

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

In re:)
) Case No. 02-B02474
KMART CORPORATION, et al.,) (Jointly Administered)
) Chapter 11
Debtors.) Hon. Susan Pierson Sonderby

**ORDER APPROVING PROCEDURES FOR (A) LIQUIDATING AND
SETTLING PERSONAL INJURY CLAIMS THROUGH DIRECT
NEGOTIATION AND/OR ALTERNATIVE DISPUTE RESOLUTION
AND/OR (B) MODIFYING THE AUTOMATIC STAY TO PERMIT CERTAIN
LITIGATION WITH RESPECT TO SUCH CLAIMS TO PROCEED**

Upon the amended motion (the "Amended Motion"), wherein Kmart Corporation ("Kmart") and certain of its domestic subsidiaries and affiliates, debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), moved this Court for entry of an order (the "Proccdures Order") approving procedures (the "Claims Rcsolution Proccdures") for (a) liquidating and settling personal injury claims (the "Pcrsonal Injury Claims") through direct negotiation and/or alternative dispute resolution and/or (B) modifying the automatic stay applicable in these cases pursuant to 11 U.S.C. § 362 to permit certain personal injury claimants (the "Claimants") to proceed with litigation with respect to Personal Injury Claims; it appearing to the Court that (i) it has jurisdiction over the matters raised in the Amended Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the

Amended Motion to the extent addressed in this Procedures Order is in the best interests of the Debtors, their estates and their creditors; (iv) proper and adequate notice of the Amended Motion and the hearing thereon has been given and that no other or further notice is necessary; and (v) upon the record herein after due deliberation thereon good; the Court should grant the relief as set forth herein,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Debtors are hereby authorized to utilize the Claims Resolution Procedure to liquidate and settle Personal Injury Claims through direct negotiation and/or alternative dispute resolution.
2. The Claims Resolution Procedure attached hereto as Exhibit B is approved in all respects, including, without limitation, the deadlines set forth in the Claims Resolution Procedure. Upon service of the Claims Resolution Procedure upon a Claimant along with a copy of the questionnaire (the "Questionnaire"), if applicable, and this Procedures Order, it shall be binding on such Claimant as if set forth in full herein.
3. The Debtors, at their discretion, are authorized to settle Personal Injury Claims in the manner described and contemplated by the Claims Resolution Procedure. The Debtors are authorized, without further order of the Court, to settle Personal Injury Claims to the extent necessary to settle such claims at a settled amount equal to or less than \$50,000 such that a Claimant will hold an

allowed, pre-petition general unsecured non-priority claim against the applicable Debtor in the settled amount to be paid in accordance with the confirmed plan(s) of reorganization in these cases. The Debtors periodically will submit orders to the Court to confirm settlements of small claims. Subject to the following, the Debtors are authorized to settle Personal Injury Claims through direct negotiation and/or alternative dispute resolution at settled amounts in excess of \$50,000:

(a) in each such case the Debtors and the Claimant shall execute an agreed order resolving the Personal Injury Claim (the "Agreed Order of Resolution"), evidencing the settled amount and any other material terms of the settlement; and

(b) such Agreed Order of Resolution shall be filed with this Court and served upon the Committees, the Debtors' post-petition lenders, the United States Trustee and any other party that requests notice in accordance with the Claims Resolution Procedure (the "Notice Parties"); and

(c) such Agreed Order of Resolution shall be entered by this Court without further notice or hearing only if no objection is filed within ten (10) days of the date of service of the Agreed Order of Resolution; and

(d) if an objection to the Agreed Order of Resolution is timely filed, the Agreed Order of Resolution shall not be entered until after the Court hears the objection or it is otherwise resolved.

4. The form of the Questionnaire to be served upon the Claimants attached to the Claims Resolution Procedure as Exhibit 1 is approved.

5. The form of the Agreed Order of Resolution attached to the Claims Resolution Procedure as Exhibit 2 is approved.

6. Upon the failure of a Claimant to comply with the Claims Resolution Procedure, and until such default is cured, the Claimant shall not have an allowed claim for purposes of voting on a plan of reorganization and for purposes of any distribution under any confirmed plan of reorganization. Further, upon such failure, and until such default is cured, the Claimant shall not be entitled to relief from the automatic stay to establish, liquidate or otherwise engage in any collection of the Personal Injury Claim from the Debtors and/or any Third Party Indemnitor.

7. Nothing in this Procedures Order is intended to, nor will this Procedures Order be deemed to, alter any requirements under any insurance policies (the "Insurance Policy") or to limit or otherwise prejudice any Third Party Indemnitor's rights or defenses, all of which are expressly reserved, and the Debtors shall continue to comply with the insurance policies. Moreover, the implementation of the Claims Resolution Procedure by the Debtors' shall not be deemed a breach of any Insurance Policy or agreement with any Third Party Indemnitor. In accordance with the terms of the applicable Insurance Policy or the agreement with a Third Party Indemnitor, and if required with respect to any aspect of the Claims Resolution

Procedure, the Debtors shall not liquidate or settle any claim that involves a Third Party Indemnitor, without notice to the Third Party Indemnitor, without providing an opportunity for such Third Party Indemnitor to be involved in the settlement discussions and/or alternative dispute resolution procedure and providing the Third Party Indemnitor an opportunity to approve such settlement and/or to consent to such settlement. Without limiting the generality of any of the foregoing, the Debtors shall also give notice to National Union Fire Insurance Company of Pittsburgh, PA ("National Union") before agreeing to any settlement that would result in allowance of a claim in excess of the applicable self-insured retention amount.

8. The Debtors do not, by this Procedures Order or in connection with the Claims Resolution Procedure established hereby, acknowledge the validity of any Personal Injury Claim or the existence of coverage under any Insurance Policy of any Personal Injury Claim, or make any admission of liability.

9. Nothing in this Procedures Order is intended to, nor will this Procedures Order be deemed to, obviate the need for any Claimant to file a proof of claim.

10. On or before August 10, 2002, the Debtors shall serve all Claimants whom the Debtors are reasonably able to identify and locate a copy of the Claims Resolution Procedure, the Order and the Questionnaire. With respect to Personal Injury Claims of \$5,000 or less that remain unsettled as of September 30,

2002, the Debtors shall serve Claimants a copy of each of the Claims Resolution Procedure, the Order and the Questionnaire on or before October 10, 2002.

11. A status conference regarding the implementation of the Claims Resolution Procedure is scheduled for the October 30, 2002 omnibus hearing. Such status conference shall include a determination of the feasibility of establishing a deadline for completing mediations of Personal Injury Claims other than judgment claims. Any objection to the Claims Resolution Procedure that raises the issue of such a mediation deadline shall not be deemed overruled, but shall be considered at such status conference if the objector files the objection on or before October 23, 2002.

Dated: Chicago, Illinois
July 7, 2002


Chief Judge Susan Pierson Sonderby
United States Bankruptcy Judge

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

In re:)
)
KMART CORPORATION, et al.,) Case No. 02-B02474
) (Jointly Administered)
) Chapter 11
Debtors.) Hon. Susan Pierson Sonderby

**ALTERNATIVE DISPUTE RESOLUTION
PROCEDURE FOR PERSONAL INJURY CLAIMS**

Only Eligible Claimants (as hereinafter defined) are entitled to participate in the Claims Resolution Procedure. If you have a Personal Injury Claim against one or more of the Debtors or any Related Non-Debtor Party, it is very important that you read and comply with the procedures set forth below; your failure to do so may result in disallowance of your Personal Injury Claim. **If you have a lawyer, you should consult with your lawyer.**

1. Definitions.

"Agreed Order of Resolution" means the form of Agreed Order attached hereto as Exhibit 2, which is to be executed by counsel for the Debtors and counsel for the Claimant and which will set forth an agreed resolution or settlement of the disputes between the parties concerning a Personal Injury Claim with a settled amount in excess of \$50,000.

"Arbitration" means an arbitration conducted pursuant to the procedures described in Section 7 of these Claims Resolution Procedures.

"Automatic Stay" means the automatic stay imposed by Section 362(a) of the Bankruptcy Code.

"Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended from time to time.

"Bankruptcy Court" means the United States Bankruptcy Court for the Northern District of Illinois. The address of the Bankruptcy Court is 219 South Dearborn Street, Chicago, IL 60604.

"Bar Date" means 4:00 p.m. July 31, 2002, the last date by which Proofs of Claim evidencing Personal Injury Claims may be timely filed.

"Claimant" means the individual asserting a Personal Injury Claim.

"Claims Resolution Procedure" means these Alternative Dispute Resolution Procedures for Personal Injury Claims set forth herein as approved by the Bankruptcy Court.

"Committees" means the Official Unsecured Creditors' Committee, the Official Financial Institutions' Committee, and the Official Committee of Equityholders, collectively.

"Cost of Mediation" includes the administrative charges imposed by the Mediation/Arbitration Organization assigned to resolve a Personal Injury Claim and the fee for the mediator's services and shall not include any other fee or expense, such as travel costs or attorneys' fees.

"Cost of Arbitration" includes the administrative charges imposed by the Mediation/Arbitration Organization assigned to resolve a Personal Injury Claim and the fee for the arbitrator's services and shall not include any other fee or expense, such as travel costs or attorneys' fees.

"Counsel for the Debtors" means Skadden, Arps, Slate, Meagher & Flom (Illinois) and its affiliates, including, but not limited to, Skadden, Arps, Slate, Meagher & Flom, LLP.

"Debtor" or "Debtors" means the entities listed on Exhibit 3 attached hereto, as debtors and debtors-in-possession, whose Chapter 11 bankruptcies are jointly administered by the Bankruptcy Court as Case No. 02 B 02474 (SPS).

"Defenses" means all legal or equitable defenses to a Personal Injury Claim that the Debtors or a Related Non-Debtor Party are entitled to raise under applicable law and all defenses to coverage that a Third Party Indemnitor is entitled to raise under an Insurance Policy, an agreement and/or applicable law.

"Eligible Claimant" means a Claimant who has timely filed a Proof of Claim evidencing a Personal Injury Claim.

"Federal Rules of Bankruptcy Procedure" means the Rules of Bankruptcy Procedure and official forms, and the Local Rules of Bankruptcy Procedure for the Northern District of Illinois, including amendments in effect from time to time.

"Final Order" means an order of the Bankruptcy Court or other court as to which the time to appeal has expired and as to which no appeal is pending or, if an appeal has been timely taken, the order has been affirmed and is no longer subject to appeal.

"Insurance Policy" means an insurance policy between an Insurer and a Debtor which provides coverage for Personal Injury Claims.

"Insurer" means the liable party under an Insurance Policy.

"Judgment Claim Claimant" means any Claimant that held a judgment against the Debtors on account of a Personal Injury Claim as of January 22, 2002.

"Mediation" means the mediation conducted pursuant to the procedures described in Section 6 of these Claims Resolution Procedures.

"Notice Parties" means the Committees, the Debtors' post-petition lenders, the United States Trustee and any other party that requests notice in accordance with the Claims Resolution Procedure.

"Personal Injury Claim" means any personal injury tort claim or wrongful death claim within the meaning of 28 U.S.C. § 157(b)(5), asserted against any of the Debtors and/or a Related Non-Debtor Party that arose prior to January 22, 2002, but not including claims for benefits under any applicable workers' compensation laws and claims held by claimants who have already obtained relief from the Automatic Stay as of the date the Bankruptcy Court enters a Final Order approving these Claims Resolution Procedures.

"Proof of Claim" means the written document filed in compliance with the Bankruptcy Court order dated March 27, 2002, and in the form required by such Court order.

"Questionnaire" means the document, in the form attached hereto as Exhibit 1, to be served by a Claimant upon the Debtors that is used, inter alia, to collect certain information about the Claimant's Personal Injury Claim.

"Referral Notice" means the form of notice which is to be filed and served by the Debtors in order to refer a particular Personal Injury Claim to Mediation.

"Related Non-Debtor Party" means any current or former agent, representative or employee of a Debtor or any party required to be indemnified by a Debtor.

"Reply" means the document to be served by the Claimant in reply to the Response Statement. The Reply may accept the settlement proposal, if any, made by the Debtors.

"Response Statement" means the statement to be served by the Debtors, in response to a Claimant's Questionnaire, which Response Statement may include a settlement proposal to the Claimant.

"Small Claims Claimant" means any Claimant with a Personal Injury Claim with respect to which the Debtors have reserved an amount equal to \$5,000 or less.

"Settlement Agreement" means the agreement that must be executed by the Claimant with respect to any settlement of his or her Personal Injury Claim.

"Third Party Indemnitor" means a person or entity that is liable under applicable non-bankruptcy law to indemnify the Debtors for a Personal Injury Claim, including an Insurer under an Insurance Policy.

2. Summary of Claims Resolution Procedure.

The Claims Resolution Procedure is intended to speed the settlement and/or liquidation of Personal Injury Claims against the Debtors. **In general, the**

Debtors are self-insured for an initial \$2 million per occurrence. If you have a Personal Injury Claim, you must follow these Procedures. The Debtors, the Third Party Indemnitors (if applicable), and the Claimants each shall communicate with the other parties and negotiate in good faith in an attempt to reach an agreement for the release, payment or compromise of Personal Injury Claims.

3. Small Claims Claimants.

On or after August 1, 2002, the Debtors will begin to contact each Small Claims Claimant by telephone in an effort to settle such Claims informally, in each case after appropriate consultation and consent by the Third Party Indemnitor, if applicable. If the Debtors and Small Claims Claimant are unable to reach a settlement by September 30, 2002, they will undertake the Offer-Exchange Process described in Section 5 of these Claims Resolution Procedures. In such case, the Debtors will serve the non-settling Small Claims Claimant with a copy of the Questionnaire on or before October 10, 2002, thereby initiating the Offer-Exchange Process. If a settlement is not reached after exhaustion of the Offer-Exchange Process, then the Small Claims Claimant shall be entitled to modification of the Automatic Stay as provided for in Section 8 of these Claims Resolution Procedures. Notwithstanding anything in these Claims Resolution Procedures to the contrary, no Small Claims Claimant shall have any right to compel the Debtors to undertake Mediation or Arbitration of such Small Claims Claimant's Personal Injury Claim, although the Debtors reserve their right to agree to do so in their sole and absolute discretion.

4. Judgment Claim Claimants

On or after August 1, 2002, the Debtors will begin to contact each Judgment Claim Claimant by telephone to arrange for Mediation of such Claimant's Personal Injury Claim pursuant to Section 6 of these Claims Resolution Procedures. The Mediation process for all Personal Injury Claims held by Judgment Claim Claimants shall be concluded by October 31, 2002, unless the parties with respect to particular matters otherwise agree. If a settlement is not reached after exhaustion of the Mediation, then (i) the Judgment Claim Claimant and the Debtors may agree to binding Arbitration pursuant to Section 7 of these Claims Resolution Procedures or (ii) the Judgment Claim Claimant may request modification of the Automatic Stay as provided for in Section 8 of these Claims Resolution Procedures. Notwithstanding anything in these Claims Resolution Procedures to the contrary, the Debtors shall have no right to compel a Judgment Claim Claimant to undertake the Offer-

Exchange Process, although the Judgment Claim Claimants reserve the right to do so in their sole and absolute discretion. The Debtors shall renew all supersedeas bonds posted by the Debtors prior to expiration so as to preserve any Judgment Claim Claimants' rights with respect to such bonds.

5. Offer-Exchange Process

A. The Questionnaire

Except as otherwise provided for herein with respect to Small Claim Claimants and Judgment Claim Claimants, each Claimant shall serve on or before November 15, 2002, upon the Debtors and Counsel for the Debtors (the address of each is set forth below), a completed Questionnaire. In the event that an Eligible Claimant does not serve the Questionnaire upon the Debtors and Counsel for the Debtors by the above-referenced date, the Eligible Claimant may only participate in the Claims Resolution Procedure after the Questionnaire is submitted.

B. The Response Statement

As soon as practicable after the Debtors receive the Questionnaire, the Debtors, after appropriate consultation and consent by the Third Party Indemnitor, if applicable, shall determine what response to the Personal Injury Claim is appropriate. The Debtors shall serve the Claimant and its counsel, if one has been identified, with a Response Statement, on or before February 15, 2003, that shall state whether the Debtors have reserved more or less than \$50,000 with respect to the Personal Injury Claim of such Claimant. Additionally, the Response Statement shall state that:

- (1) the amount demanded in the Questionnaire is accepted; or
- (2) the Personal Injury Claim is disputed but stating the terms and conditions of a settlement that would be acceptable to the Debtors and any Third Party Indemnitor, if applicable, including a description of key defenses and any third-party claims.

In the event that the Debtors accept the amount demanded in the Questionnaire or make a counter-offer in the Response Statement, then the Debtors shall provide the Claimant with a form of Settlement Agreement.

C. The Reply

The Claimant shall serve a written Reply on the Debtors, Counsel for the Debtors, and any Third Party Indemnitor identified in the Response Statement on or before April 15, 2003, provided, however, that a Claimant with respect to whose Personal Injury Claim the Debtors have reserved in excess of \$50,000 may elect not to serve a Reply, and may elect instead to request Mediation or Arbitration as provided for in Sections 6 and 7 of these Claims Resolution Procedures. The Claimant's Reply, if any, shall either accept or reject any settlement proposal in the Response Statement.

If an Eligible Claimant accepts the terms of a settlement proposal contained in a Response Statement, the Eligible Claimant shall indicate his or her acceptance of the settlement proposal in writing by executing and returning the Settlement Agreement served by the Debtors with the Response Statement. If the agreed settlement amount (the "Settlement Amount") is \$50,000 or less, the Eligible Claimant shall be deemed to hold an allowed, pre-petition general unsecured claim against the Debtor identified in the Proof of Claim in such Settlement Amount. If any applicable Third Party Indemnitor has consented to the settlement proposal, the Third Party Indemnitor shall pay to the Eligible Claimant a sum equal to the lesser of the Settlement Amount and the available coverage, and the Proof of Claim shall be deemed to be reduced in the amount of such payment.

If no Reply is filed within the time stated, the Claimant shall be deemed to have rejected the Debtors' Response Statement. In such case, the Debtors and the Claimant may agree to Arbitration in accordance with Section 7 of these Claims Resolution Procedures, or the Claimant may elect to obtain modification of the Automatic Stay in accordance with Section 8 of these Claims Resolution Procedures.

6. Mediation Procedure.

A. Referral to Mediation

A Personal Injury Claim may be referred to Mediation as provided for in Sections 4 and 5 of these Claims Resolution Procedures. Any such Claim shall be referred by the Debtors to the Mediation/Arbitration Organization (as defined below), by submission of a Referral Notice, (i) within fifteen (15) days after August

1, 2002, in the case of Judgment Claim Claimants, and (ii) within fifteen (15) days after receipt of an appropriate request by an Eligible Claimant in accordance with Section 5 of these Claims Resolution Procedures. The Debtors shall serve a copy of the Referral Notice on the Mediation/Arbitration Organization, the Claimant, and any Third Party Indemnitor to the extent notice of such an action is required under any applicable Insurance Policy. The Debtors shall make arrangements with the mediator for the payment of the Cost of Mediation and shall pay the Cost of Mediation as a post-petition administrative expense as allowed by order of the Bankruptcy Court.

B. Appointment of Mediator

Upon referral of a Personal Injury Claim to mediation, the Mediation/Arbitration Organization shall, within thirty (30) days after the receipt of the Notice of Referral, (i) appoint a mediator who is familiar with the laws which govern the Claim, and (ii) provide written notice to the Debtors and the Eligible Claimant of such appointment. Individual mediators shall provide written acknowledgment of their agreement to serve with the disclosure set forth in this paragraph. In particular, regardless of any rules or procedures of the Mediation/Arbitration Organization to the contrary, a person may serve as a mediator only if (i) the person has judicial experience or has been trained in mediation in a recognized program such as that of the American Arbitration Association or is otherwise mutually agreeable to the Debtors and the Eligible Claimant; (ii) the person is an impartial and neutral person; (iii) the person has no financial or personal interest in the proceedings, or except where otherwise agreed by the parties, in any related matter; and (iv) the person, upon appointment, discloses any circumstances likely to create a reasonable inference of bias or prevent a prompt hearing or conference with the parties. If a party, within fifteen (15) days after the disclosures required in this paragraph are sent, in good faith, does not believe the mediator meets the requirements of this paragraph, the rules of the Mediation/Arbitration Organization shall govern the appointment of a new mediator. The term "Mediation/Arbitration Organization," in its singular or plural form, shall include all mediation/arbitration organizations meeting the requirements of this paragraph and employed by the Debtors.

C. Conduct of Mediation

Consistent with the Mediation Procedures to be approved by this Court in connection with the Debtors' retention of the Mediation/Arbitration

Organization, the mediator shall handle all Personal Injury Claims in the order received by him or her or as directed by mutual agreement of the parties. In all cases, the procedures used by the mediators shall be reasonable and practical under the existing circumstances. Any party may be represented by legal counsel, although the participation of legal counsel shall not be required for the conduct of the mediation. The mediator shall meet with the parties or their representatives, individually and jointly, for a conference or series of conferences as determined by the mediator. The Claimant and the Debtors or their respective representatives must be present at the conference, unless the reserve amount for the Personal Injury Claim is \$100,000 or less, in which case the parties may appear by telephone. Mediations for all Personal Injury Claims with reserve amounts in excess of \$100,000 will be conducted in Troy, Michigan or such other place mutually agreeable to the parties or designated by the mediator. Kmart may, in its discretion, make reasonable accommodations for videoconferencing of mediations. For Claimants residing in the U.S. Virgin Islands, Mediation will be conducted in the U.S. Virgin Islands. All mediations shall be limited to one day unless otherwise agreed by the participants.

The mediator may review the Personal Injury Claim and the positions of the parties, the prior negotiations between the parties, all correspondence between the parties during the Offer Exchange Process, if any, and such additional information as the parties may, in their discretion, wish to submit. Consistent with the Mediation Procedures, the Claimant and Debtor shall each submit to the mediator a concise confidential statement outlining each party's position on settlement value. This confidential statement shall be deemed to be privileged as a compromise and settlement negotiation and shall not be disclosed to the other party.

The mediator shall work with both sides to reach a settlement of the Personal Injury Claim mutually acceptable to the Debtors and the Personal Injury Claimant. The mediator shall not have the authority to impose a settlement upon the parties. A settlement reached pursuant to mediation shall be treated as an allowed claim, subject however to the allowance procedures provided for herein.

7. Arbitration Procedure.

A. Referral to Arbitration

A Personal Injury Claim may be referred to Arbitration as provided for in Sections 4 and 5 of these Claims Resolution Procedures. Either party may request that the other party consent to binding arbitration proceedings, which request

shall also serve as a consent by the requesting party. The non-requesting party must send notice to the requesting party within fifteen (15) days of the mailing date of the request for arbitration that the non-requesting party consents to binding arbitration. The Debtors shall send notice of such Arbitration to any Third Party Indemnitor to the extent notice of such an action is required under the applicable Insurance Policy. The Personal Injury Claim shall be submitted for arbitration within sixty (60) days of the mailing date of the request for arbitration if the non-requesting party consents to binding arbitration.

B. Appointment of Arbitrator

Upon a submission for binding arbitration, the Mediation/Arbitration Organization shall, within thirty (30) days after receipt of the referral to binding arbitration, (i) appoint an arbitrator to conduct arbitration proceedings as hereinafter set forth and (ii) provide notice to the Debtors and the Claimant of such appointment. Individual arbitrators shall provide written acknowledgment of their agreement to serve to the Debtors and the Eligible Claimant. Such proceedings shall be commenced, to the extent practicable, not later than thirty (30) days after the date the arbitrator provides written acknowledgment to all parties.

C. Conduct of Arbitration

All binding arbitration proceedings shall be administered by the Mediation/Arbitration Organization. The same Mediation/Arbitration Organization may be used for both the mediation procedure and binding arbitration proceedings. Arbitrators who are not otherwise selected shall be appointed to particular matters by the Mediation/Arbitration Organization pursuant to its rules and procedures; provided, however, that a person may serve as an arbitrator only if the person is (i) impartial and neutral; (ii) has no financial or personal interest in the proceedings or, except as otherwise agreed by the parties, in any related matter; (iii) the person shall not have served as the mediator of the Personal Injury Claim subject to the binding arbitration proceedings; and (iv) upon accepting an appointment, the person discloses any circumstances likely to create a reasonable inference of bias or prevent a prompt hearing or conference with the parties.

The arbitration shall be conducted in accordance with applicable law and shall be governed by the Federal Arbitration Act, Title 9, United States Code. Except as otherwise provided by the Claims Resolution Procedure, and unless otherwise agreed by the parties, the arbitration shall be conducted pursuant to the

dispute resolution procedures for commercial or insurance claims of the American Arbitration Association, as currently in effect and appropriate.

D. Cost of Arbitration

The Cost of Arbitration will be shared equally by the Debtors and the Claimant, provided however, that the arbitrator may in his or her sole discretion assess the entire Cost of Arbitration against any party delaying or abusing the arbitration proceedings. The Debtors and the Claimant shall each make arrangements with the arbitrator for (i) the payment of one-half of their portion of the Cost of Arbitration; and (ii) the payment of the balance within thirty (30) days of the date of determination of the binding arbitration proceedings.

E. Arbitration Award

The amount of the award set by the arbitrator shall be binding and shall be within the discretion of the arbitrator, but in no event shall the amount of the award (i) exceed the lower of (x) the claimed amount of itemized damages of the Personal Injury Claim as shown in Section 14(b) of the Claimant's Questionnaire or (y) as shown on the Claimant's Proof of Claim, or (ii) be less than the undisputed portion of the Claim. Neither party shall have the right to appeal the award except on the grounds set forth in the Federal Arbitration Act. There will be no right to a trial de novo.

8. Stay Relief.

If an Eligible Claimant has otherwise exhausted the Procedures provided for herein, it will be granted relief from the Automatic Stay to pursue litigation of its Personal Injury Claim in an appropriate forum, on the conditions and upon the timing set forth below.

A. Service of Motion

A motion for relief from the Automatic Stay shall be served by the Claimant on Counsel for the Debtors upon good faith compliance with the Claims Resolution Procedure set forth herein.

B. Exhaustion of Procedure

No motion seeking relief from the Automatic Stay with respect to a Personal Injury Claim will be granted unless the Claimant has first exhausted, in good faith, the Claims Resolution Procedure. To the extent a Claimant files a lift stay motion without exhausting the Claims Resolution Procedures, the Bankruptcy Court shall deny the motion, without prejudice to its renewal after the Claims Resolution Procedures are exhausted.

C. Order Modifying Stay

Upon the representation by the Claimant in such motion that the foregoing conditions have been met and if the Debtors do not timely object on the appropriate grounds, the Debtors shall submit a stay relief order to the Bankruptcy Court lifting the Automatic Stay.

D. Objection by the Debtors

The Debtors shall have the opportunity to object to any such motion only on the grounds that the Claimant has failed to comply with the foregoing conditions of the Claims Resolution Procedure. Any other party in interest with standing, including a Third Party Indemnitor, shall have the right to object; provided that nothing in the Claims Resolution Procedure shall be deemed to grant them standing.

9. Civil Litigation.

Any Eligible Claimant may pursue his or her Personal Injury Claim against the Debtors in accordance with normal litigation rules and procedures after the Automatic Stay is lifted if the Eligible Claimant has complied in good faith with this Claim Resolution Procedure. In any proceeding before any Court, the Debtors shall have and may assert any or all of their legal and equitable rights to object to or otherwise contest the Personal Injury Claim. An Eligible Claimant shall not, however, be able to enforce or execute against the Debtors any judgment obtained as a result of such litigation. Nothing contained herein shall be construed to relieve a Claimant of any obligation imposed by applicable non-bankruptcy law to exhaust administrative, alternative dispute resolution or other procedures applicable to Personal Injury Claims.

10. Settlement and Court Approval.

At any time during the administration of this Claims Resolution Procedure, even during litigation, the Debtors (and the Third Party Indemnitor, if applicable) shall have the authority to agree to a settlement with the Eligible Claimant, subject to the approval of the Bankruptcy Court, except as provided in the next paragraph.

Court approval will not be required for the settlement of any Personal Injury Claim in an amount equal to or less than \$50,000, and the Debtors (and the Third Party Indemnitor, if applicable) may settle and allow any Personal Injury Claim equal to or less than such amount without notice or hearing.

Court approval of a settlement of Personal Injury Claims for settlement amounts in excess of \$50,000 may be requested by filing and serving notice of an Agreed Order of Resolution upon (10) days' notice to all Notice Parties, which Agreed Order of Resolution may be entered by the Bankruptcy Court if a written objection thereto is not interposed during that period.

11. Application of Automatic Stay.

The Insurance Policies issued by the Insurers are for the purposes of this Claims Resolution Procedure deemed to be property of the estate of the Debtors. No person or entity shall be allowed to assert any Personal Injury Claim against such Insurance Policies or against the Debtors or any of their assets unless they have first complied with this Claims Resolution Procedure.

12. Waiver of Claims Resolution Procedure.

The Debtors, in their sole discretion, may agree to waive and/or extend the deadlines set forth herein for the filing of the Questionnaire and/or Reply. In addition, nothing herein shall preclude the Debtors from submitting a stipulation agreeing to lift, modify or annul the Automatic Stay, upon such notice as required under the Bankruptcy Code and Bankruptcy Rules.

13. Notice.

Whenever notice is required to be given under these Claims Resolution Procedures, it shall be given in the manner provided in the relevant section, by first class mail, postage prepaid, as follows:

If to the Debtors: Kmart Corporation
3100 West Big Beaver Road
Troy, MI 48084
Attn: Phillip Renaud II

If to Counsel for the
Debtors: Skadden, Arps, Slate, Meagher & Flom (Illinois)
333 West Wacker Drive
Suite 2100
Chicago, IL 60606
Attn: Charles F. Smith

14. Insurers.

Nothing in this Claims Resolution Procedure shall be construed to alter the rights or obligations of any Insurer of the Debtors. In all instances where an Insurer has a right to receive notice, participate in the resolution of a Personal Injury Claim, or decide upon or approve the resolution of a Personal Injury Claim, that right is preserved. Nothing in this Claims Resolution Procedure shall be construed to authorize the Debtors to act on behalf of or as an agent for any Insurer of the Debtors.

15. Notice Parties.

Any person may make a written request of the Debtors at the address above to become a Notice Party. The Debtors shall use reasonable discretion in granting such a request.

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

QUESTIONNAIRE FOR PERSONAL INJURY CLAIMANTS

In re:

Kmart Corporation, et al.
Case No. 02 B 02474 (SPS)
Chapter 11

Name and Address of Claimant:

Name

Address

City

State/Zip

Country

Phone Number

PART A — NOTICE

Purpose of this Notice

According to court records, you previously filed a claim in the above-referenced cases. In order to estimate your claim for voting on a reorganization plan and provide information on your claim, you must complete this Questionnaire and mail it, postage prepaid, to Kmart Corporation, 3100 West Big Beaver Road, Troy, Michigan 48084.

Action Required by You

1. If you do *not* wish to pursue any claim you may have, disregard this notice and do not return it. You will not be allowed to vote on a reorganization plan if you do not return the Questionnaire on time.

2. If you wish to pursue any claim you may have against the Debtors arising from or relating to any medical services rendered to you or someone by or through whom you claim damages, you must:

(a) fully complete this Questionnaire, and

- (b) return the completed Questionnaire in the enclosed reply envelope. (Note: You must affix proper postage.) The reply must be delivered no later than November 15, 2002, or it will not be processed and you will not be allowed to vote on a proposed reorganization plan.

WARNING:

IF YOU DO NOT RETURN THIS COMPLETED FORM BY NOVEMBER 15, 2002, YOUR CLAIM WILL BE ESTIMATED AT ZERO AND YOU WILL NOT BE ABLE TO VOTE ON A PROPOSED REORGANIZATION PLAN.

PART B — CLAIM INFORMATION

1. Give your date of birth: _____ 2. Date of injury: _____

3. Where did the injury occur? _____

Please specify the location and address

4. Are you pursuing this claim against any other party? Yes No
If so, against whom (list the name, the addresses and counsel for each party, if known)?

(Attach additional sheets if necessary)

5. Did you notify the Debtor in writing of the injury? (If yes, attach a copy of such writing.)

Yes No

6. Is there a pending lawsuit regarding your claim? If so, identify the court where the lawsuit is pending, the case number and the judge, if known.

7. What type of injuries do you have? Provide a medical description of your injuries. (Please state if the claim is based, in whole or in part, on an injury to someone else.)

8. How did the injury occur?

9. Did you miss any work as a result of your injury? If so, how many days?

10. Give the name and address of your employer and your salary at the time of your injury.

11. Was anyone else injured at the time of your injury? (If yes, list the names and addresses.)

12. List the names, addresses and phone numbers of all witnesses and people with relevant knowledge of your claim (including, but not limited to, any representatives or agents of the Debtors).

13. Are treatments still being given for the injury? Yes No
 (If yes, provide the name and address of the doctor that is currently treating you and the nature of the treatment.)

14. Physician Data
- a. Give the name and address of any physician, clinic or hospitals that have treated this injury. Include treatment dates. (Attach additional sheets if necessary)
- _____
- _____
- _____
- _____

-
- b. Itemize all damages you claim, including any damages for emotional distress, loss of consortium or pain and suffering.

- c. Give the total amount of the medical bills you incurred as a result of suffering your injury.

- d. Attach medical and hospital records which relate to your claim.

- e. Itemize any other expenses you incurred as a result of the incident for which you are making a claim.

- f. Give a list of medical expenses and amounts paid by your insurance company as a result of your injury.

- g. Give the name, address and policy number of your insurance company.

15. In what amount would you agree to settle your claim ? (This is not the amount that you will receive on account of your claim. The amount you will receive depends upon the plan or plans of reorganization that may be approved.)

PART C — SIGNATURE

NOTICE: UNDER FEDERAL LAW, CRIMINAL PENALTIES MAY BE IMPOSED FOR FILING A CLAIM CONTAINING FALSE OR MISLEADING STATEMENTS.

I declare under penalty of perjury that the foregoing statements are correct.

DATE: _____

Claimant's Signature

Please recheck each of your answers to be sure that you have completed this form fully and accurately.

NAME AND ADDRESS OF ATTORNEY OR OTHER AUTHORIZED AGENT

Complete this box if you have an attorney or other agent who represents you in this matter. If completed, all future notices will go to your attorney or agent rather than to you personally.

Name (First/Middle/Last)

Address

City/State/Zip

Country

Relationship to Claimant

Phone Number

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

In re:)	Case No. 02-B02474
)	
KMART CORPORATION, et al.,)	(Jointly Administered)
)	Chapter 11
)	
Debtors.)	Chief Judge Susan Pierson Sonderby

**NOTICE AND AGREED ORDER OF RESOLUTION OF PERSONAL
INJURY CLAIM OF _____ (CLAIM NO. _____)**

Notice

Notice is hereby given that Kmart Corporation ("Kmart") and certain of its subsidiaries and affiliates (collectively, the "Debtors"), debtors and debtors-in-possession in the above-captioned cases, have agreed to a resolution of a Personal Injury Claim filed by _____. Please be advised that unless a written objection is timely filed and served, the attached Agreed Order will be deemed final and effective. If a timely objection is filed, the Motion will be heard at the next scheduled omnibus hearing in these cases.

Objections to the agreement granted in the attached Agreed Order must be made in writing and filed with the Court and served on the Notice Parties on or before ten (10) days after the date of mailing of this Notice and Order. Any objection filed must conform to the Federal Rules of Bankruptcy Procedure, the Local Rules for the United States Bankruptcy Court for the Northern District of Illinois (the "Local Rules") and the Order of this Court establishing case management and administrative procedures (Docket No. 125) (the "Case Management Order").

**AGREED ORDER OF RESOLUTION OF PERSONAL
INJURY CLAIM OF _____ (CLAIM NO. _____)**

This Agreed Order is entered into and submitted to the Court in accordance with, and in implementation of, the procedures approved by the Court in the Order Approving Procedures for (A) Liquidating and Settling Pre-Petition Personal Injury Claims Through Direct Negotiation and/or Alternative Dispute Resolution and/or (B) Modifying the Automatic Stay to Permit Certain Pre-Petition Litigation With Respect to Such Claims to Proceed; and the Claimant and Kmart Corporation ("Kmart") and certain of its subsidiaries and affiliates (collectively, the "Debtors"), debtors and debtors-in-possession in the above-captioned cases, having agreed, as signified by the signatures of counsel below, to a resolution of the disputed Personal Injury Claims as set forth in this Agreed Order; and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Claimant shall have an allowed, general pre-petition unsecured non-priority claim in the amount of \$ _____ against **[Relevant Debtor]** in Case No. _____ and a copy of this Order shall be docketed by the clerk of the court in such case.

2. The automatic stay imposed by 11 U.S.C. § 362(a) remains in effect with respect to any and all actions to collect or enforce the claim allowed in

this Order and/or any other claims against the Debtors or the Debtors' estates or any affiliate of the Debtors.

Dated: Chicago, Illinois
_____, 200_

Chief Judge Susan Pierson Sonderby
United States Bankruptcy Judge

INDEX OF DEBTORS

1. Kmart Corporation
2. Kmart Corporation of Illinois, Inc.
3. Kmart of Indiana
4. Kmart of Pennsylvania LP
5. Kmart of Texas L.P.
6. Kmart of North Carolina LLC
7. Big Beaver of Florida Development, LLC
8. Bluelight.com LLC
9. Kmart Michigan Property Services, L.L.C.
10. TC Group I LLC
11. Troy CMBS Property, L.L.C.
12. Kmart Financing I
13. Big Beaver Development Corporation
14. Big Beaver of Caguas Development Corporation
15. Big Beaver of Guaynabo Development Corporation
16. BlueLight.com, Inc.
17. Kmart Holdings, Inc.
18. Kmart of Amsterdam, NY Distribution Center, Inc.
19. Kmart Stores of Indiana, Inc.
20. Kmart of Michigan, Inc.
21. Kmart Stores of TNCP, Inc.
22. Kmart Overseas Corporation
23. JAF, Inc.
24. VTA, Inc.
25. Big Beaver of Caguas Development Corporation II
26. Big Beaver of Carolina Development Corporation
27. Kmart Pharmacies, Inc.
28. Kmart Pharmacies of Minnesota, Inc.
29. Builders Square, Inc.
30. Kmart CMBS Financing, Inc.
31. K mart International Services, Inc.
32. PMB, Inc.
33. Sourcing & Technical Services, Inc.
34. ILJ, Inc.
35. STI Merchandising, Inc.
36. KBL Holding Inc.
37. KLC, Inc.
38. S.F.P.R., Inc.