

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:) Case No. 02-B02474
)
KMART CORPORATION,) Chapter 11
) Hon. Susan Pierson Sonderby
Debtor.) Hearing Date: August 5, 2009
) Hearing Time: 11:00 a.m. (CDT)

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **Wednesday, August 5, 2009, at the hour of 11:00 a.m. (CDT)**, we shall appear before Judge Susan Pierson Sonderby, Courtroom 642, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, or before any other judge who may be sitting in her place and stead, and shall present the **Kmart's Twelfth Motion to Lift Plan Injunction for Unresolved Personal Injury Claims**, a copy of which is attached hereto and herewith served upon you at which time and place you may appear if you so see fit.

Dated: July 20, 2009

Respectfully submitted,

/s/ William J. Barrett

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CERTIFICATE OF SERVICE

I, William J. Barrett, an attorney, hereby certify that a true and correct copy of **Kmart's Twelfth Motion to Lift Plan Injunction for Unresolved Personal Injury Claims**, was served as indicated to the parties below, on the 17th day of July, 2009.

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/s/ William J. Barrett

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Mailing Information for Case 02-02474

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

KMART CORPORATION,

Debtor.

Case No. 02 B 02474

Honorable Susan Pierson Sonderby

Hearing Date: August 5, 2009

Hearing Time: 11:00 a.m. (CDT)

**KMART'S TWELFTH MOTION TO LIFT PLAN INJUNCTION
FOR UNRESOLVED PERSONAL INJURY CLAIMS**

Kmart Corporation ("Kmart") moves for entry of an order lifting the plan injunction as to certain personal injury claims. In support of this motion, Kmart states as follows:

1. Kmart filed its Chapter 11 petition on January 22, 2002. On April 22, 2003 Kmart confirmed its Joint Plan of Reorganization (the "Plan"), which became effective on May 6, 2003.

2. Under the Plan, Kmart is the party responsible for the resolution of all claims in this case and is the party responsible for disbursements to be made under the Plan. In those capacities, Kmart seeks the following relief. Kmart is working diligently to conclude the bankruptcy case, including the resolution of all claims.

3. Approximately 58,000 proofs of claims were filed in this case. As of July 17, 2009, less than 60 proofs of claims for claims of all classes remain "open" in this court. Kmart recognizes a claim as "open" if (i) there has been no order entered disallowing or allowing the claim or (ii) Kmart does not have a written acknowledgment from the claimant that the claim has been resolved.

4. Most of the Open Claims are personal injury claims for which the claimant has not sought relief from the permanent injunction in Section 12.11 of the Plan, Section 12 of the April 23, 2003 Order confirming the Plan, and Sections 541 and 1141 of the Bankruptcy Code (the

foregoing are collectively referred to as the “Plan Injunction”) that would permit the claimant to liquidate its claim in state court (such as the claim listed on Exhibit A hereto, are referred to as “Stayed Claims”). The Stayed Claims are presently in limbo – this Court lacks the jurisdiction to liquidate any such claim, and so long as the Plan injunction remains in place no other court may liquidate the claim.

5. To move the Stayed Claims towards some form of resolution, and thus to advance the completion of this bankruptcy case, Kmart seeks to lift the Plan Injunction with respect to the Stayed Claims and to give notice to the claimants that, with respect to the liquidation of their claims, they are no longer stayed from proceeding in the appropriate court. An effect of such notice is the resumption of the statute of limitations with respect to the claim. See 11 U.S.C. §108(c).

6. The Plan Injunction is not being lifted with respect to the enforcement of judgments on any of the stayed claims. In that event, if Kmart otherwise did not satisfy the judgment in accordance with the distribution provisions of the Plan of Reorganization, the claimant would have to seek further relief from the Plan Injunction.

WHEREFORE, Kmart moves for entry of the order submitted herewith that (i) terminates the Plan Injunction, and all other stays imposed by the Bankruptcy Court, with respect to the liquidation (but not the collection) of the Stayed Claim as listed on Exhibit A hereto and (ii) directs that Kmart send a copy of the order as well as a notice of the termination of all stays and injunctions to each holder of a Stayed Claim.

Dated: July 20, 2009

KMART CORPORATION

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EXHIBIT A

CLAIMANT	CLAIM NUMBER
Maria Machucha	No claim filed.