dealt with in the bankruptcy case.") (quoting U.S. Code Cong. & Admin. News 1978, p. 6266).

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JUDGMENT

Page 5

sufficient grounds for failure to file a timely proof of claim. See *Chemetron Corp.*, 72 F.3d at 346. Here, the Bankruptcy Court set a bar date of February 23, 2004. Bartlette never filed a proof of claim.<sup>4</sup>

Once a bankruptcy court confirms a reorganization plan, all prior claims against the debtor are discharged. See *Jones*, 212 F.3d at 209; see also *In re Benjamin Coal Co.*, 978 F.2d 823, 827 (3d Cir. 1992) ("[T]he discharge of all existing claims... upon confirmation of a Chapter 11 [reorganization] plan is unambiguous...."); 11 U.S.C. § 1141(d).<sup>5</sup> The Bankruptcy Court approved Kmart's reorganization plan on April 23, 2004. Accordingly, Bartlette's claims were discharged.

The effect of discharge is that the claimant is precluded from pursuing her claims against the debtor at any time in the future. See, e.g., *In re Friedberg*, 192 B.R. 338, 341 (S.D.N.Y. 1996) ("Upon confirmation... all prior obligations and rights of the parties were extinguished...."); see also 11 U.S.C. § 1141 (c)

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<sup>4</sup> The Court is unaware of any effort by Bartlette to get relief from the Bankruptcy Court for her failure to file a timely claim.

<sup>5</sup> The statute outlines limited exceptions to this general rule. See 11 U.S.C. § 1141(d) (outlining discrete categories of non-dischargeable debt); see also *Chemetron Corp.*, 72 F.3d at 346 (recognizing "narrow statutory exceptions" to the general rule that confirmation discharges all prior claims against the debtor). There are also exceptional cases in which due process concerns prevent the discharge of a debt. See, e.g., *Jones* 212 F.3d at 209 (noting that "if a potential claimant lacks sufficient notice of a bankruptcy proceeding, due process considerations dictate that his or her claim cannot be discharged by a confirmation order"). However, none of these exceptions are relevant to Bartlette's claims.

Bartlette v. Kmart  
Civil No. 2002-100  
JUDGMENT  
Page 6

(stating that after confirmation "the [debtor's] property is free and clear of all claims and interests..."). Accordingly, Bartlette cannot now pursue her claims in this Court.

**CONCLUSION**

The premises considered,

It is hereby ORDERED that Kmart's motion to dismiss is GRANTED; and

It is further ORDERED that all of Bartlette's claims against Kmart are DISMISSED; and

It is further ORDERED that the Clerk of the Court shall close the file of the above-captioned case.

August 17, 2007

/s/ Curtis V. Gomez  
Chief Judge

CERTIFIED A TRUE COPY THIS  
31<sup>st</sup> DAY OF October 2007  
WILFRITO T. MOHON  
CLERK OF THE COURT  
BY Curtis V. Gomez  
REPO

These Part 02  
Originals

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

Please A. Bartlett — PETITIONER  
(Your Name)

VS.

Kmart Corporation ET AL — RESPONDENT(S)

PROOF OF SERVICE

I, Please A. Bartlett, do swear or declare that on this date,  
November 7, 2008, as required by Supreme Court Rule 29 I have  
served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS  
and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding  
or that party's counsel, and on every other person required to be served, by depositing  
an envelope containing the above documents in the United States mail properly addressed  
to each of them and with first-class postage prepaid, or by delivery to a third-party  
commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Atty. Mical S Morgan O'aletree, Deekins, Nash, Smoak and Stewart LLC  
The Truie Building, Suite 201, 1336 Ralston Rd., Ft Thomas, KY 00802  
Solicitor General of the United States Room 5614 Dept. of Justice 950 Pennsylvania Ave. NW Washington DC 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 7, 2008

RECEIVED  
NOV 12 2008  
OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES  
Please A. Bartlett

(Signature)

OFFICE OF THE CLERK

MARCI M. WALDRON

CLERK



UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURTHOUSE  
601 MARKET STREET  
PHILADELPHIA 19106-1790

Website: [www.ca3.uscourts.gov](http://www.ca3.uscourts.gov)

TELEPHONE

215-597-2995

June 5, 2008

Micol L. Morgan  
Ogletree, Deakins, Nash, Smoak & Stewart  
1336 Beltjen Road, Suite 201  
Charlotte Amalie, St. Thomas  
USVI,  
USVI

Ms. Ilease Bartlette  
P.O. Box 7095  
Charlotte Amalie, St. Thomas  
USVI,  
USVI

RE: Bartlette v. Kmart Corp, et al  
Case Number: 07-3716  
District Case Number: 02-cv-00100

ENTRY OF JUDGMENT

Today, **June 05, 2008** the Court has entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir.

LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Page Limits:

15 pages

Attachments:

a copy of the panel's opinion and judgment only. No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. If separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to a combined 15 page limit. If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed.R.App.P. 41. Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

*Marcia M. Waldron*  
Marcia M. Waldron, Clerk

By: *Carolyn Hicks*  
Carolyn Hicks, Case Manager  
267-299-4926

Please Barttote

10-7-08

Please Barttote

P.O. Box 7095

St. Thomas, V.I. 00801

Dear Clerk of the Court:

I have a son whom we believe for reasons continue to help. He is presently unemployed and after that his boss died when he work it is with flexibility. He also have qualified disability/s. He receives no disability nor does he get unemployment or any other government assistance.

About age 8 he was in school and on the play ground during break, another child place her foot across his path. He got himself a very bad fall hitting his head and suffered a fractured skull. He was later on transitioned into Special Education Classes. Our whole world was turned upside down and eversince we had faced lives problems along with him. He is 35 years old and has 4 children of his own our grandchildren. We assist him in wherever help is needed his record keeping is poor he forgets or sometimes refuses to do certain things as he suffers from headaches. He was greatly affected by the accident. I had gone to the states and

IVEL  
88

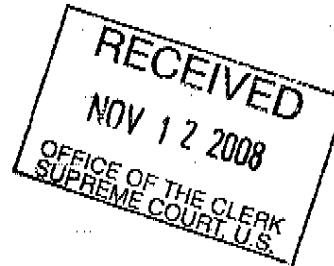
Please Bartlett

Document Continued Page 37 of 50

see he was still having those headaches.  
My sons part of the rent is \$450.00  
Child Support \$486.00 my husband gets  
Social Security \$745.00, I get disability  
\$624.00. My husband does a little taxi  
when he could for the tauris Boats don't  
come as often things are bad - One day  
he tried again come back with \$23.00  
It was more expensive to be on the street.  
my Savings account has \$100. his \$426.67.  
This month and for the past months life  
has gotten even worse. If I could pay I  
will pay but I am unable to pay cost for  
services. And I thank you. I told you this  
in my letter I dont wont the world to know  
I have some pride left in me if pride was  
money for our family we would all be rich.  
we overaised and live for better days. Thank you

I am, sincerely

These Bartlett



January 22  
(On June 1, 2002 for relief under Chapter 11.

Title 11 of the United States Code 11 U.S.C. Section 101 et seq. as amended [The "Bankruptcy Code").

The District Court used Claim No. 02-302474 as a genuine number. This same number had already been deleted and now caused the reclassified Claim Number 02-02474 to be hidden or some how disguised.

Dated July 18, 02 and signed. The Bar Date was July 31, 2002. If per chance sick from my disability I could have been forgiven an allowance is there for me under Chapter 11.

So, if any Chapter 11 Case had forgotten by this grace given in the statute we are covered. Seeing for yourselves Bartlitt is still in the court, this time the court of Appeals.

The presiding judge Susan Pierson Sondraby, over the Chapter 11 Cases, she supported the Plan and Confirmation Order. She then covered from one person to the other and from one geographical point to the other until all those protected by and through the oath according to the Plan is satisfied. There was an order stating the right to relief and to defend such further objections if any to the claims. The Bankruptcy Court Order did not say Bartlitt never file a proof of claim. The order did not say the

District Court must dismiss her claim what it said relief should be granted, and (for Birthette me) to defend such further objections if any to the claims.

3

for all purpose the Clerk of the Court is directed to file and docket this Confirmation Order in the Chapter 11 cases of each of the Debtors. Bartlito charge remain in full force and the court must move on to discover other assurances.

From the analysis used in the judgement "I find these words true." What was or could have been commenced. Accordingly, the Court hereby Orders Kmart's motion to Dismiss is granted. Behind my back without a trial another wrong act covering the other.

The District Court used claim No. 02- B02474 as a genuine Number. This same Number had already been deleted and now caused the reclassified claim Number 02 - 02474 to be hidden or somehow disguised. It surely convey the idea not the fact that Bartlito never file a proof of claim.

The court has exclusive Jurisdiction to determine when the Plan complies with the applicable provision of 11 U.S.C. Section 506(b) of Chapter 11 Title 11 as amended (The Bankruptcy Code) and shall be Confirmed.

Dated July 18, 02 and signed. The Bar Date was July 31, 2002

If per chance sick from my disability I could have been forgiven an allowance is there for me under Chapter 11. So if any

Please Bartlette

Document Continued Page 41 of 50  
Statement of the Case

Chaptr 11 Case had forgotten, by this grace given in the statue we are covered.

Being for yourselves Bartlette is still in the Court, this time the Court of Appeals.  
(The Supreme Court)

Notwithstanding any contained herein to the contrary, the Bankruptcy Court retains exclusive jurisdiction to hear and determine disputes concerning retained actions and trust claims and any motion to compromise or settle such disputes. Despite the foregoing, if the Bankruptcy Court is determined not to have jurisdiction with respect to the foregoing or if the Reorganized Debtors or the Trustee on behalf of the Kmart Creditor Trust chooses to pursue any retained action or trust claim (as applicable) in another court of competent jurisdiction, the Reorganized Debtors or the Trustee (as applicable) will have authority to bring such action in any other court of competent jurisdiction.

I am a secured claimholder against loss. For my continued protection, I am supported by the Confirmation Order and Plan. I survived the Effective Date and my status is not affected. (Even though I am pre-petition claimholder it seems).

There was an Order stating the right to relief and to defend such further objections if any to

5

The Claims. The Bankruptcy Court Order did not say Barthette never filed a proof of claim. The Order did not say the District Court must dismiss her claim. What it said relief should be granted and for Barthette (Mc) to defend such further objections if any to the claim.

It is then the height of defiance for the court to join with Kmart to interfere. Even to reduced the commitment, modify the intention, or even to attempt to discharge what has already made secure in the Plan for Barthette/Chapter 11 cases.

Listed for also the court the premise considered without an Order it is unable to dismiss saying, Barthette never filed a proof of claim.

6 Statement of The Case

Bartlette believes she had a Category "A" charge that falls within the National or Local enforcement plan. Due process took up until May 28, 2002.

I am showing that my commencement was prior to Kmart's Bankruptcy Notice and the Automatic stay issued requested a toll for papers whereby, I submitted my claim.

"Petition Date" means January 22, 2002 the date on which Debtors filed their petition for relief in the Chapter 11 Cases.

On June 7, 2002 for relief under Chapter 11 Title 11 of the United States Code U.S.C. Section 101 et seq.

Kmart operated to bar the United States (Bartlette) to the extent expected from the Automatic stay provision of 11 U.S.C. Section 362 Bankruptcy Code Bartlette claim was discharged.

Interest shall be paid on over secured claims as provided for by 11 U.S.C. Section 506 (b) of Chapter 11 Title 11 as amended (the Bankruptcy Code)

Chapter 11 Cases shall remain in full force and effect according to their terms to include request for compensation.

Listed for also the Court to also the premise considered without an Order it is unable to dismiss saying Bartlette never file a proof of claim. This Confirmation Order with respect to each of the Debtors separate Chapter 11 cases

7

Here again the Presiding Judge Susan Person Sonderby over the Chapter 11 Cases, she supported the Plan and Confirmation Order. She then covered from one person to the other until all those protested by and through the Plan, the Oath is satisfied.

The Kmart Motion to Dismiss was denied by Court Order is the same Kmart motion to Dismiss all of Bartlette's claims. Throwing therefore Not only Bartlette, but the United States out of the Virgin Islands District Court a very serious issue. I don't see competent jurisdiction, here is where I make petition for rehearing on behalf of (Bartlette) United States.

Then where exclusive jurisdiction, venue, and here proceeding under 28 U.S.C. Section 157(b)(2) and 1334(a).

Kmart/Court operated to Bar the United States (Bartlette) when she sort monetary damages for Violation of Americans with Disabilities Act, The Civil Rights Act, breach of Contract Wrongful discharge and intentional infliction of emotional distress on May 14, 2001 the day of Bartlette's termination and on August 17, 2007 CV-2002-100 was discharged.

9

In the care of the Honorable Susan Person Sonderby's care and keeping are the care proceeding brought to the front the Chapter 11 Cases. So that when Kmart on its quest for relief, was met head on with the February 25, 2003 Commencement to establish the substituted special Confirmation Order - (to bear the pressure).

Barthite believes she had a Category "A" Charge or Charge/s that falls within the National or Local enforcement plan.

Due process took up until May 28, 2002.

It is then the right of defiance for the Court to join Kmart to interfere. Even to reduced the commitment, modify the intention, or even to attempt to discharge what has already made secure in the Plan for Barthite/Chapter 11 Cases. Listed for also the court the premises considered without an Order it is unable to dismiss saying Barthite never file a proof of claim.

I am showing that my commencement was prior to Kmart's bankruptcy notice and the automatic stay issued requested a call for papers whereby, I submitted my claim.

a. Please Bartlette

DC

[In] most circumstances a "claim" arises for bankruptcy purposes at the same time ... [that] the underlying ... cause of action accrues."

I am showing that my commencement was prior to Kmart's bankruptcy notice and the automatic stay issued requested a call for papers. Whereby, I submitted my claims.

("Kmart")

Article I 1.5 Bar Date for pre-petition claims July 31, 2002 I signed 7-18-02. certain personal injury related claims January 22, 2003.

"so that the proof of claim is actually received on or before 4:00 p.m., Eastern Standard Time, on February 23, 2004 ... " see supplemental Bar Date Order, Jan. 16, 2004 at ¶ A (1) (M.D. Ill. Case No. 02-B02474)<sup>2</sup>.

Dated July 18, 02 and signed. The Bar Date was July 31, 2002. If per chance sick from my disability, I could have been forgiven an allowance is there for me under Chapter 11 so if any Chapter 11 Case had forgotten, by this grace given in this statute we are covered. Seeing for yourselves Bartlette is still in the Court this time the Supreme Court.

Please Bar the

"A claim will be deemed prepetition when... the relationship between the debtor and the creditor contained all the elements necessary to give rise to a legal obligation - 'a right to payment' - under the relevant non-bankruptcy law.")

Kmert operated to Bar the United States Bartelt when she sought monetary damages for violation of Americans with Disabilities Act, the Civil Rights Act, breach of contract, wrongful discharge, and intentional infliction of emotional distress on May 14, 2001 the day of Bartelt's termination and on August 17, 2007 CV# 2002-100 was discharged.

"Consolidating all pre-petition claims against the debtor in one collective proceeding before a bankruptcy court is the essence of bankruptcy."

For our Confirmation Order shall be deemed a separate Confirmation Order with respect to each of the Debtors. Separate Chapter 11 Cases for all purposes the Clerk of the Court is directed to file and docket this Confirmation order in the Chapter 11 Cases of each of the Debtors.

Q Please Bartlito

3 [The discharge of all existing claims . . . upon confirmation of a Chapter 11 Reorganization plan is unambiguous . . . ]; 11 U.S.C § 1141(d)."

Here again the Presiding Judge buson Pierson Sanderby over the Chapter 11 cases, she supported the Plan and Confirmation Order. She then covered from one person to the other until all those protected by and through the Plan the Cloth is satisfied.

("Bartlito")

Bartlito Charge remain in full force and the Court must move on to discover other assurances.

"What was or could have been commenced"

Bartlito believes she had a category "A" charge a Charge/s that falls within the National or Local enforcement plan. Due process took up until May 28, 2002.

(The "Bankruptcy Court")

(The "Bankruptcy Court") entered an Order (the Confirmation Order) confirming the first Amendment Joint Plan of Reorganization of Kmart Corporation and its affiliated Debtors

4

and debtors-in-possession, as modified, dated February 25, 2003 (the "Plan"), in the Chapter 11 Cases of the above-captioned debtors and debtors-in-possession (collectively the "debtors").

"The automatic stay gives the bankrupt a breathing spell from creditors... [and] permits a bankrupt to attempt a repayment or a reorganization plan...").

It is then the right of defense for the Court to join with Kmart to interfere. Even to reduce the commitment, modify the intention, or even to attempt to discharge what has already made secure in the Plan for Bartlett's Chapter 11 Cases. Listed for also the Court the premise considered without an order it is unable to dismiss saying, Bartlett never file a proof of claim.

(Stating that after Confirmation "The [debtors'] property is free and clear of all claims and interest...").

Confirmation of the Plan is now proceeding under 28 U.S.C.

Q. Please Bartholomew Document Continued Page 50 of 50

"Upon Confirmation . . . all prior obligation  
and rights of the parties were extinguished . . .")

The Kmart Motion to Dismiss by Court  
Order is the same Smart Motion to Dismiss  
all of Bartholomew's Claims. Throwning therefore,  
not only Bartholomew, but the United States  
out of the Virgin Islands District Court  
a very serious issue.