

**SECOND MOTION TO FILE INITIAL BRIEF OF
WAL-MART STORES EAST, LP,
AND SAM'S EAST, INC.,
Case No. 10-2586-EL-SSO**

Initial Brief Of Wal-Mart Stores East, LP, And Sam's East, Inc., ("Motion") was prepared explaining the circumstances and asking that the Initial Brief be considered as timely filed. The Motion was submitted electronically via the Commission's website on Friday, January 28, 2011, by counsel for Walmart. The Motion was electronically signed by counsel and confirmation of the filing was also received by counsel. On that same date, a copy of the Motion was duly served on all parties and the Attorney Examiners via electronic mail.

4) On Monday, January 31, 2011, counsel for Walmart was advised by Attorney Examiner Pirik that the Motion submitted for filing with the Commission on January 28, 2011, did not bear an electronic signature and was, therefore, rejected. Counsel subsequently confirmed again that the copy of the Motion served on the parties and the Attorney Examiners did contain an electronic signature.

5) Counsel for Walmart was also advised that electronic filing is not available for this case and that a hard copy of the Initial Brief should be physically filed with the Commission on January 31, 2011. Counsel was also advised that a hard copy of another motion needed to be filed, explaining the circumstances and asking that the brief be considered as timely filed.

6) A hard copy of the Initial Brief was physically filed Monday, January 31, 2011, as directed by the Attorney Examiner. Walmart respectfully requests that the Initial Brief be deemed to have been timely filed on January 27, 2011. Counsel for Walmart acted in good faith in attempting to electronically file the Initial Brief on January 27, 2011, and again on January 28, 2011.

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7) Counsel was unaware that electronic filing was not available for this case. The Initial Brief was electronically signed when originally submitted on January 27, 2011, and an electronic confirmation was received by counsel on that same date. Counsel received nothing on that date to suggest that the brief was not accepted as filed, or the inexplicable disappearance of the electronic signature on the filed copy.

8) Upon learning on January 28, 2011, that the previous filing had been rejected counsel duly filed the Motion on that same date as directed by the Commission's Docketing Division. Counsel received no indication that electronic filing was unavailable for this case. The Motion was electronically signed when originally submitted on January 28, 2011, and an electronic confirmation was received by counsel on that same date. Counsel received nothing on that date to suggest that the brief was not accepted as filed, or the inexplicable disappearance of the electronic signature on the filed copy.

9) Pursuant to the directions of the Attorney Examiners, copies of the Initial Brief were duly served via electronic mail to all parties on January 27, 2011. Hard copies were also mailed to all parties on that same date. Similarly, copies of the Motion (with a copy of the Initial Brief attached) were duly served via electronic mail to all parties on January 28, 2011.

10) None of the parties have been or will be prejudiced by the actual physical filing of the Initial Brief on today's date. In fact, as of this filing all parties to the case will have received three identical copies of the Initial Brief: two via electronic mail and one via U.S. Mail. Given the inadvertent and harmless nature of today's physical filing of the

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Initial Brief, Walmart respectfully requests that the Commission deem the filing to have been filed herein in a timely manner.

WHEREFORE, for all the above and foregoing reasons, Wal-Mart Stores East, LP, and Sam's East, Inc., respectfully request that the Commission deem the Initial Brief physically filed on today's date to have been timely filed in this docket.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies and affirms that on the 31st day of January, 2011, a true and correct copy of the foregoing instrument was served via electronic mail to the following persons:

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**SECOND MOTION TO FILE INITIAL BRIEF OF
WAL-MART STORES EAST, LP,
AND SAM'S EAST, INC.,
Case No. 10-2586-EL-SSO**

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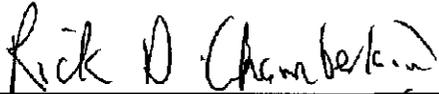
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