

indemnification, applicable law, or specific agreement in respect of any claims, demands, suits, causes of action or proceedings against an indemnitee based upon any act or omission related to an indemnitee's service with, for, or on behalf of the Debtors.

1.73 "Indemnitee" - Means all present and former Directors, officers, employees, agents or representatives of the Debtors who are entitled to assert Indemnification Rights.

1.74 "Insurance Coverage" shall have the meaning ascribed to it in Article 12.9

1.75 "Insurance Claim" means any claim to the extent such claim arises prior to the Petition Date from an incident or occurrence that is covered under any of the Debtors' insurance policies, but only to the extent such claim is covered by such insurance policies including any directors' and officers liability policies that provide entity coverage to the Debtors.

1.76 "Intercompany Claim" means a claim by a debtor, an affiliate of a Debtor, or a Non-Debtor Affiliate against another Debtor, Affiliate of a Debtor, or Non-Debtor Affiliate.

1.77 "Intercompany Executory Contract" means an executory contract solely between two or more Debtors and one or more Non-Debtor Affiliates.

1.78 "Intercompany Unexpired Lease" means an unexpired lease solely between two or more Debtors or an unexpired lease solely between one or more and one or more Non-Debtor Affiliates.

1.79 "Interest" means the legal, equitable, contractual and other rights of any Person with respect to Existing Common Stock, Other Interest, or any other equity securities of or ownership interest in the Affiliate Debtors.

1.80 "Interestholder" means a holder of an interest.

1.81 "Investment Agreement" means that Certain Investment Agreement, dated as of January 24, 2003, Between the Plan Investors and Kmart, a copy of which is attached hereto as Exhibit E, as the same may be amended, modified or supplemented from time to time.

1.95 "Management Compensation Plan" means an executive emergence and long term incentive program approved by the board of directors or the Reorganized Debtors and implemented for the benefit of the Reorganized Debtors' employees, members of Management, and directors and designed to (i) recognize the experience, qualification, and proven track record of the Reorganized Debtors' Management team and (ii) provide incentives for the beneficiaries thereof to maximize value for stockholders after the Effective Date.

1.96 "New Holding Company" means a Corporation to be created pursuant to the terms of the Plan, or, in the discretion of Kmart's board of directors after consultation with the Creditors' Committees, a

Reorganized Debtor, to hold 100% of the New Operating Company Common Stock on and after the Effective Date.

1.97 "New Holding Company Common Stock" means the shares of common stock of New Holding Company authorized under Article 7.8 of this Plan and under the Articles of incorporation of New Holding Company.

1.99 "New Operating Company" means a Corporation or Other Person to be created pursuant to the terms of this plan or in the discretion of Knarr board of directors after consultation with the Creditors Committee and the Plan Investors, a Reorganized Debtor, to be wholly-owned, directly or indirectly, by New Holding Company.

1.100 "New Operating Company Common Stocks" means shares of common stocks (or such other Certificate designating ownership as are appropriate) of New Operating Company authorized under Article 7.1 of this Plan and under

the articles of incorporation of New Operating Company.

1.101 "Non-lenders Claims" means the Prepetition Note Claims, the Trade Vendor/lease Rejection Claims, the Trust Preferred Obligations, and other unsecured Claims.

1.102 "Ordinary Course Professional Order" means the Bankruptcy Court's Order Pursuant to 11 U.S.C. §§ 105 (a), 329 (c) and 331 Authorizing Retention of Professionals Utilized by the Debtors in the Ordinary Course of Business (Docket No. 682).

1.103 "Other Executory Contract or Unexpired Lease" means all executory contract or unexpired leases, other than employee-Related Agreements, InterCompany Executory Contracts, and InterCompany Unexpired leases to which any of the Debtors are a party.

1.104 "Other Interest" means all options, Warrants, Call rights, puts, Awards, or other Agreements to acquire Existing Common Stocks.

1.105 "Other Priority Claim" means a claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code other than a priority Tax claim or an Administrative claim.

1.106 "Other Unsecured Claim" means subject to Article 5.6 heroff a claim that is not an Administrative Claim, General Unsecured Convenience Claim, Intercompany Claim, Other Priority Claim, PBOC Claim, Priority Tax claim, Pre-petition Lender Claim, Prepetition Note Claim, Secured Claim, Trade/endorsement Rejection Claim, or Trust preferred obligation.

1.107 "Other Unsecured Claim Cash Payment Amount" means the cash to be paid to all holders of allowed Other Unsecured Claims on the third Anniversary of the Effective Date (or if such date is not a business Day, the next Business Day), in an amount equal to (i) the product of (a) the estimated, Mid-range Value (as set forth in the Disclosure Statement) of the New Holding Company Common Stock to be

distributed to holders of Trade Vendor /
Lease Rejection Claims multiplied by (b) a
fraction, the numerator of which is
equal to the aggregate amount of all
Allowed Other Unsecured Claims, and the
denominator of which is equal to the
aggregate amount of all Allowed Trade
Vendor / Lease Rejection Claims and Allowed
Unsecured Claims, plus (ii) an amount
equivalent to interest on the amount
calculated pursuant to the preceding
clause at an annual rate of 4% from
and after the Effective Date through
and including the third anniversary
of the Effective Date. The Other Un-
secured Claim Cash Payment Amount
shall be subject to such other
terms and conditions as may be
necessary and appropriate to
effectuate payment thereof or to
comply with applicable law.

1.108 "Other Unsecured Claim Election"
Means an election by an Other Un-
secured Claimholder, either on its
Ballot or appropriate election form
provided by the Debtor, to be treated as a
Trade Vendor / Lease Rejection Claimholder.

1.109 "Other Unsecured Claim Estimation Procedure" approve by the Bankruptcy Court providing for the expedited estimation, for distribution purposes, of Other Unsecured Claims held by Other Unsecured Claimholders who make the Other Unsecured Claim Election.

1.110 "PBGC" means the Pension Benefit Guaranty Corporation.

1.111 "PBGC Claims" means all claims of the PBGC against any Debtor.

1.112 "Person" means an individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust, estate, unincorporated organization, governmental unit (as defined in section 101(27) of the Bankruptcy Code) or other entity.

1.115 "Plan" means this joint plan of reorganization for the resolution of outstanding claims and interest in the Chapter 11 cases as herein proposed by

the Debtors, including all supplements, appendices and schedules hereto, either in their present form or as the same may be further altered, amended or modified from time to time in accordance with the Bankruptcy Rules.

1.118 "Plan Investor Claim" means all Administrative claims of the Plan Investors under the Investment Agreement, including without limitation, all fees and expenses (including professional fees and expenses) arising under the Investment Agreement.

1.129 "Prepetition Agent" means JP Morgan Chase Bank CP/K/a, The Chase Manhattan Bank) as Administrative agent under the Prepetition Credit Agreement.

1.120 "Prepetition Credit Agreement" means Collectively, (a) that certain Three Year Credit Agreement, dated as of December 6, 1999 by and among Kmart, J.P. Morgan Securities, Inc. (f/k/a Chase Securities Inc.), as Lead Arranger and Book Manager, J.P. Morgan Chase Bank CP/K/a the Chase Manhattan Bank), as Administrative Agent, Bank of America, National Association, as Syndicated Agent, BankBoston, N.A. as

Co-Document Agent, and Bank of New York, as Co-Document Agent, as amended, supplemented or otherwise modified from time to time, and all documents executed in connection therewith, and (b) that certain 364 Day Credit Agreement, dated as of November 13, 2001, by and among Kmart JP Morgan Chase Bank (f/k/a The Chase Manhattan Bank), as Administrative Agent, Credit Suisse First Boston, Fleet National Bank, and Bank of New York, as Co-Documentation Agents, as amended, supplemented or otherwise modified from time to time, and all documents executed in connection therewith.

1.121 "Prepetition Lender Claims" means all claims arising under or pursuant to the Prepetition Credit Agreement.

1.122 "Prepetition Lenders" means the lenders from time to time party to the Prepetition Credit Agreement.

1.123 "Prepetition Note Claims" means all claims arising under or pursuant to any of the Prepetition Notes or the indentures governing the Prepetition Notes.

1.124 "Prepetition Note Holder Shares" Means 25,008,573 shares of New Holding Company Common Stock.

1.125 "Prepetition Notes" means, collectively,
(a) (i) the 12.5% Notes due March 1, 2005 in the aggregate principal amount \$100,000,000;
(ii) the 8.125% Notes due October 1, 2012 in the aggregate principal amount of \$200,000,000; (iii) the 7.75% Notes due October 1, 2012 in the aggregate principal amount \$157,257,000;
(iv) 8.25% Notes due January 1, 2022 in the aggregate principal amount of \$68,055,000; (v) the 8.375% Notes due July 1, 2022 in the aggregate principal amount of \$85,550,000; (vi) the 7.95% Notes due February 1, 2023 in the aggregate principal amount of \$259,800,000 and (vii) the Series C Medium Term Notes and Series D Medium Term Notes in the aggregate principal amount \$222,935,000 in each case issued by Kmart pursuant to that certain indenture dated as of February 1, 1985 between Kmart and the Bank of New York, as original indenture trustee, as thereafter succeeded in that capacity by Wilmington Trust Company as successor indenture trustee, as

such indenture may have been amended, supplemented, or otherwise modified from time to time, including, but not limited to that certain First Supplemental Indenture dated as of March 1, 1991; (b)(i) the 8.75% Notes due December 1, 2004 in the aggregate principal amount of \$300,000,000; (ii) the 9.375% Notes due February 2006 in the aggregate principal amount \$400,000,000; and (iii) the 9.875% Notes due June 15, 2008 in the aggregate principal amount \$430,000,000, in each case issued by Kmart pursuant to that certain indenture dated as of December 13, 1999, between Kmart and the Bank of New York, as the original indenture trustee, as thereafter succeeded in that capacity by Wilmington Trust Company as successor indenture trustee, as such indenture may have been amended, supplemented, or otherwise modified from time to time, including, but not limited to, that certain First Supplemental Indenture dated as of December 13, 1999; That certain ^{Second} Supplemental Indenture, dated as of January 30, 2001; and that certain Third Supplemental Indenture dated as of June 19, 2001; (c) the Commercial Development Revenue Refunding Bonds (Kmart

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Corporation Project) Series 1994 in the aggregate outstanding principle amount of \$1,800,000.00, issued under or in connection with the trust indenture dated as of November 1, 1994 by and between The County Commission of Harrison County as issuer, and J P Morgan Trust Company, Nation Association (as successor trustee), as indenture trustee, as thereafter succeeded in that capacity by Wilmington Trust Company as successor indenture trustee, and all of the rights, title and interest of Harrison County in and under the Loan Agreement and the Promissory Note made between Kmart and The County Commission of Harrison County; and (c) the Industrial Development Revenue Refunding Bonds (Kmart Corporation Project) Series 1994 in the aggregate outstanding principal amount of \$2,375,000.00, issued under or in connection with the trust indenture dated as of October 1, 1994 by and between The Industrial Authority of the City of Liberty, Missouri, as issuer and UMB Bank, N.A., as indenture trustee, and all of the right, title and interest of The Industrial Development Authority of the City of Liberty, Missouri in and under the Loan Agreement and the Promissory Note

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Made between Kmart and the Industrial Development Authority of the City of Liberty, Missouri.

1.126 "Priority Tax Claim" means a Claim entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code.

— 1.127 "Pro Rata" means, at any time, the proportion that the Face Amount of all Claims (including Disputed Claims, but excluding Disallowed Claims) in such Class or Classes, unless this Plan provides otherwise.

1.129 "Professional Claim" means an Administrative Claim of a Professional for Compensation for services rendered or reimbursement of cost, expenses or other charges and disbursements incurred relating to services rendered or expenses incurred after the Petition Date and prior to and including the Effective Date.

1.130 "Profession Fee Order" means the order entered by the Bankruptcy Court on January 25, 2002, authorizing the interim payment of Profession Claims subject to the Holdback Amount.

— 1.132 "Registration Rights Agreement" means
(a) leaving unaltered the legal, equitable and
contractual rights to which a Claim entitles the
Claimholder so as to leave such Claim Unimpaired
in accordance with section 1124 of the
Bankruptcy Code, or (b) notwithstanding
any contractual provision or applicable law
that entitles the Claimholder to demand or
receive accelerated payment of such Claim
after the occurrence of a default (i) curing
any such default that occurred before
or after the Petition Date, other than a
default of a kind specified in section 365-
b)(2) of the Bankruptcy Code; (ii) reinstating
the maturity of such Claim as such Maturity
existed before such default; (iii) Comp-
ensating the Claimholder for any damages
incurred as a result of any reasonable
reliance by such Claimholder on such
contractual provision or such applicable
law; and (iv) not otherwise altering the
legal equitable or contractual right ~~that~~
~~does not pertain to the payment when due~~
to which such Claim entitles the Claimholder;
provided however that any contractual right
that does not pertain to the payment when
due of principle and interest on the
obligation on which such Claim is based,

including, but not limited to, financial Covenant ratios, negative pledge Covenants, Covenants or restrictions on merger or Consolidation, "going dark" provisions, and affirmative Covenants regarding Corporate existence prohibiting certain transactions or actions contemplated by this Plan, or conditioning such transactions or actions on certain factors, shall not be required to be cured or reinstated in order to accomplish Reinstatement.

1.139 "Retained Actions" means all claims, Causes of Action, rights of action, suits and proceedings, whether in law or equity, whether known or unknown, which any Debtor or any Debtors Estate may hold against any Person, including, without limitation, (a) Claims and Causes of Action brought prior to the Effective Date, (b) Claims and Causes of Action against any Persons for failure to pay for products or services provided or rendered by any of the Debtors, (c) Claims and Causes of Action relating to strict enforcement of any of the Debtors' intellectual property rights, including patent, copyrights and trademarks, and

(d) Claims and Causes of Action seeking the recovery of any of the Debtors' or the Reorganized Debtors' accounts receivable or other receivables or rights to payments created or arising in the ordinary course of any of the Debtors' or the Reorganized Debtors' businesses, including without limitation, claim overpayments and tax refunds; provided however that the foregoing shall not include Trust Claims (including Avoidance Claims that are Trust Claims), which will be transferred to the Kmart Creditor Trust, Avoidance Claims, or Claims explicitly released under this Plan or by Final Order of the Bankruptcy Court prior to the date hereof.

1.142 "Secured Claim" means a claim secured by a security interest in or a lien on property in which a Debtor's Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value, as of the Effective Date or such other date as is established by the Bankruptcy Court, of such claimholder's interest in the applicable Estate's interest in such property or to the extent of the

amount subject to setoff, as applicable as determine by a Final Order of the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code or in the case of setoff, pursuant to section 553 of the Bankruptcy Code, or as otherwise agreed upon in writing by the Debtors and the Claimholder,

~~1.144 "Secured Action" means a claim secured by a security interest in or a lien on property~~

1.144 "Security Action" means any cause by a Person, other than by or on behalf of a Debtor, against any Person other than a Debtor arising out of or related to a Person's ownership of interest, including Existing Common Stocks, including, without limitation, the following actions, (1) those certain class actions on behalf of purchasers of securities who purchase such securities between March 13, 2001 and May 15, 2002 as such class actions were amended and consolidated by pleadings filed on November 1, 2002 in the United States District Court for the Eastern District of Michigan; (ii) a class action on behalf of participants in or beneficiaries of the Kmart Corporation

as a full time worker, who Kmart states my dependability, flexibility and their satisfaction.

I defended myself at the District Court through motions filed until the court said I could no longer pursue my claims at that Court for it granted Kmart's Motion to dismiss all my claims. All this was done without a Court trial. Then the Court sent me its Judgement in the mail. I was not invited to my own trial my witnesses were not invited and the jury trial demanded by my then Attorney Archie Jennings, was not called even though I prepared Jury Instruction and submitted them to the Court. I appealed the District Court's decision at the 3rd Circuit in Philadelphia. Three Judges were appointed to my case they reviewed my claims against Kmart and during my term with that Court Merits were found in my claims. A Mandate came after but again, I defended myself for the label did not match the Merits found within the Conclusion and an opportunity was given to me to seek a rehearing I asked the same

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Judges to review the label that said Not Precedential. My Rehearing with that Court was denied for it could not fix the problem cause. I turned to the Supreme Court D.C.

The Supreme Court did not grant my petition for the rehearing.

During this time I read and reread and it clicked that The 3rd Circuit made comments to include the District Court about the Bankruptcy Court

Kmart relinquished all rights when it signed the waiver, and I am faced with the petition for rehearing is denied.

I have come to understand that The Supreme Court wanted me to be where I am without telling me and that they did ~~not~~ close my case but instead my rehearing is with and through the Bankruptcy Court, and that unlike the District Court that discharged my claims sending me away from its presence the Supreme Court denied me the Rehearing or Review and I learned also that dismissal is different to a denial.

Oh how I struggled on and still struggling on. Being Pro se is not easy.

Wording my experiences is even harder
It does some things to my entire being.
I longed to be made whole Mentally,
Physically, Spiritually and financially
the stress and stressors are great it
is my hope that this would be my
last Court. For this Court truly
knows that I am Claimant and
Kmart Corporation is my Debtor.

11 individuals have found our
way back to Bankruptcy Court
We are the Chapter 11 Cases. I
found our Names in 1 pile on a
submitted form labeled Litigation
Claim to be disallowed. It is
believed that ⁱⁿ the few of us there is
no Merit. (However the 3rd Circuit
Claimed there is Merit) I also
found an Order giving me my rights
to defend and I have been
doing so ever since. I have done
no Violation neither Caused, nor gave
reason to be treated some of the
ways described in this my petition
for rehearing. I have been sick
my delay is due to sickness. I seek
the Court's forgiveness and pray that
the time will come to have brighter days.

In matters pertaining to the Chapter 11 Cases, I have several concerns for it appears even so, that there was no thought according to the Plan for Kmart to satisfy all of the Courts Rules for it changed all of the rules applicable to the Chapter 11 cases when it disallowed even owned up to doing so to secured and guaranteed Claims. Because I complied with the rules (1) filed a proof of Claim (2) respected the "Stay" considered Prepetition thus all my several claims are allowed even substantiated by the 3rd Circuit Court and those evidences are presented.

Against the Court, Kmart acted exactly as it wants only prove the point Kmart does what it wants even to me.

As the Court would allow one would better understand my plight. That we were disallowed by Kmart, is a ugly sight. When ^{it} threw us out that too was against our rights for payments, for it was a plan, a scheme against the Chapter 11 cases one more time.

The Court would better understand that the proof of Claim form was modified by the payment offered.

by Kmart, through Atty. Barrett. Andth shows
an attempt to go against the will of
the Court. My claims against Kmart
are Civil intent. When I got terminated
everything done to me covers local
and federal and anything done to me
was against America The Federal Side
My Constitutional Rights.

This Court ensured that the Chapter
11 cases were protected apart from all
creditors who did not fall under this
special Category.

Kmart reviewed and agreed to
this Plan. The Court ensured, and with
emphasis offered is protection even in
this statement.

Notwithstanding any provision of the
Plan or its Modification and effectuate
of the Plan or its Modification shall
not release, reduce or discharge
any surty obligation to satisfy
any portion of any claim arising
from a Civil Money judgement.

I bring to the Court's attention
that the Modification offered by
Kmart shall not release, reduce
or discharge any of the Chapter 11
Cases. Kmart is obligated to pay

The face Amount at the time
and far its attempt to and did
actually and even owned up to (it)
the fact it did disallowed or dis-
charge my claim that bears 9 others
by name as per the record. I ask
the Court to double each claim filed
that has walked through 3 different
Courts and now in the 4th Court.
as Claimants seeking our rights and
to be reinstated for ^{we} were per the
record were lost by the Court
and I report that we are found
and back in ^{Court} many years after,
facing hardships numerable. I
pray Kmart has laughed its last
laugh. The first laugh was done
in my face when it discriminated
against me. Kmart owes me even
now my Salary. Mr. Newton actually
laughed in my face and ever since
it pained deeply for I have never in
^{my} lifetime been treated that way.

Let us look at a few other things
as we continue to read on and
show that our security and priority
status was well done according to its purpose.

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Chapter 11 Cases/claims are not a subject to
to be reduced since they are secured
guaranteed offered full satisfaction
settlement, release, and discharge of and in
exchange for such Administrative claim to
include all other claims presented before the
Court.

There is nothing to keep back since
Confirmation of the Plan is a Core proceeding
Under 28 U.S.C. The Plan was confirmed.

This Plan is the product of extensive
discussions and negotiations between and among,
inter alia, the Debtors, the Statutory Committees, the
Plan Investors, the Petition Agent on behalf of the
Petition Lenders, and certain other Creditors and
Constituents. Each of the foregoing was represented
by counsel who either (a) participated in the
formulation and documentation of or (b) was
afforded the opportunity to review and provide
comments on, the Plan, Disclosure Statement, and the
documents ancillary thereto. Accordingly, the
general rule of contract construction known
as "contra proferentem" shall not apply to the
construction or interpretation of any provision of
this Plan, Disclosure Statement, or any contract,
instrument, release, indenture, exhibit, or
other agreement or document generated in
connection herewith.

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1.66 "Final Order" means an order or judgement, the operation or effect of which has not been stayed, reversed or amended and as to which order or judgement (or any revision modification or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed remains pending.

1.7 "Allowed Claim" or "Allowed Interest" means a claim or any portion thereof, or an interest or any portion thereof, (a) that has been allowed by a final Order of the Bankruptcy Court (or such other court or forum as the Reorganized Debtors and the holder of such claim or interest agree may adjudicate such claim or interest and objection thereto) or (b) as to which, on or by the Effective Date, (i) no proof of claim or interest has been filed with the Bankruptcy Court and (ii) the liquidated and noncontingent amount of which is Scheduled, other than a claim or interest that is Scheduled a zero, in an unknown amount, or as disputed, or (c) for which a proof of claim or interest in a liquidated amount has been timely filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and as

"allowed claims"

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- to which either (i) no objection to its allowance has been filed within the periods of limitation fixed by the Plan, the Bankruptcy Code or by any order of the Bankruptcy Court, or (ii) any objection as to its allowance has been settled or withdrawn or has been denied by a Final Order, or (d) is reflected in the schedule of allowed claims, if any filed from time to time with the Bankruptcy Court by the Debtors or the Reorganized Debtors, or (e) that is expressly allowed in a liquidated amount in this Plan.

Order

Gómez J.

Before the Court is Defendant Kmart Corporation ("Kmart")'s Motion to dismiss for failure to state a claim upon which relief can be granted. Kmart file its Motion on April 25, 2006, without including any opposition or a letter to certify a lack of opposition, as required by LCRI 12.1.

Accordingly, it is hereby ordered that the Kmart's Motion to dismiss is denied.

Entered this 6th day of October, 2006.
(For the Court.) sign Curtis V Gómez
Chief Judge

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(IAB) . a complete list of the Debtors set forth represents Kmart "Chapter 11 Cases" means the Chapter 11 cases of the Debtors pending in the Bankruptcy Court and being jointly administered with one another under Case Number 02-02474 and the phrase "Chapter 11 Cases" when used in reference to a particular Debtor shall mean the particular Case under Chapter 11 of the Bankruptcy Code commenced by such Debtor in the Bankruptcy Court and

1. Pursuant to 11 U.S.C. §§ 102(1), 105(a), and 502(b) and Fed. R. Bankr. P. 3007, each claim listed on Exhibit A attached hereto is reclassified so that the claim is asserted against Kmart Corporation, Case No. 02-02474.

The jurisdiction of incorporation or formation of each Debtor is also designated Kmart Corporation (Michigan) 02-02474 ("Kmart") is my Debtor and my claims are asserted against all of the Debtors whether or not asserted, as defined in section 101(5) of the Bankruptcy Code.

1.41 "Debtors" or "Debtors" means, individually, any of Kmart or the Affiliate Debtor and, collectively, all of Kmart and the affiliate Debtors.

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Class 1. (Secured claims) Class 2. (Other Priority Claims)
Class 3. (Petition Lender Claims) Class 4. (Petition Note Claims)
Class 5. Trade Vendors/Lease Rejection Claims)
Class 6. Other Unsecured claims, Class 7. (General
Unsecured Convenience Claims, Class 8. (Trust
Preferred Obligations) Class 9. (Inter Company
Claims, Class 10. Subordinated Securities Claims)
Class 11. Existing Common Stocks) Class 12. Other
Interest).

1.130 "Professional Fee Order" means the
Order entered by the Bankruptcy Court on
January 25, 2002, authorizing the interim
payment of Professional claims subject to
the hold back amount.

1.2 "Administrative Claim" Means a claim for
payment of an administrative expense of a
kind specified in section 503 (b) of the Bankruptcy
Code and entitled to priority pursuant to
section 507 (a) (1) of the Bankruptcy Code including,
but not limited to DTP Facility Claims the
actual necessary costs and expenses incurred on or
after the Petition Date of preserving the estates and
operating the business of the Debtors, including wages,
salaries or commissions for services rendered
after the commencement of the Chapter 11 cases,
Professional Claims, Key Ordinary Course
Professional Claims, all fees and charges

"

assessed against the estate under Chapter 123 of Title 28, United States Code, and all allowed claims (including reclamation claims) that are entitled to be treated as Administrative Claims pursuant to a final order of the Bankruptcy Court under section 546 (c) (2) (A) of the Bankruptcy Code.

1.8 "Allowed Class... Claim" or "Allowed Class... Interest" means an Allowed Claim or an Allowed Interest in the specified class.

1.54 "Distribution Reserve" means the New Holding Company Common Stocks for distribution to claimholders in the Debtors' Chapter 11 Cases to be reserved pending allowance of Disputed Claims in accordance with Article 9.8 of this Plan.

1.58 "Estates" means the bankruptcy estates of the Debtors created pursuant to section 541 of the Bankruptcy Code.

1.69 "Holdback Amount" means the amount equal to 10% of fees billed to the Debtors in a given month to the extent retained by the Debtors as of the Effective Date as a holdback on payment of Professional Claims pursuant to the Professional Fee Order. The Holdback Amount shall not be considered property of the Debtors, the Reorganized Debtors or the Estates.

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The Court will notice that I fought my way to the Bankruptcy Court and as I moved my claims moved along with me that were housed with the District Court St. Thomas, FL.

I was discriminated by my then employer "Kmart" May 14, 2001 and wrongful discharged

Kmart tried to bar the charges against it even though I told Kmart of my disability.

The Court by virtue of choice to uphold the law allowed said prepetition claim and made provision to cover the said claims even seen 1.101 "None-lender claims" means the Prepetition Note Claims, the Trade Vendor/ Lease Rejection Claims, the Trust Obligations Preferred Obligations, and the Other Unsecured claims

1.84 Kmart Case No. 02-02474 is still pending in This Bankruptcy Court and covers 3.3 all (of the Kmart) Prepetition Lender Claims. Applicable only to the Chapter 11 Cases of the following Debtors Kmart, Kmart Amsterdam, Kmart Holdings, Kmart-IN, Kmart-MI, Kmart-MPS, Kmart-NC, Kmart-PA, Kmart-Tx, Big Beaver Cagnas, Big Beaver Development, Big Beaver Florida Guaynabo, Bluelight, and SFPR. Classes also include Class 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12

At the Bankruptcy Court the Face amount shown on my timely proof of claim is \$45,000 is for Back pay and Front pay. That amount is secured and and these coming with me are for Employment discrimination, violation of Americans with Disabilities Act, breach of Contract Age Discrimination Wrongful discharge and intentional infliction of emotional distress to be added but at a separate price value of \$10,000,000

Kmart acknowledges its wrong and its representing Attorney Charles E. Engeman, signed the Waiver as shown in documents attached to my introductory letter.

"Face Amount" means (a) when used in reference to a Disputed or Disallowed claim, the full liquidated amount claimed by the claim holder in any proof of claim timely filed with the Bankruptcy Court or otherwise timely filed by any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and (b) when used in reference to an allowed claim, the allowed amount of such claim.

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Kmart is "Bold" and "Wrong" to send me through my then attorney Archie Jennings a check having a value and entitlement of approximately .10 on the dollar (my Salary not included) and though Atty. Barrett would not like The Chapter 11 Cases to see liability

Kmart is indeed Liable to disallowed the agreement that was confirmed and active by said procedures, Consummated as a pledge not to be broken Kmart broke the pledge the oath and or the binding effect. Then in the light of the day offered to me Class 6. I am a Claimholder Against Kmart Corporation and Covered claims ranges 1-12. Full satisfaction is for the Chapter 11 Cases. My satisfaction is 1-12. I had not endorse the check that came to me for I was in the court seeking my right. It was returned via the VI Bar Association (that is a copy) and the check mailed back to its owner

Kmart Management. The Mail came from the disability Rights Center from Atty. Jennings who was no longer my attorney. I have had letters from Director, Advocate, or Attorney in the past.

Retirement Savings Plan filed on March 18, 2002 in the United States District Court for the Eastern District of Michigan; (iii) an action on behalf of three limited partnerships and purchased stocks of Bluelight. com filed on April 26, 2002 in the United States District Court for the Eastern District of Michigan; and (iv) an action filed on February 14, 2003 by the Softbank Funds against Charles Conway in The Circuit Court of Cook County, Illinois, Case No. 03L1875.

1.149 "Subordinated Securities Claim" means a Claim subject to subordination under section 510(b) of the Bankruptcy Code, including, without limitation, any Claim that arises from the rescission of a purchase or sale of a security of any of the Debtors (including, without limitations, Existing Common Stock), or for damages arising from the purchase or sale of such a security, or for reimbursement, indemnification, or contribution allowed under section 502 of the Bankruptcy Code on account of such Claim.

1.150 "Total Investor Shares" means all

shares of New Holding Company Common Stock to be issued to the Plan Investors pursuant to the Investment Agreement.

Based upon the Prepetition Lender Claims held by the Plan Investors as of January 24, 2003, the number of Total Investor Shares would be calculated to be 29,282,723.

1.151 "Trade Vendor/Lease Rejection Claim" means subject to Article 5.7 hereof, a Claim arising as a result of (i) retail merchandise or services provided by trade vendors or service providers, (ii) rejection of executory contracts and unexpired leases, (iii) guaranties related to rejected executory contracts and unexpired leases, (iv) guaranties with respect to industrial revenue bonds, (v) unsecured deficiency claims, if any, (vi) guaranties related to third-party leases, and (vii) Other Unsecured Claims that have made the Other Unsecured Claim Election.

1.152 "Trade Vendor/Lease Rejection Claimholder Shares" means 31,945,161 shares of New Holding Company Common Stock.

1.153 "Trade Vendor Collateral Agent" means the entity appointed by the Unsecured Creditors Committee, which is reasonable acceptable to the Debtors, which shall hold all liens with respect to the Trade Vendors' Lien pursuant to Article 7.13 of this Plan.

1.154 "Trade Vendors' Lien" means any liens granted to the Trade Vendors Collateral Agent, as of the Effective Date, pursuant to Article 7.13 of this Plan and Exhibit J-2 to this Plan.

1.156 "Trust Agreement" means that certain Trust Agreement that will govern the Kmart Creditor Trust, a form of which is attached to this Plan as Exhibit K.

1.157 "Trust Assets" means the Trust Claims and any assets to be transferred to and owned by the Kmart Creditor Trust pursuant to Article 11.2 of this Plan.

1.158 "Trust Claims" means any and all Causes of Action, other than Securities Actions against any Person or entity arising from, in connection with, or relating to the subject

Matters of the investigations which, for purposes hereof, means the Accounting and Stewardship Investigations, including all matters authorized by order entered by The Bankruptcy Court on September 4, 2002 approving the participation, on a joint interest basis, of the Statutory Committees in said investigations, and including all matters arising from, in connection with, or relating to the subject matter of responses to the Government Inquiries (as each of such terms is defined in the Disclosure Statement).

1.159 "Trust Preferred Obligations" means all obligations of the Debtors arising under or pursuant to the Trust Preferred Securities and related Indenture by and between Kmart Corporation and the Bank of New York, as Trustee, dated June 6, 1996, the First Supplemental Indenture of the same date, and related documents.

1.160 "Trust Recoveries" means any and all proceeds received by the Kmart Creditor Trust from (a) the prosecution to, and collection of, a final judgment of a Trust Claim against a Person, or (b)

the settlement or other compromise of a Trust Claim against a Person, and (C) Designated Trust Recoveries.

1.161 "Trust Preferred Securities" means those certain mandatory redeemable convertible preferred securities issued by Kmart Financing I, an affiliate Debtor, pursuant to that certain Declaration of Trust by Kmart Financing I dated as of February 16, 1996, as amended and restated as of June 6, 1996.

1.162 "Trustee" means the trustee of the Kmart Creditor Trust as contemplated by the Trust Agreement.

1.163 "Unimpaired" refers to any claim that is not Impaired.

1.164 "Unsecured Creditor Committee" means the Official Unsecured Creditors' Committee appointed pursuant to section 1102(a) of the Bankruptcy Code in the Chapter 11 cases, as the membership thereof may change from time to time.

1.165 "Voting Deadline" means April 4, 2003,

at 4.00 p.m. prevailing Eastern Time.

1.166 "Workers Compensation Program" means Collectively, The Debtors' Workers' Compensation Program in all states in which they operate pursuant to which the Debtors provide their employees with workers' compensation coverage for claims arising from or related to their employment with the Debtors.

C Rules of Interpretation

For purposes of this Plan, unless otherwise provided herein, (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural; (b) each pronoun stated in the Masculine, feminine or Neuter includes the Masculine, feminine and Neuter; (c) unless otherwise provided in this Plan, any reference in this Plan to a Contract, instrument release or other Agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions; (d) any reference in this Plan to an existing

document or schedule filed or to be filed means such document or schedule, as it may have been or may be amended, modified or supplemented pursuant to this Plan; (c) any reference to an entity as a holder of a claim or interest includes that entity's successors and assigns; (f) all references in this Plan to Sections, Articles and Exhibits are reference to Sections, Articles and Exhibits of or to this Plan (g) The words "herein," "hereunder" and "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan; (h) Captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be part of or to affect the interpretation of this Plan. (i) subject to the provision of any Contract, Certificate of incorporation, by-laws, instrument, release or other agreement or document entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules; and (j) the rules of construction set forth in section 102 of the Bankruptcy Code will apply.

This Plan is the product of extensive discussions and negotiations between and among, *inter alia*, the Debtors, the Statutory Committees, the Plan Investors, the Prepetition Agent on behalf of the Prepetition Lenders and certain other creditors and constituencies. Each of the foregoing was represented by Counsel, who either (a) participated in the formulation and documentation of, or (b) was afforded the opportunity to review and provide comments on, The Plan, Disclosure Statements, and the documents ancillary thereto. Accordingly, the general rule of contract construction known as "*contra preferentem*" shall not apply to the or interpretation of any provision of this Plan, Disclosure Statement, or any Contract, instrument, release, indenture, exhibit, or other agreement or document generated in connection herewith.

D. Computation of Time

In computing any period of time prescribed or allowed by this Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006 (a) shall apply.

F. References to Monetary figures shall refer to United States of America currency, unless otherwise expressly provided.

F. Exhibits

All Exhibits are incorporated into and are part of this Plan as if set forth in full herein and, to the extent not annexed hereto, such Exhibits shall be filed with the Bankruptcy Court on or before the Exhibit Filing Date. After the Exhibit Filing Date, copies of Exhibits can be obtained upon ~~written~~ request to Skadden, Arps, Slate, Meagher & Flom (Illinois), 333 West Wacker Drive, Chicago, Illinois 60606 (attn: John Wm. Butler, Jr., Esq.), Counsel to the Debtors, or by downloading such Exhibits from the Court's website at <http://www.uscourts.gov>. To the extent any Exhibit is inconsistent with the terms of this Plan, unless otherwise ordered by the Bankruptcy Court, the non-Exhibit portions of this Plan shall control.

Litigation Claims to be Disallowed / Proof of Claims

Names and addresses are shown of claimants who filed their claims as was required having a Face Amount.

One look at the claimants record placed on said record shows Kmart from the start saw neither the claimants or our claims as Secured, Administrative, Priority or unsecured. And a reason for Disallowance of all claims was no merit, No Record of Prior Claim with legal, No Probable Cause Finding no merit 06-2102.

All the claims are referred to as Chapter 11 Cases by the Bankruptcy Court, they are Secured, have Priority than all other claims filed against Kmart. They are too Administrative against our Employer Kmart and whereas, Kmart should have dealt with all the claims as per the record Kmart's failure to do so is also its own wilful neglect by so doing, it caused its own default.

I went seeking for the Face Amount through 3 different courts, The District Court, 3rd Circuit and Supreme Courts. In those courts I served on the behalf of of my Peers that are jointly Filed Administrative Chapter 11 Cases.

I leave not go seeking my own cause. It must be our own cause, also based on Confidentiality records also kept within the records held with the Bankruptcy Court.

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It should also be stated, ^{that there is} on said Proof of Claim Form, ~~the~~ Notice to us the claimholders, ^{not} before the Default, or Kmart's wilful neglect, to satisfy the obligation. 1.4 "ADR Procedures" (B) to establish Alternative Dispute Resolution Procedures for Disputed Claims dated January 28, 2003. Over six years ago, (even before it came out of Bankruptcy)

Kmart appeared not to respect the Orders of the Court and as its Nature is to do what it wants regardless is one of the many reasons we are here before the Court 6 years after and commenced against Kmart this way that is, to make our Administrative Claim according to or pursuant to 11 U.S.C. § 503.

In The past when Attorneys filed has passed, this is the new error of things we will not default in helping ourselves against Kmart.

1.52 "Disputed Claims" or Disputed Interest Means a claim or any portion thereof, or an Interest or any portion thereof, that is neither an Allowed Claim nor a Disallowed Claim, or an Allowed Interest or a Disallowed Interest, as the Case may be, and includes, without limitation, Claims or Interest that (a) have not been scheduled, by the Debtor or have been or have been scheduled at zero, or have been scheduled as Unknown, Contingent, unliquidated or disputed, whether or not such

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Claims or Interest are the subject of a proof of Claim of interest in the Bankruptcy Court, (b) are the subject of a proof of Claim or interest that differs in nature, amount or priority from the Schedules, or (c) are the subject of an Objection filed with the Bankruptcy Court, which has not been withdrawn or overruled by a Final Order of the Bankruptcy Court.

Kmart knows or should have known. Moreover, This "Plan" was known to all nothing was done in secret. The "Plan" is the product of extensive discussions and negotiations between and among inter alia, the Debtors, the Statutory Committees, The Plan Investors, The Petition Agent on behalf of the Prepetition Lenders, and certain other Creditors and Constituents.

Each of the foregoing was represented by counsel who either (a) participated in the formulation and documentation of or (b) was offered the opportunity to review and provide comments on, the Plan Disclosure Statement and the documents ancillary thereto.

Despite all this knowledge the preparatory and reviews done Kmart values my Claims at .10 or 10¢ on the Dollar

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and offered through my then Attorney who mentioned a "stay" no longer wanted to be my attorney, gave me 30 days to find a successor attorney. Was my then Attorney Archie Jennings, Wish.

I could not find one so I had to fend for myself and the other Chapter 11 cases proceeding pro se.

During all these years I heard nothing from Kmart and no relief was offered, am I then to be bought for the amount offered \$4,480,35. based upon what appears to be even fraud, starting with that same proof of claim.

Here goes the act before us as seen, and before the eyes of the Court. After a good examination the word through deleted my claim as claimant against the Debtor Kmart Corporation et al., "Kmart" (Michigan) 02-02474. That number is definitely not part of the picture the through is deceptive leaving my personal claims not featured in the picture. (And the through and/through does sound very much alike and instead of using threw, or throw, through was used instead. (covering and established for itself deceit or fraud) all along my Debtor's claim number had been 02-02474 having a tax ID # 38-0729500.

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I sort my rights as Plaintiff in the District Court on Kmart's first attempt to Communicate its Motion to Dismiss even in that court this is what I discovered.

- 1 The Page Numbered sequences did not flow.
- 2 The thought process and ideas Communicated were lost.
- 3 Every other page is omitted.
- 4 The summary is incomplete.
- 5 The Document misleading

I got 3 different entries and each one differs from the other even though it is suppose to be the same Kmart Motion to Dismiss. At first I discovered 81 pages missing later as I again Counted 100 pages were not inserted.

I had an assignment from the Magistrate Judge Barnard to Complete for a particular time. After Comparing the 3 different entries I used what appears more Complete.

Concerning said Kmart Motion to Dismiss the failure to act January-2003 Caused its Default, and only after I proceeded it came into the Court and filed its Motion to Dismiss, the Attorney at the time, was Attorney Bennett Chan.

He Manufactures his foster that a factory even before the District Court.

Order

Gómez J.

Before the Court is Defendant Kmart Corporation ("Kmart")'s Motion to dismiss for failure to state a claim upon which relief can be granted. Kmart filed its Motion on April 25, 2006, without including any opposition or a letter to certify a lack of opposition, as required by LCRC 12.1

Accordingly, it is hereby Ordered that the Kmart's Motion to dismiss is denied

Entered this 6th day of October, 2006.
(For the Court!) sign Curtis V Gómez
Chief Judge

Several of the Chapter 11 Cases under said Case Number 02-02462 through 02-02499 are seen having no merit and it also appear their could have been some jubilation. I felt it through pains.

I however report also that the 3rd Circuit Where I was the Appellant found what Kmart could not find ^{that} is merit in my claims!

IN the Supreme Court of our Nation
I Carried Kmart Motion to dismiss
Bortlett's to include the Chapter 11 Cases

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as Petitioner, Attorney Charles E. Engeman signed the Waiver on 11-20-2008 on the behalf of "Kmart" my Debtor.

In my appeal for Review or Rehearing I humbly approach the Court for I am claimant and Kmart is our Debtor. We fall under Kmart Corporation having different/individual claims against it and, the claim # is 02-02474.

I am not an attorney neither do I have legal knowledge but I bring before you facts gathered, my experiences Simone Freeman Docket # 32 as is seen on the Docket Entry of the District Court whose claim # is 06-2412 and through the record it states, she like myself, has a qualified Disability, filed a charge also against Kmart. In consideration of acts of Discrimination we all are before the Court we seek restoration and wish to be made whole. Our purpose for being here is summed-up in one word "Claimants" of the Court.

My Face Amount was for Back pay and Front pay only. I will add that the amount ^{first} requested ^{was} \$45,000. at the time.

I bring with me all my other Claims that are for Employment discrimination

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Violation of Americans with Disabilities Act, breach of Contract Age Discrimination Wrongful discharge and intentional infliction of emotional distress. These claims are against Kmart was prior to its Bankruptcy and filed May 28, 2002.

I am recognized in the Plan as prepetition.

1.2 "Administrative Claim" means a Claim for payment of an administrative expense of a kind specified in section 503(b) of the Bankruptcy Code and entitled to priority to section 507(k)(1) of the Bankruptcy Code, including, but not limited to DIP Facility Claims, the actual, necessary cost and expenses, incurred on and after the Petition Date, of preserving the estates and operating the business of the Debtors, including wages, salaries or commissions for services rendered after the Commencement of the Chapter 11 cases, Professional Claims, Key Ordinary Course Professional Claims, all fees and charges assessed against the Estates under Chapter 123 of title 28, United States Code, and all ~~allowed claims pursuant~~ (including reclamation claims) that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court under section 546(c)(2)(A) of the Bankruptcy Code.