

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: September 22, 2009
) Hearing Time: 11:00 a.m. (CDT)

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **Tuesday, September 22, 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 Corporation's Motion for Order Setting Trial Date on Pennsylvania Flood 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: August 17, 2009

Respectfully submitted,

/s/ William J. Barrett

William J. Barrett (6206424)

Barack Ferrazzano Kirschbaum & Nagelberg LLP

200 W. Madison Street, Suite 3900

Chicago, IL 60606

(312) 984-3100

(312) 984-3150 (fax)

william.barrett@bfkn.com

Attorney for the Kmart Corporation

CERTIFICATE OF SERVICE

I, William J. Barrett, an attorney, hereby certify that a true and correct copy of **Kmart Corporation's Motion for Order Setting Trial Date on Pennsylvania Flood Claims**, was served on the following parties as indicated below, on the 17th day of August, 2009.

Kathryn Gleason, Esq.
United States Trustee
219 S. Dearborn St., Room 873
Chicago, IL 60604
(served via U.S. Mail delivery, postage prepaid)

Frank A. Rothermel, Esq.
Bernhardt & Rothermel, P.C.
1515 Market Street, Suite 1540
Philadelphia, PA 19102
Email: Frothermel@bernhardt-rothermel.com
(served by U.S. Mail delivery, postage prepaid and email transmission)

/s/ William J. Barrett

William J. Barrett

Mailing Information for Case 02-02474

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive e-mail notices for this case.

- Mark E. Abraham mabraham@gouldratner.com
- Andrew J Abrams aabrams@sff-law.com, khewitt@sff-law.com; ccoleman@sff-law.com
- David S Adduce dadduce@komdr.com
- Howard L. Adelman hla@ag-ltd.com
- Beth A. Alcantar beth@jnlegal.net
- Janice A Alwin janice.alwin@bfkn.com
- Thomas V Askounis taskounis@askounisdarcy.com
- Jonathan A. Backman jbackman@backlawoffice.com, ebackman@backlawoffice.com
- David W Baddley baddleyd@gtlaw.com, powelly@gtlaw.com
- Ronald Barliant ronald.barliant@goldbergkohn.com
- William J. Barrett william.barrett@bfkn.com
- Leslie Allen Bayles lbayles@vedderprice.com
- David E Beker dbeker@schwartzcooper.com; rbendix@schwartzcooper.com; msmith@schwartzcooper.com; rnachman@schwartzcooper.com
- Joseph P. Berglund berglundniew@aol.com
- Brad Berish bberish@ag-ltd.com
- Mark A Berkoff mberkoff@ngelaw.com, cdennis@ngelaw.com
- Stephen T. Bobo sbobo@reedsmith.com
- Abraham Brustein abrustein@dimonteandlizak.com
- Christopher M Cahill ccahill@scgk.com
- Kurt M Carlson kcarlson@muchshelist.com, dmyer@muchshelist.com
- Timothy R Casey timothy.casey@dbr.com
- Jamie S. Cassel jsc@renozahm.com
- Alvin L Catella catella1@sbcglobal.net
- Steven B Chaiken schaiken@ag-ltd.com
- Rosanne Ciambrone rciambrone@duanemorris.com
- Patrick A Clisham pclisham@shawgussis.com
- Mindy D Cohn mcohn@kayescholer.com, pstepan@winston.com; ECF_BANK@winston.com
- Michael R Collins michael.collins@collinsandcollins.com
- Christopher Combest ccombest@quarles.com, fbf@quarles.com
- Randall A Constantine rconstantine@mcbenefitslaw.com
- Sara E. Cook scook@mckenna-law.com, bankruptcy@mckenna-law.com; lpalma@mckenna-law.com; jfine@mckenna-law.com
- Jeffrey C Dan jdan@craneheyman.com, slydon@craneheyman.com; dwelch@craneheyman.com
- Michael K Desmond mdesmond@fslegal.com

- John P Devona JPDevona@yahoo.com
- Joseph B DiRago jdirago@freebornpeters.com
- Dennis A Dressler ddressler@dresslerpeters.com
- Thomas W Drexler drexler321@aol.com, chicagolawyers@aol.com
- Janice L. Duban janice.duban@dlapiper.com
- Deborah K Ebner dkebner@deborahEbnerlaw.com,
sbutz@deborahEbnerlaw.com;webmaster@debnertrustee.com
- Michael M. Eidelman meidelman@vedderprice.com, ecf-docket@vedderprice.com
- Earle I Erman , deisenberg@ermanteicher.com
- William J Factor wfactor@seyfarth.com
- Alan S Farnell alan@farnelllaw.com
- Adam S. Fayne fayne@wildmanharrold.com
- Cynthia G. Feeley feeleypc@aol.com
- Richard H Fimoff rfimoff@rsplaw.com, labrams@rsplaw.com
- J Mark Fisher mfisher@schiffhardin.com,
edocket@schiffhardin.com;srizziardi@schiffhardin.com
- Patricia J Fokuo pfokuo@schiffhardin.com, edocket@schiffhardin.com
- Joseph D Frank jfrank@fgllp.com,
ccarpenter@fgllp.com;rheilgman@fgllp.com;knewman@menterlaw.com;jkleinman@fgllp.com
- David J Frankel dfrankel@sormanfrankel.com, bbehanna@sormanfrankel.com
- Wilson P. Funkhouser wfunkhouser@fvldlaw.com
- Christian J. Gabroy christian@gabroy.com
- Jeffrey L. Gansberg gansberg@live.com
- Eugene J Geekie egeekie@schiffhardin.com
- Arlene N Gelman agelman@vedderprice.com
- Mary Anne Gerstner gerstlaw2@sbcglobal.net
- Wendy J Gibson wgibson@bakerlaw.com
- Douglas C. Giese dcgiese@defrees.com
- Ilana N Glazier iglazier@jonesday.com
- Thomas W. Goedert tgoedert@nealandleroy.com
- Richard N Golding rgolding@goldinglaw.net
- David E. Gordon dgordon@GordonLegalServices.com, dgordon@whyreds.com
- Stephen A Gorman sagorman@myintellispace.com
- James B Gottlieb jgottlieb@chuhak.com
- John T. Gregg john.gregg@btlaw.com
- Allen J Guon aguon@shawgussis.com
- Deborah M Gutfeld dgutfeld@ngelaw.com
- James H Hall james.h.hall.jr@gmail.com
- Steven M Hartmann shartmann@freebornpeters.com,
bkdocketing@freebornpeters.com;awiley@freebornpeters.com
- Ronald E Harvey brioneslaw@sbcglobal.net
- Mark F Hebbeln mhebbeln@foley.com
- Harold B. Hilborn hhilborn@vblhc.com
- Peter H Honigmann foleyhonigmann@sbcglobal.net
- Thaddeus J Hunt huntlaw@innoport.com
- Paula K. Jacobi pjacobi@btlaw.com, jsantana@btlaw.com;smichaels@btlaw.com
- Cindy M. Johnson cjohnson@jnlegal.net, dnewby@jnlegal.net
- Ronald W. Kalish rkalish@sgklawyers.com, lfilippini@sgklawyers.com

- David L Kane dkane@mpslaw.com
- Harold L. Kaplan hkaplan@gcd.com
- Dimitri G. Karcazes dimitri.karcazes@goldbergekohn.com
- Robert B Katz rkatz@epitrustee.com
- Synde B. Keywell synde.keywell@bryancave.com, karen.dalsanto@bryancave.com
- Thomas G. King tking@kech.com
- Scott B. Kitei skitei@sidley.com
- Jeremy C Kleinman jkleinman@fgllp.com
- Peter P Knight peter.knight@lw.com, chefiling@lw.com
- Micah R Krohn mkrohn@fgllp.com, ccarpenter@fgllp.com;rheiligman@fgllp.com
- Robert J. Labate robert.labate@hklaw.com
- Robert W Lannan lannanr@gtlaw.com
- Caren A Lederer calederer@golanchristie.com
- Michael D. Lee mlee@schuylerroche.com, vvillagomez@schuylerroche.com
- Mark E Leipold mleipold@gouldratner.com, stamssot@gouldratner.com;hmartinez@gouldratner.com
- Thomas S. Leo sleo@leoweber.com, mwargo@leoweber.com
- Neal H Levin nhlevin@freebornpeters.com, bkdocketing@freebornpeters.com
- Douglas J. Lipke dlipke@vedderprice.com, ecfdoCKET@vedderprice.com
- Bruce E. Lithgow blithgow@bellboyd.com
- Angelo J Loumbas ajloumbas@aol.com, rpk@eckhart.com;slb@eckhart.com
- David M Madden dmadden@momlaw.com
- Howard Marks hmarks@bnf-law.com
- Richard J Mason rmason@mcguirewoods.com, doCKET@mcguirewoods.com;cgunderson@mcguirewoods.com;jbrehm@mcguirewoods.com
- Patrick C. Maxcy pmaxcy@sonnenschein.com
- Gregory A. McCormick mccormick@garfield-merel.com
- Andrew P. R. McDermott lyndale5@yahoo.com
- Andrew P. R. McDermott amcdermott@kirkland.com
- Michael J McKitrick mmckitrick@dmfirm.com
- Melissa G. Melsher mgmelsher@uhlaw.com
- George R Mesires george.mesires@bfkn.com
- Randall L. Mitchell rmitchell@adlmb.com
- Michael L Molinaro mmolinaro@loeb.com, chicdkt@loeb.com
- Michael C. Moody mmoody@orourkeandmoody.com, firm@orourkeandmoody.com,morourke@orourkeandmoody.com
- Tyler A Moore tmoore@bslbv.com
- James E. Morgan james.morgan@klgates.com, teresa.gomez@klgates.com
- Harold L Moskowitz hlmatty@aol.com
- Gillian E Munitz gillian.munitz@bfkpn.com
- Joel R Nathan joel.nathan@usdoj.gov, leslie.steffen@usdoj.gov,marina.ravelo@usdoj.gov,ecf1.ausa@usdoj.gov
- William T Neary USTPRegion11.ES.ECF@usdoj.gov
- Bradley P Nelson nelson@sw.com, central@sw.com;howe@sw.com;connor@sw.com;callahan@sw.com;swcourts@yahoo.com
- Phillip W. Nelson pnelson@kirkland.com
- David A. Newby dnewby@jnlegal.net, cjohnson@jnlegal.net

- Lauren Newman lnewman@fagelhaber.com
- Marie L Nienhuis mnienhuis@gklaw.com, pmitchell@bcblaw.net
- Kavita M Patel kpatel@schiffhardin.com
- Nancy A Peterman petermann@gtlaw.com, carlsonk@gtlaw.com;greenbergc@gtlaw.com;ostrowe@gtlaw.com;lowena@gtlaw.com;bloomw@gtlaw.com;heyens@gtlaw.com
- Ronald Peterson rpeterson@jenner.com
- August A Pilati apilati@aapltdlaw.com, pmitchell@aapltdlaw.com;kfedinets@aapltdlaw.com;steve_horvath@ilnb.uscourts.gov
- Alex Pirogovsky apirogovsky@uhlaw.com
- Karen J Porter kjplawnet@aol.com, kjplawnet@aol.com
- Steven S. Potts otispott@comcast.net, lkoran@maxwellandpotts.com,maxwelllawchicago@yahoo.com,marchfirst_trustee@hotmail.com
- Eric S. Prezant eric.prezant@bryancave.com
- Dennis E. Quaid dquaid@tcfhlaw.com
- Mark L Radtke mradtke@shawgussis.com, dkrasa-berstell@akingump.com
- Gabriel Reilly-Bates greilly-bates@jenner.com, sfdocket@sheskylaw.com
- Christopher L. Rexroat clrexroat@uhlaw.com
- Charles S Riecke criecke@seyfarth.com
- Peter J Roberts proberts@shawgussis.com
- Kimberly J Robinson kim.robinson@bfkn.com
- Allyson B Russo arusso@vedderprice.com
- Joseph G Ryan joeryan58@hotmail.com
- Joel A Schechter joelschechter@covad.net
- Michael M Schmahl mschmahl@mcguirewoods.com, docket@mcguirewoods.com;cgunderson@mcguirewoods.com
- Mark A Schramm marsch500@gmail.com
- Charles P Schulman cschulman@sachnoff.com
- Brian L Shaw bshaw100@shawgussis.com
- Michael L Sherman shermlaw1@aol.com
- Anne M Sherry asherry@jonesday.com
- Adam P. Silverman asilverman@ag-ltd.com
- Alan H Slodki alan007@ameritech.net
- Patricia K. Smoots psmoots@mcguirewoods.com
- Donald A. Snide dasnide@varnumlaw.com
- Brian G. Snyder lawyers@drewandsnyder.com
- Konstantine T. Sparagis gsparagi@yahoo.com, mark@atbankruptcy.com;gus@atbankruptcy.com;tim@atbankruptcy.com;ameyers@atbankruptcy.com;josietroester@msn.com;gus@bestclientinc.com
- James E Spiotto spiotto@chapman.com
- Mark J Stauber markjlaw@aol.com, stauberlaw@comcast.net
- Catherine L Steege csteege@jenner.com, docketing@jenner.com
- Jeffrey Strange jstrangelaw@aol.com
- Jerry L Switzer jswitzer@polsinelli.com
- Nancy A. Temple ntemple@kattentemplelaw.com
- Michael S Terrien mterrien@jenner.com

- Pia N Thompson pthompson@reedsmith.com, cwilson@reedsmith.com, mleib@reedsmith.com, smckessy@reedsmith.com, kpreuss@reedsmith.com
- Deborah L. Thorne dthorne@btlaw.com, kbruhnke@btlaw.com
- L. Judson Todhunter ljt@defrees.com
- Steven B Towbin stowbin@shawgussis.com
- A Kelly Turner kturner@lordbissell.com
- David P. Vallas vallas@wildman.com, osborne@wildman.com; ecf-filings@wildman.com
- Katherine D Vega kvega@ngelaw.com
- Jon C Vigano jvigano@schiffhardin.com, edocket@schiffhardin.com; dgordon@schiffhardin.com
- George N. Vurdelja gvurdelja@harrisonheld.com, fbruder@harrisonheld.com
- Donna B Wallace dbwallace@ameritech.net
- Michael B Weininger mweininger@lw-llp.com
- Kurt A. Winiecki kwiniecki@sachnoff.com
- Michael Yetnikoff myetnikoff@schiffhardin.com
- Barbara L Yong blyong@golanchristie.com
- Jonathan W. Young young@wildman.com, srodriguez@wildman.com; ecf-filings@wildman.com
- Peter J Young pyoung@winston.com
- Richard G. Ziegler rziegler@mayerbrown.com

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

In re

KMART CORPORATION,

Reorganized Debtor.

Chapter 11

Case No. 02 B 02474

Honorable Susan Pierson Sonderby

Hearing Date: September 22, 2009

Hearing Time: 11:00 a.m.

**KMART CORPORATION'S MOTION FOR ORDER
SETTING TRIAL DATE ON PENNSYLVANIA FLOOD CLAIMS**

Kmart Corporation ("Kmart"), for its Motion for Entry of Order Setting Trial Date on Pennsylvania Flood Claims, states as follows:

1. Kmart is the reorganized debtor in this proceeding. Under its Plan of Reorganization, Kmart is responsible for bringing objections to any claims that Kmart believes are overstated or for which Kmart denies liability.

2. The Borough of Lansdowne, Pennsylvania (claim no. 42220), Bonnie's Wondergardens (claim no. 42222), and Supplee Envelope (claim no. 422221 (collectively, the "Flood Claimants") each filed general unsecured claim cases in this case in the amounts of \$595,888, \$89,865, and \$459,380, respectively (the "Flood Claims"). The Flood Claims all relate to flooding that occurred in Lansdowne, Pennsylvania, allegedly on account of storage trailers parked behind a Kmart store. The trailers were moved by flood waters into a nearby river, coming to rest against a bridge that spanned the river, and causing, allegedly, the river to back up and flood the adjoining land. The Flood Claimants say that they suffered damages as a result of the flood, including loss of business (Bonnie's Wondergardens and Supplee Envelope), damage to personal property, and clean-up expenses.

3. Kmart believes that the Flood Claims are overstated because, among other things, they do not reflect other causes of the flooding. Kmart also believes that the damages sought in the claims are not sufficiently documented.

4. Kmart previously objected to the Flood Claims. The Supplee Envelope claim was objected to in the 20th Omnibus Objection and the Borough of Lansdowne, Pennsylvania, and Bonnie's Wondergardens claims were objected to in the 21st Omnibus Objection. In those Objections, Kmart denied liability for the Flood Claims.

5. Kmart's recent efforts to resolve the Flood Claims by settlement have not been successful.

6. Kmart has completed its discovery. The Flood Claimants have tendered no discovery on Kmart and Kmart believes that none is necessary since Kmart has made no counterclaims against the Flood Claimants, has asserted no affirmative defenses, and will not at trial contest liability. The trial will essentially be a prove-up of damages.

7. A trial on this case should last no more than 2 ½ hours.

WHEREFORE, Kmart requests that the Court enter an Order setting a trial date on Kmart's objections to the Flood Claims.

Dated: August 17, 2009

KMART CORPORATION

By /s/ William J. Barrett
William J. Barrett
Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison St., Suite 3900
Chicago, IL 60606
Phone: (312) 629-5170
Facsimile: (312) 984-3150
Email: William.barrett@bfkn.com