

DIRECT EVIDENCE

a. Does the employer have a written policy which you believe indicates a prejudice against you and others of your same class (meaning race, sex or otherwise)? That is, a policy which would exclude a class of persons from a benefit. If so, submit a copy of the policy or indicate where it can be found.

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b. Did the employer give you anything in writing that was discriminatory in nature. For example, a letter stating that the reason you are being discharged is because of your pregnancy in that you are putting your baby and yourself at risk of harm.

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WITNESSES

If you have any witnesses who can corroborate your specific allegation(s), and who have direct knowledge (not hearsay) of any, or all information surrounding the action taken against you, submit their name and address at this time. Be advised that if the witness is a management employee, you can solicit the information from them on your own. If they do not wish to give the information to you on their own, and if the Commission seeks the information from the management employee, the Respondent has a right to be present during the giving of any information from a management employee, or the management employee can refuse to cooperate. Also be advised that it is not appropriate for us to contact witnesses at their place of employment, so please provide the home addresses of those who you believe will corroborate your allegations.

Lila J. Drayton - 7069 Tollhouse Drive, Fay, N.C. 28314

Earl V. Graham - 2691 Hogram Dr. Fay, N.C. 28304

John E. Gibson - 328 Youngberry St. Fay, N.C. 28314

Harold L. Butler - 990 Lisa Ave. Fay, N.C. 28314

DISCRIMINATION INFORMATION

COMPARATIVE EVIDENCE - Identify other persons, who are similarly situated, (that is, they are either in the same job situation as you are, or a similar job - do not identify as a comparative, a subordinate or a superior) who were treated better than you under similar circumstances, by name, race, age and position title (i.e. you are female assembler, and you know that a male assembler did the same thing you were accused of doing, but he was not discharged). Explain how they were treated better.

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Explain why you believe the person(s) identified in the above section was(were) treated differently than yourself:

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CLASS HARM - Are you aware of others who have been affected in the same way as you have under similar circumstances (i.e. other females who have been sexually harassed, other Blacks who were discharged during the same time period and replaced by Whites, etc.)? If so, identify them by name, race, position, status of their employment with the company, and their current address.

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DISCRIMINATION INFORMATION

Explain the type of settlement you would be willing to accept to resolve this complaint:

I would be willing to accept monetary and a higher position with company.

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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

Have you filed the same, or a similar charge with another city, state or Federal agency, Union, or through any internal grievance/appeal process?  Yes  No

If you answered Yes to the above question, please identify the agency you filed with and provide a copy of the complaint.

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If you have a findings from the Employment Security Commission, please provide a copy of same.

# PRIVACY ACT STATEMENT

We are asking you to provide your social security number by authority of 42 U.S.C. Section 2000c-5(b), U.S.C. Section 211 and 29 U.S.C. Section 626. EEOC will use your social security number to distinguish you and your charge information from anyone else who might have a similar or identical name. Additional disclosures may be made to: a state or local fair employment practices agency, Federal, state or local agencies, as necessary, and parties to the charge after the file has been closed, unless the notice of right to sue has expired.

Furnishing your social security number is voluntary. Your charge will be processed whether or not you furnish the information.

## NOTICE REGARDING REPRESENTATION OF CHARGING PARTIES BY ATTORNEYS

It is not necessary that you be represented by an attorney while we handle your charge.

If you are represented by an attorney, however, we ask that you tell the Commission the attorney's name, address and telephone number, and that you ask your attorney to write to the Commission confirming that he or she does represent you.

Copies of everything we send to you will be mailed at the same time to your attorney. We will always contact your attorney before we talk with you about your case, unless the Commission makes some other arrangements with you and your attorney.



Boulak Dyer - Johnson  
Your Signature | Date

4/21/97

PLEASE ATTACH ALL DOCUMENTATION IN SUPPORT OF YOUR CHARGE OF DISCRIMINATION TO THIS QUESTIONNAIRE.

I, Beulah Dyer-Johnson, DECLARE UNDER  
(Print your name)

PENALTY OF PERJURY THAT THE ANSWERS ON THE PRECEDING 12  
No. of pages

PAGES ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Beulah Dyer-Johnson  
SIGNATURE

4/20/97  
DATE

INDICATE BELOW IF YOU HAVE ANY ATTACHMENTS.

Yes \_\_\_\_\_

No  \_\_\_\_\_

TAWANNA J. Jones - 1112 Simpson Street Fay, N.C. 28305  
Melba C. Hill - 1087 Strickland Bdg Rd. Fay, N.C.  
Michelle D. Purdie - 7592 Levi Road Fay, N.C. 28314  
Delores McEachern - 3591 Gazella Cir. Fay, N.C. 28303  
RUBY J. BRIDGES - 7582 Foxfern Dr. Fay, N.C. 28314  
Juanita M. Ball - 706-D Blue Street Fay, N.C. 28301

Beverly Johnson

4/20/97

Equal Employment Opportunity • Customer Care  
• Open Door Policy • Definition of Associate Status



## Welcome to the Kmart family

We are pleased you joined our organization. Since the beginning when Sebastian S. Kresge opened his first store in Detroit, Michigan in 1899, Kmart Corporation has grown and succeeded because of the loyalty, integrity, good service, and dedication of our Associates. We continue to do so today with stores around the world.

The information and guidelines set forth in this booklet have also been provided to help make Kmart a more pleasant and enjoyable place to work. If you have any questions on any portion of this handbook, please discuss them with your Supervisor or the Personnel and Training Manager.

### Equal Employment Opportunity

It is Kmart policy to practice equal opportunity for employment and promotion. The Company will provide these opportunities regardless of race, religion, color, national origin, age, sex, or disability.

The relationships of the people within the Company are to be impartial and based on respect for the opinions and feelings of others.

### Customer Care

Together we are the key to providing excellent service to our customers. You are now part of the team whose purpose is to serve the needs of the customer.

At Kmart we have a vision. Our vision of the future says: "Kmart will be a symbol to Americans - the place which helps them attain the quality of life guaranteed in the American Dream - sooner, better and more conveniently than anyone else." As a Kmart team member we want you to share in this vision.

Every Kmart associate must be committed to providing customers with courteous, helpful service at all times. The continued success of our Company depends on how well we treat customers. Always keep in mind that customers

are to be treated as "guests" while shopping in our stores. Be courteous and helpful to every customer. Always greet customers in a pleasant manner.

### Open Door Policy

Kmart Corporation believes that when associates deal openly and directly with management, the work environment can be excellent, communications clear and attitudes can be positive.

To that end, Kmart provides all associates the opportunity to openly discuss work or personal problems with any member of management. We encourage you to discuss matters with your department manager initially, however, if you feel further discussion is desirable or you feel uncomfortable discussing a particular subject matter, you may always contact the Personnel and Training Manager or another member of the store management team.

If you feel further discussion is necessary, contact your Regional Director, Human Resources, KIH.

### Definition of Associate Status

#### Training Period

New associates will serve a training period of 90 days. The object of the training period is to assist new associates in familiarizing themselves with and in meeting the requirements of the job.

#### Full-Time

Associates who are regularly scheduled to work 30\* hours or more per week are classified as full-time associates. Full-time associates may participate in the complete Company benefit programs described in this handbook.

\*Hawaii stores must follow mandated State Laws.

#### Part-Time

Associates who are regularly scheduled to work less than 30\* hours per week are classified as part-time associates. Part-time associates may participate in the designated Company benefits where indicated in this handbook.

\*Hawaii stores must follow mandated State Laws.

8-16-96

TO Whom It May CONCERN:

We the under sign are forced to write this document for great concern of our futures with the Kmart Corporation. We are Kmart associates of #4826, 1931 Skibo Road, Fayetteville, N.C. 28314, under management and district management of Mr. Glynn Dixon, present manager is Mr. Jim Maloney.

We feel that Kmart does not promote minorities properly and due to the unfair methods used, Kmart discriminates against blacks.

We also need answers to these questions. Why, were we asked by Kmart to give up one fourth of our monthly income, while new employees were being hired. Why was some employees with ten years or more were forced from full time to part time, mostly minorities, this was done without any consideration of benefits already earned.

We are highly concern about a great waste in company dollars. At a time when there were cut backs, Mr. Dixon created a project of re-modeling some stores, especially our store, where we seen thousand of dollars being wasted. We seen thousands of dollar being passed (or paid) to outside worker in cash.

Kmart employees were not allowed to participate in this project. Mr. Dixon asked workers "to leave and go outside", when we were expecting a visit from headquarters, "to come back in after company leaves".

2 of 3  
During that time, we had a lot of theft by some of the workers, we couldn't tell some of them from customers. We feel our security and safety was put at risk, we know something was very wrong here.

We are asking for the removal of Mr. Dixon from over #4826, due to unfairness and bad business practices, displayed by him. We know our present manager can not function at all with this big handicap.

Respectfully and concern  
Beulah Johnson  
Kmart associates

P.S. We will take whatever measures necessary in getting this matter corrected, thank's for any help giving in this matter.

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY CHARGE NUMBER  
 FEPA  
 EEOC 141970325

State or local Agency, if any \_\_\_\_\_ and EEOC

NAME (Indicate Mr., Ms., Mrs.)  
Ms. Beulah D. Dyer-Johnson  
STREET ADDRESS  
1086 Torrey Drive, Fayetteville, NC 28301  
CITY, STATE AND ZIP CODE  
HOME TELEPHONE (Include Area Code)  
(910) 822-4586

DATE OF BIRTH  
03/14/51  
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE,  
STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME  
Kmart #4826  
STREET ADDRESS  
1931 Skibo Road, Fayetteville, NC 28301  
CITY, STATE AND ZIP CODE  
NUMBER OF EMPLOYEES, MEMBERS  
Cat D (501 +)  
TELEPHONE (Include Area Code)  
(910) 868-7456

NAME  
COUNTY  
051  
STREET ADDRESS  
CITY, STATE AND ZIP CODE  
TELEPHONE NUMBER (Include Area Code)

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))  
 RACE  COLOR  SEX  RELIGION  NATIONAL ORIGIN  
 RETALIATION  AGE  DISABILITY  OTHER (Specify)  
DATE DISCRIMINATION TOOK PLACE  
EARLIEST 08/12/96 LATEST 08/12/96  
 CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):  
I. On August 12, 1996, I was denied promotion to the position of Assistant Personnel. My current position is Checkout Supervisor. I have worked for the Respondent since September 14, 1972. The Respondent employs more than 15 persons. (150)  
II. I discussed the denial of promotion with Jim Watkins, Regional Manager. Respondent just recently began posting positions so that employees would be aware of store openings.  
III. I believe that I was discriminated against because of my race and my age in violation of Title VII of the Civil Rights Act of 1964, as amended and the Age Discrimination in Employment Act of 1967, as amended

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct.

NOTARY - (When necessary for State and Local Requirements)  
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT  
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Day, month, and year)

Date 7/10/97 Beulah Johnson  
Charging Party (Signature)

Exhibit F, 1 of 16

10-30-08

Case NO: B02474

Dear Judge S. R. Sonderby:

I am writing to you and the bankruptcy court to ask that my rights be reserved to have the opportunity to be represented by an attorney in this case for damages.

Please do not allow Kmart to dismiss my case from the court. I am requesting that the court, please forward me all necessary information for this hearing.

I am trying to obtain an attorney in Chicago, but it is very difficult, since I live in North Carolina. I have an attorney considering taking the case.

Kmart did not send me the questionnaire ordered by the court while I was in Chicago. Kmart refuses to obey any ordered directives by the court. Kmart offered me a small amount of money, but they wanted me to sign a release of all my cases. I refused to take the offer.

In my former letters I explained a lot of information. I am enclosing those letters in this letter's envelope. Kmart never gave me the training for assistant manager ordered by court.

I asked for funds of \$ 75,866.00 for back wages, plus interest. I asked for funds I would have as a result of having higher contributions to my 401K and retirement benefits.

I asked the court to award \$ 15,000,000 (fifteen million dollars) for laborious years of duress, stress, and extreme mental anguish that this company's actions have exacted from me.

I asked that you award me \$ 25,000,000 (twenty five million dollars) in punitive damages for Kmart Corporation deliberate, wilful, flagrant disregard for the law by their undue lengthy lapse in complying with the court order.

Since bankruptcy court Kmart has continually discriminated and retaliated against me.

Thank you so much for any help the court can assist me. Please if the court will respond to this letter for at knowledge that they received this letter. I am asking court to give me some up dated information.

Judge Sonderby, if there are funds that can be dispensed immediately without a full release of Kmart, ~~for~~ other damages, please let me know, (owed wages). once again thank you for any assistance in this matter.

your truly,  
Beulah Johnson

F 3-f.16

05-25-02

Dear Attorney Barton,

Enclosed are copies of the bankruptcy case from Kmart. Please read and give me your assistance in completing these papers, or the steps we need to take in this matter.

Kmart owes me back pay, attorney fees, training, and I never received the promotion ordered by the court, plus interest on all funds.

I want my retirement money up front if possible. I need approximately 4 years before having 100% retirement, because of the problems with this company, I only want compensation for these issues.

Please send me a letter stating you will help me resolve these issues. Thank you so much for your help. Looking forward to a prompt reply, and give me a call after receiving these papers.

Yours Truly,  
Beulah John

P.S. Thanks again!!

November 2, 2002

Dear Judge S.P. Sonderby:

I am writing to you and the Bankruptcy Court to amend my Proof of Claim form for back wages owed to me by K Mart Corporation from June 11, 1998 through June 11, 2002 (Please see attached forms).

I have worked for K Mart Corporation for the past 30 years. During my employment, I have been subjected to many, many undeserved hardships and tremendous stresses in order to keep my job with this company. I endured it all because I was a single parent with a child to raise and obligations to meet.

As I stated in my previous letter to you, dated July 25, 2002, I am a very, very hard working and honest person of high moral principles. By nature I am a very compassionate person who not only desires to succeed personally, but desires to help my employer and community succeed and prosper as well. For 30 years I have given my very best to K Mart. I have worked long and hard. I have performed my job over and above the call of duty. My conduct has been exemplary and above reproach. And, had I not been unduly hindered, strictly for reasons of my gender and ethnic origin, I know that I could have achieved my

full potential with this company becoming not only an assistant manager but, potentially a store manager, district manager or even a regional manager. How do I know this? Because in addition to the qualities mentioned above I am smart and I learn quickly. I also have the drive, the motivation, the ambition, the perseverance and the talent to succeed. Had K Mart given me the training and the promotion ordered by the court, I know there is no limits to what I may have accomplished during my lengthy time of service with this company.

For this reason, I am asking you to enforce the judgement of \$75,866.00 that the court awarded me for back wages and reimbursement of attorney fees. I am also asking for you to include the time period after June 11, 2002 up to the date that the award is paid, plus interest on the award for the same period.

I am also amending my request to include compensation for losses in earnings that would have resulted from higher contributions to my 401K and retirement benefits that would have come from the increased wages and earning capacity; plus the interest resulting from these increased contributions. I invest 8% of my salary yearly.

In addition I am requesting that K Mart be made to compensate me for all lost earnings from potential promotions that reasonably would have resulted had I been given equitable and fair consideration based on job performance. I am also requesting that I be awarded my full K Mart retirement in advance and without penalty.

I am asking you to award me \$15,000,000 (fifteen million dollars) compensation for 30 long, laborious years of duress, stress, and extreme mental anguish that this company's actions have exacted from me.

Finally, I ask that you award me \$25,000,000 (twenty five million dollars) in punitive damages for K Mart Corporation's deliberate, wilful, flagrant disregard for the law by their blatant, undue, lengthy lapse in complying with the court order. By their non-compliance with a court order this company has set itself above the law, and must not be allowed to get away with doing so. K Mart Corporation must be compelled to comply to the full extent of the law.

Judge Sonderby, please send this corporation the message that it is not above the law and can not continue to willfully violate the law without being subjected to the full consequences of the law. Please send a message, loud and clear, not only to K Mart

but to countless employees everywhere, like myself, that there is legal recourse if they have the courage, the patience, the endurance, and the integrity to pursue it. The legal system in our country will set things right and in the end justice will prevail.

The reason that I am writing to you myself on my own behalf is because the attorney, Phillip Barton, who I had to pay \$7,500 (twenty five hundred hard-earned dollars) to represent me was negligent in doing so. Mr. Barton called me on my job at 4:30 p.m. on July 30, 2002, to inform me that the deadline to file my proof of claim form was 4:00 p.m. the following day (July 31, 2002). Needless to say, one day's notice is certainly not sufficient enough time to have had his office prepare the form. In order to meet the deadline I had to complete the paperwork myself and send it overnight through the postal service. His call to me at work surprised me because of the short notice. Because my paperwork was at home I asked him to fax all of the necessary papers to me but he only faxed a copy of the claim form, the copy of the judgement, and the sheet with the workup of the back wages. I do not feel that his actions were helpful at all. At the close of his conversation to me he said, "The court is going to laugh at you for asking for such a small amount."

God luck." Because of this I decided to do the amendment myself. I do not appreciate his negative comments nor his lack of help in filing these forms especially in view of the fact that I paid him the full amount of his fee up front, which he required. His actions seem to me, at best, inexcusable and, at worst, a dereliction of duty to me and a deliberate hindrance to my completing this processing of paperwork.

In closing, I thank you so much for your every consideration on my behalf. As I will be eligible for full retirement on September 14, 2007 please expedite this matter for me.

Sincerely,  
Burlak Johnson

BJ/ed

Encls. (5)

7-9 of 16

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

IN re:

KMARt CORPORATION, et al,

Case NO. 02-B02474

Chapter 11

Hearing Date 07-15-03

Hearing Time 10:00 a.m.

obj. Deadline 07-08-03

Debtors,

Response to objection to Claims

I, Beulah Johnson, responds to Kmart's seventh and tenth omnibus objections dated June 16, 2003.

I object to the objections made by the Kmart Corporation and request the right to be heard at the hearing on July 15, 2003, on my claim, or (claims) filed with Bankruptcy Court.

Yours Truly,  
Beulah Johnson

NAME: Beulah Johnson

Address: 1086 Torrey Drive

Fayetteville, N.C. 28301

Phone: 910-822-4586

Date: 07-03-03

07-25-02

Dear Judge S.P. Sonderby And To Whom It May Concern;

This letter is to inform the bankruptcy court, and to present my proof of claim form of a debt owed in wages by the Kmart Corporation.

I am a very hard working, honest individual with good moral values, with a heart filled with compassion.

My only desire, was an opportunity to help my community, my employer, and myself to improve and be successful. Being limited, I did my best, if this opportunity ordered by the court but never granted, had been, then maybe Kmart would be in better condition today, because one person can make a difference.

I paid a lawyer, Phillip Barton \$7500.00 in fees in advance. He took my money, we went to court, after this, he only promised to help collect my funds. He took most of my papers, and four years have passed. He promised to help with this claim, but I had to do it myself.

I hope it will be satisfactory to the court, and will reserve my rights as a citizen of this beautiful United States of America and my funds be granted.

Thank you so much for every consideration on my behalf. I never received the training or promotion ordered, I have thirty years with this company. I will be eligible for full retirement benefits on September 1, 2007. Please expedite this matter for me and thanks again.

Yours sincerely,  
Beulah D. John



**The North Carolina State Bar**  
Office of Counsel

Carolyn D. Bakewell  
Counsel

Carolyn D. Bakewell, Counsel  
Aldert Root Edmonson, Deputy Counsel  
Fern Gunn Simeon, Deputy Counsel  
Douglas J. Brocker, Deputy Counsel  
Michael D. Zetts III, Deputy Counsel  
Bobby D. White, Deputy Counsel

February 11, 2002

Ms. Beulah D. Johnson  
1086 Torrey Drive  
Fayetteville, NC 28301

**Re: Grievance received against Philip Barton, Attorney**  
**Our file number: 02G0135**

Dear Ms. Johnson:

Your grievance against the above-named attorney was received on 2/4/02 and has been assigned the file number listed above. Please refer to the file number in any correspondence regarding your complaint.

The State Bar will investigate your complaint. As part of that investigation, the Bar may refer your complaint to a local grievance committee. If this happens, you will be notified in writing. In either case, you or other witnesses may be contacted. We may also contact the respondent for a response. You should not be concerned that your complaint is being ignored if you are not contacted, however. We assume that you have explained your complaint on the grievance form and generally will not contact you unless we need more information. After the investigation is completed a decision will be made and you will be notified in writing.

The N.C. State Bar's authority is restricted to investigating and prosecuting claims of unethical behavior by attorneys. The Bar cannot advise you or assist you concerning any legal matters in which you may be involved. You should not wait until your grievance at the State Bar is resolved before seeking legal advice concerning any claims you may have or any lawsuit in which you are involved.

Sincerely,

Fern Gunn Simeon  
Deputy Counsel

Haral Carlin  
12th Judicial District Bar



Sears Holding Corporation  
Michigan Support Campus  
3000 West 14 Mile Road  
P.O. Box 8073  
Royal Oak, Michigan 48068

June 2, 2008

Beulah Johnson  
1086 Torrey Dr.  
Fayetteville, NC 28301

RE: Bankruptcy Claim of Johnson, Beulah / Claim #46097

Dear Ms. Johnson:

You are receiving this letter because you filed a Claim against Kmart Corporation in its' Chapter 11 Bankruptcy proceeding, Claim No. 46097. In an effort to resolve this matter, we are making a one time, "best case", offer to you. After a review of your Claim we will offer to settle your Claim for the sum of \$62,090.67, ("Settlement Amount"). Under the terms of the Chapter 11 Plan of Reorganization ordered by the Court in this matter, the Settlement Amount will be paid at the rate of 9.7% of the settlement amount, plus accrued interest, which would result in a net payment to you of approximately \$6,842.39.

In order to accept this offer, you must sign where indicated below and return this letter within 30 days of the date of the letter, written above. We will then forward payment to this address within 30 days of receipt of your signed acceptance. If you choose not to take advantage of this offer, you may do nothing. Keep in mind that the Plan of Reorganization provides that your Claim will be paid at the discounted rate whenever it is resolved, even if that eventually occurs at a trial in your local state court. And of course that will only occur after some additional time and expense on everyone's part.

The amount offered does not constitute an admission of liability on the part of Kmart Corporation, Kmart Holding Company, Sears Holding Company, or any of its' successors and/or assigns. It is merely recognition of the time and expense involved in litigating this matter. Upon acceptance of this offer the parties hereby fully and finally release each the other from any liability whatsoever that might arise from the facts and circumstances set forth in the Claim filed in this case, as well as any underlying state court action which may be pending as reflected by the Claim.

Sincerely,

William Szumanski, Jr., Esq.  
248-463-0098

Kmart Bankruptcy Claims Reconciliation

I hereby acknowledge that I have read the offer above, fully understand its contents, and elect to accept the offer stated herein:

DATE: \_\_\_\_\_



Kmart Management Corporation  
Resource Center  
3100 West Big Beaver Road  
Troy MI 48084-3163

Beulah D. Johnson  
1086 Torrey Drive  
Fayetteville, NC 28301

Re: Proof of Claim 46097

Dear Ms. Johnson:

I am writing regarding the Proof of Claim you filed in Kmart's bankruptcy. If you have retained an attorney, please forward this letter to your attorney. I would like to explain why Kmart is taking the position that it can not pay you as a priority claimant and why it is offering to allow your claim in the amount of your June 11, 1998 judgment, plus interest.

Generally in Bankruptcy law, a creditor (you are the creditor) files a Proof of Claim. That Proof of Claim is evidence of a valid claim. The debtor (here Kmart) can object to the Proof of Claim. When the debtor objects to the proof of claim, the burden of persuasion is placed on the creditor. In re Carlson, 189 B.R. 454 (N.D. Ill. 1995), Aff'd 198 B.R. 949, aff'd 126 F.3d 915, cert. den. 523 U.S. 1060; In re Twinton Prop. Partnership, 44 B.R. 426 (M.D. Tenn 1984). What that means is that the creditor must give enough evidence to establish that they are entitled to what they claim.

In this case, you claim three things. First, you claim the amount of the judgment that was entered in 1998. Second, you claim \$15 million for 30 years of stress, duress, and extreme mental anguish during your employment at Kmart. Third, you claim \$25 million in punitive damages for failing to comply with the court order. Finally, you also claim administrative priority. You must give enough evidence to establish under the law that you are entitled to the money that you claim.

With respect to your first claim, Kmart has offered to allow your claim in the amount of \$35,454, which represents the amount of the judgment plus interest. Kmart continues to make this offer to you.

With respect to your second claim in the amount of \$15 million, I can not agree to make any payment for any amount. I understand that you state you are a dedicated employee to Kmart and that you have worked very hard for Kmart over the last 30 years. These are not reasons that would entitle you to any compensation. Your proof of claim fails to state any valid reason for such a payment on this claim.

With respect to your third claim in the amount of \$25 million, I can not agree to make any payment for any amount. The judgment that was entered against Kmart was a default judgment. A default judgment is entered when a defendant does not respond to a lawsuit in any way. In this

case, Kmart failed to respond, so a default judgment was entered against Kmart. Once a judgment is entered, the person who gets the judgment entered against another party is the judgment creditor. You were the judgment creditor against Kmart. Judgment creditors are given several different ways to collect a judgment. Under North Carolina law, specifically N.C. Gen. Stat. Ann. 1-306, "[t]he party in whose favor judgment is given . . . may at any time after the entry of judgment proceed to enforce it by execution. . ." You could also have used attachment, as allowed by N.C. Gen. Stat. Ann. 1-440.2, as a way to collect your judgment. Garnishment would have also been a proper way to collect your judgment. Garnishment is provided for in N.C. Gen. Stat. Ann. § 1-440.21. These are just a few ways that you could have collected on your judgment. You did not collect your judgment. You could have used any remedy provided for under North Carolina law to collect that judgment. The collection of that payment was your responsibility. Kmart did not wrongfully withhold payment from you. Because the judgment was a default judgment, Kmart never responded to the lawsuit, never appeared in court, and never contested your case. Kmart may have never even known that a judgment was entered in your favor. If you would have used any of the remedies given to you as a judgment creditor, you would have collected your judgment.

Fourth, your claim is not entitled to priority. The bankruptcy code clearly sets forth the rules for allowing a claim to have priority. Although you have filed your claim, Kmart can rely on the protections set forth in the Bankruptcy Code. The Bankruptcy Code, 11 U.S.C. § 507 provides:

(a) The following expenses and claims have priority in the following order:

...

(3) Third, allowed unsecured claims, but only to the extent of \$4,650 for each individual or corporation, as the case may be, **earned within 90 days before the date of filing** of the petition or the date of cessation of the debtor's business, whichever occurs first, for -

(A) wages, salaries, or commissions, including vacations, severance, and sick leave pay earned by an individual; or

...

(4) Fourth, **allowed unsecured claims for contributions to an employee benefit plan—**

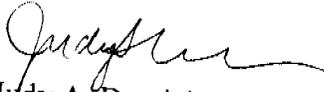
(A) **arising from services rendered within 180 days before the date of the filing of the petition** or the date of the cessation of the debtor's business, whichever occurs first ...

You are claiming administrative priority for the judgment that you obtained. Because you are not claiming wages that were earned after Kmart filed bankruptcy, or within 90 days of Kmart's filing for bankruptcy, you are not entitled to an administrative priority for wages. Because you are not claiming that Kmart failed to contribute to an employee benefit plan, you are not entitled to priority for the judgment that was entered.

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Based on the above information, Kmart offers to settle your claim in the amount of \$35,454. This would be allowed as a general unsecured prepetition claim. If you have any additional questions, please do not hesitate to contact me.

Sincerely,



Judy A. Demick, Esq.  
248-463-3250  
jdemick@kmart.com



**UNITED STATES BANKRUPTCY COURT**

219 SOUTH DEARBORN STREET

CHICAGO, ILLINOIS 60604

CHAMBERS OF  
**SUSAN PIERSON SONDERBY**  
JUDGE

(312) 435-6646

December 18, 2008

Beulah Johnson  
1086 Torrey Drive  
Fayetteville, NC 28301

Re: In re Kmart Corp., et al, No. 02 B 02474

Dear Ms. Johnson:

We are returning your letter concerning your claim in the above-referenced case. Judge Sonderby has not read the letter, because you did not provide a copy to Kmart's counsel.

More importantly, however, you should be advised that all relief from this court must be requested by motion filed and served in accordance with applicable orders and rules. You may consult this Court's website, at [www.ilnb.uscourts.gov](http://www.ilnb.uscourts.gov), for information concerning the local rules of this Court as well as certain motion procedures established in the Kmart case, as set forth in the "Fifth Amended and Restated Case Management Order," also available on the website.

Very truly yours,

A handwritten signature in cursive script that reads "Karen Jacobs".

Karen Jacobs  
Courtroom Deputy to  
Judge Susan Pierson Sonderby

cc: William Barrett, Esq.