

B104 (FORM 104) (08/07)

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)
<b>PLAINTIFFS</b> Beulah Johnson		<b>DEFENDANTS</b> Kmart Corporation
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.)		<b>ATTORNEYS</b> (If Known) William J. Barrett Barack Ferrazzano Kirschbaum & Nagelberg LLP 200 W. Madison St., Suite 3900, Chicago, IL 60606 (312) 629-5170
<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee		<b>PARTY</b> (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)  Contested Claim Matter		
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<b>FRBP 7001(1) – Recovery of Money/Property</b> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny  (continued next column)		<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et. seq.</i> <input checked="" type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$
Other Relief Sought Determination of amount of claim		

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re

KMART CORPORATION, *et al*,

Debtor.

Chapter 11

Case No. 02 B 02474  
(Jointly Administered)

Hon. Susan Pierson Sonderby

Hearing Date: March 3, 2010  
Hearing Time: 11:00 a.m.

**FINAL DECREE CLOSING CASE OF KMART CORPORATION**

Upon Kmart Corporation's ("Kmart") Motion for Entry of a Final Decree Closing Case and for Relief from Local Bankruptcy Rule 3022-1 (the "Motion"); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to U.S.C. § 157; and the Court being satisfied that the estate of Kmart has been fully administered within the meaning of Section 350 of the Bankruptcy Code; and due and proper notice of the Motion having been given; and after due deliberation and sufficient cause appearing therefore, it is HEREBY ORDERED:

1. The bankruptcy case of Kmart Corporation, case no. 02-02474, shall be closed as provided for in Bankruptcy Rule 3022, effective as of the date of this order.
2. Notice of the Motion as actually provided is sufficient and the requirements of Rule 3022-1 of the Local Rules of the United States Bankruptcy Court Northern District of Illinois are satisfied by such notice.
3. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this order.
4. Conversion of contested matters to adversary proceedings:

including, without limitation, that Fed. R. Bankr. P. 3007, 9013 and 9014 shall continue to apply to such matters;

(iii) There shall be no substantive or procedural prejudice to the rights of any party as a result of the conversion of contested matters to adversary proceedings. The inclusion of a pleading or proof of claim among items to be docketed in an adversary proceeding shall not be deemed an admission by any party as to the validity of the pleading or claim; and

(iv) Any party to a converted contested matter may designate additional pleadings in the main case, or proofs of claims filed in the main case or in the case of an affiliate, to be included in the adversary proceeding by filing in the adversary proceeding a copy of the pleading or claim which shall be attached to a Notice of Filing that contains the case number of the adversary proceeding.

6. The discharge injunction provisions of the Kmart Plan of Reorganization, of the order confirming the Kmart Plan of Reorganization, and of 11 U.S.C. §524 (collectively, the “Discharge Injunctions”), are modified to permit any claimant who filed a proof of claim for a personal injury or wrongful death claim against Kmart to obtain from an appropriate non-bankruptcy court a determination of Kmart’s liability with respect to the claim. Kmart shall serve on any claimant who has not previously obtained relief from the Discharge Injunctions a notice in the form attached hereto as Exhibit E. Notwithstanding the foregoing, the provisions of the Kmart Plan of Reorganization governing the treatment of any such personal injury or wrongful death claim shall remain in full force and effect and the Discharge Injunctions shall remain in full force and effect as to any judgment, award, or settlement obtained on such a claim.

7. (i) CIT will be allowed 120 days from entry of the Final Decree (such 120 days being the “CIT Period”) to identify which of the unclaimed shares held at Computershare it

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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Kmart Corporation		BANKRUPTCY CASE NO. 02-B-02474
DISTRICT IN WHICH CASE IS PENDING Northern District of Illinois	DIVISION OFFICE Eastern	NAME OF JUDGE Susan Pierson Sonderby
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE	PRINT NAME OF ATTORNEY (OR PLAINTIFF)	

### INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

## **EXHIBIT A**

**BEULAH JOHNSON DOCKET ENTRIES**

06/16/200 #13071 Notice of Motion and Objection to Claim # (Seventh Omnibus) Filed by John Butler, Jr on behalf of Kmart Corporation, Hearing scheduled for 7/15/2003 at 10:00 AM at 219 South Dearborn, Courtroom 642. (Attachments: # (1) Exhibit # (2) Exhibit # (3) Exhibit # (4) Exhibit) (Marola, Rosalie)

06/16/2003 #13073 Notice of Motion and Objection to Claim # Tenth Omnibus Filed by John Butler, Jr on behalf of Kmart Corporation . Hearing scheduled for 7/15/2003 at 10:00 AM at 219 South Dearborn, Courtroom 642. (Attachments: # (1) Exhibit) (Marola, Rosalie)

07/07/2003 #14455 Response to Objections to Claims Filed by Beulah Johnson. (Green, Josephine)

08/03/2003 #15712 Order Re: Disallowing and Expunging or Otherwise Reducing or Reclassifying Certain Claims Set Forth in the Seventh Omnibus Obejction (RE: 13071 ). Signed on 7/30/2003 (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit) (Green, Josephine) (Entered: 08/03/2003)

07/31/2003 #15715 Order Re: Disallowing and Expunging or Otherwise Reducing or Reclassifying Certain Claims Set Forth in the Tenth Omnibus Objection (RE: [13073]). Signed on 7/31/2003 (Attachments: # (1) Exhibit # (2) Exhibit) (Green, Josephine)

01/07/2009 #31854 Notice and Certificate of Service of Status Hearing on Kmart Corporation's Objection to Claim No. 46097 of Beulah Johnson Filed by William J. Barrett on behalf of Kmart Corporation. (Barrett, William)

05/20/2009 #31958 Notice of Motion and Motion to Approve Order Applying Bankruptcy Rules 7008 and 7012 to Contested Matter on Claim of Beulah D. Johnson Filed by William J. Barrett on behalf of Kmart Corporation. Hearing scheduled for 6/16/2009 at 11:00 AM at 219 South Dearborn, Courtroom 642, Chicago, Illinois 60604. (Attachments: # (1) Proof of Claim #46097# (2) Proposed Order)(Barrett, William)

09/16/2009 #32096 Response to order granting Kmart's motion for order applying bankruptcy rules 7008 and 7012 to contest matter on claim of Beulah D Johnson be denied. Filed by Beulah D Johnson (Marola, Rosalie)

10/20/2009 #32117 Objection to (related document(s): [32096] Response) Filed by William J. Barrett on behalf of Kmart Corporation (Barrett, William)

11/05/2009 #32135 Statement of Claims of Beulah D Johnson Filed by Beulah D Johnson (Marola, Rosalie)

11/05/2009 #32136 Notice of Hearing Filed by Beulah D Johnson. Hearing scheduled for 12/15/2009 at 11:00 AM at 219 South Dearborn, Courtroom 642, Chicago, Illinois 60604. (Attachments: # (1) Document Continued # (2) Document Continued # (3) Document Continued) (Marola, Rosalie)

12/11/2009 #32144 Notice of Motion and Motion to Approve Order to Allow in Part and Disallow in Part Claim of Beulah Johnson Filed by William J. Barrett on behalf of Kmart Corporation. Hearing scheduled for 12/15/2009 at 11:00 AM at 219 South Dearborn, Courtroom 642, Chicago, Illinois 60604. (Attachments: # (1) Exhibit s A-F# (2) Proposed Order) (Barrett, William)

12/15/2009 #32156 Order Scheduling (RE: 32144 Motion to Approve). Reply due by: 2/28/2010 Responses due by 2/15/2010. Status hearing to be held on 3/3/2010 at 11:00 AM at 219 South Dearborn, Courtroom 642, Chicago, Illinois 60604. Signed on 12/15/2009 (Marola, Rosalie) (Entered: 12/22/2009)

02/22/2010 #32176 Reply in Support to (related document(s): 32144 Motion to Approve) Filed by William J. Barrett on behalf of Kmart Corporation (Barrett, William) (Entered: 02/22/2010)

## **EXHIBIT B**