

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**PROOF OF CLAIM**



497450

Bar Date Ref # 2 N 222

In re  
**Fleming Companies, Inc**

Case Number  
**03-10945**

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503

Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars

**Name of Creditor and Address**

0354652497450

Michael C Van Berkom Anna Bowe  
5401 Gamble Dr 5833 Prairie Drive  
Ste 100 Parkdale 1 Shoreview, MN 55126  
Minneapolis MN 55416

Check box if you have never received any notices from the bankruptcy court in this case

Check box if this address differs from the address on the envelope sent to you by the court

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again

Creditor Telephone Number ( ) **952-546-6000**

CREDITOR TAX ID #  
**Van Berkom 41-0987635**  
**Bowe 469-30-8645**

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR CLAIM #  
**3931-781-988677-8**

Check here  replaces if this claim  or amends a previously filed claim dated \_\_\_\_\_

**1 BASIS FOR CLAIM**

- Goods sold
- Personal injury/wrongful death
- Retiree benefits as defined in 11 U.S.C. § 1114(a)
- Services performed
- Taxes
- Wages, salaries, and compensation (Fill out below)
- Money loaned
- Other (describe briefly)

Your social security number \_\_\_\_\_

Unpaid compensation for services performed from \_\_\_\_\_ to \_\_\_\_\_

(date) (date)

**2 DATE DEBT WAS INCURRED** **5/16/02**

**3 IF COURT JUDGMENT, DATE OBTAINED** **n/a**

**4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE**

**\$ 50,000.00**

(unsecured)

(secured)

(unsecured priority)

(total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges

**5 SECURED CLAIM**

Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

- Real Estate
- Motor Vehicle
- Other \_\_\_\_\_

Value of collateral \$ \_\_\_\_\_

Amount of arrearage and other charges at time case filed included in secured claim above, if any \$ \_\_\_\_\_

**6 UNSECURED PRIORITY CLAIM**

Check this box if you have an unsecured priority claim

Specify the priority of the claim

- Wages, salaries, or commissions (up to \$4,650\*) earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3)
- Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4)
- Up to \$2,100\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6)
- Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7)
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a) \_\_\_\_\_

\* Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

**7 CREDITS** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim **none**

**8 SUPPORTING DOCUMENTS** Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

**9 DATE-STAMPED COPY** To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of this proof of claim.

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4:00 p.m., September 15, 2003, Pacific Daylight Time

BY MAIL TO  
Bankruptcy Management Corporation  
P O BOX 900  
El Segundo, CA 90245-0900

BY HAND OR OVERNIGHT DELIVERY TO  
Bankruptcy Management Corporation  
1330 East Franklin Avenue  
El Segundo, CA 90245

THIS SPACE FOR COURT

USE ONLY  
**FILED**

**SEP 15 2003**

DMA  
Fleming Companies Claim



13226

DATE SIGNED

**9-10-03**

SIGN and print the name and title of any of the creditor or other person authorized to file this claim. Attach copy of power of attorney, if any.

**Michael C. Van Berkom, Attorney for Anna Bowe**

Penalty for presenting fraudulent claim is a fine of up to \$500,000 or imprisonment for up to 5 years, or both - 18 U.S.C. §§ 152 AND 3571

**See Other Side For Instructions**

RETAINER AGREEMENT

I hereby retain BORKON, RAMSTEAD, MARIANI, FISHMAN & CARP, LTD, Suite 100 Parkdale I, 5401 Gamble Drive, Minneapolis, Minnesota 55416-1552 to represent me for the recovery of damages against responsible parties by reason of fall down accident P 5-16-02 and agree that in the event of recovery either by trial or settlement my said attorneys shall be entitled to 1/3 of the amount recovered as their fees in addition to their costs and disbursements expended in the prosecution of my claims. In the event that settlement is agreed upon on the basis of payments to be made to me in the future, I agree that my attorneys shall be entitled to 1/3 of the present cash value of the entire settlement so agreed upon and that their full fee shall be paid at the time such a settlement is entered into, in addition to their costs and disbursements expended in the prosecution of my claims. No charge if no recovery is made.

~~In addition, my said attorneys agree to handle the processing of any claims I may have for no-fault benefits arising out of said accident for which service no charge shall be made unless my right to such benefits is contested. In the event of a contest, my said attorneys shall be entitled to 1/3 of any such no-fault benefits recovered in addition to their costs and disbursements expended in the prosecution of such claims.~~

DATED 8/30/02

Anna F. Davel

**Dockter-Lutz Chiropractic**

620 Civic Hqts. Dr. Ste 108  
Circle Pines, MN 55014  
(763)795-8300

Page: 1

1/29/2003

**Patient:** Ann F Bowe  
5833 Prairie Ridge Dr.  
Shoreview, MN 55126

**Chart#:** BOWAN000  
**Case#:** 1204

**Instructions:**

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
5/20/2002	Detailed Hist.& Exam (new)	99203	25	847 0	847 1			1	97 00
5/20/2002	Full Spine Radiographs (2 view)	72010		847 0	847.1			1	109 00
5/20/2002	Adjust 1-2 Regions	98940		847 0	847 1			1	40 00
5/20/2002	Extra Spinal Adjustment	98943		847 0	847 1			1	32.00
5/20/2002	Hot/Cold Therapy	97010		847 0	847 1			1	19 00
5/28/2002	Adjust 1-2 Regions	98940		847 0	847 1			1	40.00
5/31/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50 00
5/31/2002	Manual Muscle Stimulation	97124		847.0	847 1			2	42.00
6/5/2002	Adjust 3-4 Regions	98941		847 0	847 1			1	50 00
6/5/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42.00
6/10/2002	Adjust 1-2 Regions	98940		847 0	847.1			1	40 00
6/10/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42.00
6/17/2002	Adjust 3-4 Regions	98941		847 0	847 1			1	50 00
6/17/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42 00
6/21/2002	Adjust 1-2 Regions	98940		847 0	847 1			1	40 00
6/21/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42.00
6/28/2002	Adjust 1-2 Regions	98940		847.0	847 1			1	40.00
6/28/2002	Manual Muscle Stimulation	97124		847 0	847.1			2	42.00
7/5/2002	Adjust 3-4 Regions	98941		847 0	847 1			1	50 00
7/5/2002	Trigger Point	97140	59	847 0	847 1			1	24.00
7/5/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42.00
7/12/2002	Adjust 1-2 Regions	98940		847 0	847 1			1	40 00
7/12/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42 00
7/20/2002	Adjust 1-2 Regions	98940		847 0	847 1			1	40 00
7/20/2002	Manual Muscle Stimulation	97124		847 0	847 1			2	42 00
8/5/2002	Adjust 1-2 Regions	98940		847 0	847 1			1	40 00
8/5/2002	Trigger Point	97140	59	847 0	847 1			1	24 00

**Provider Information**

Provider Name	Daniel S. Lutz DC
License	003573
Insurance PIN	
SSN or EIN	41-1923174

Total Charges	\$ 1197 00
Total Payments	\$ 0 00
Total Adjustments	\$ 0 00
<b>Total Due This Visit:</b>	<b>\$ 1197.00</b>
Total Account Balance	\$ 2,506 00

**Assign and Release** I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

Patient Signature \_\_\_\_\_

Date \_\_\_\_\_

# Dockter-Lutz Chiropractic

620 Civic Hqts. Dr. Ste 108  
 Circle Pines, MN 55014  
 (763)795-8300

**Patient:** Anna F Bowe  
 5833 Prairie Ridge Dr  
 Shoreview, MN 55126

**Chart#:** BOWAN000  
**Case#:** 1204

**Instructions:**

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
8/5/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
8/21/2002	Adjust 1-2 Regions	98940		847.0	847.1			1	40.00
8/21/2002	Trigger Point	97140	59	847.0	847.1			1	24.00
8/21/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
9/6/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50.00
9/6/2002	Trigger Point	97140	59	847.0	847.1			1	24.00
9/6/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
9/30/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50.00
9/30/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
10/7/2002	Adjust 1-2 Regions	98940		847.0	847.1			1	40.00
10/7/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
10/14/2002	Adjust 1-2 Regions	98940		847.0	847.1			1	40.00
10/14/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
10/21/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50.00
10/21/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
10/28/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50.00
10/28/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
11/4/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50.00
11/4/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
11/18/2002	Adjust 1-2 Regions	98940		847.0	847.1			1	40.00
11/18/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
12/2/2002	Adjust 3-4 Regions	98941		847.0	847.1			1	50.00
12/2/2002	Manual Muscle Stimulation	97124		847.0	847.1			2	42.00
12/16/2002	Expanded Problem (established)	99213	25	847.0	847.1			1	77.00
12/30/2002	Adjust 1-2 Regions	98940		847.0	847.1			1	40.00
12/30/2002	Trigger Point	97140	59	847.0	847.1			1	24.00
1/13/2003	Adjust 1-2 Regions	98940		847.0	847.1			1	42.00

**Provider Information**

Provider Name	Daniel S Lutz DC
License	003573
Insurance PIN	
SSN or EIN	41-1923174

Total Charges	\$ 1153.00
Total Payments	\$ 0.00
Total Adjustments	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 1153.00</b>
Total Account Balance	\$ 2,506.00

**Assign and Release:** I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

**Patient Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Dockter-Lutz Chiropractic**

620 Civic Hgts Dr. Ste 108  
 Circle Pines, MN 55014  
 (763)795-8300

**Patient:** Anna F. Bowe  
 5833 Prairie Ridge Dr.  
 Shoreview, MN 55126

**Chart#:** BOWAN000  
**Case#:** 1204

**Instructions:**

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
1/13/2003	Manual Muscle Stimulation	97124		847 0	847 1			2	46.00
1/27/2003	acupuncture (initial & follow-up)	97780		847 0	847 1			1	58.00
1/27/2003	Adjust 3-4 Regions	98941		847 0	847 1			1	52.00
1/29/2003	NOTE	NOTE		847 0	847 1			1	0.00

**Provider Information**

**Provider Name:** Daniel S. Lutz DC  
**License:** 003573  
**Insurance PIN:**  
**SSN or EIN:** 41-1923174

Total Charges	\$ 156.00
Total Payments	\$ 0.00
Total Adjustments	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 156.00</b>
Total Account Balance	\$ 2,506.00

**Assign and Release:** I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

**Patient Signature** \_\_\_\_\_

**Date** \_\_\_\_\_



# Dockter • Lutz Chiropractic

*"Helping you achieve a healthier, drug-free lifestyle"*

June 24, 2003

Michael C Van Berkom  
Suite 100 Parkdale I  
5401 Gamble Drive  
Minneapolis, MN 55416-1552

RE	Patient/client	Anna F Bowe
	DOB	03/11/29
	D/A	5/16/02
	Your File No	02-19 966

Dear Mr Van Berkom

Ms Anna Bowe presented in our office on May 20, 2002 for injuries sustained to the wrists, knees, neck and back after a fall. The fall occurred on May 16, 2002 in a grocery store after tripping on a wood pallet. An orthopedic and radiographic examination of the neck and back was performed on May 20, 2002.

Significant findings in the cervical exam were reduced range of motion and pain with extension, a positive Soto Hall orthopedic test, and spasm/tenderness ranging from mild to mild-moderate throughout the neck.

A significant finding in the lumbar exam was a positive Patrick's test on the left, and spasm and tenderness ranging from mild to moderate was also noticeable. There were no other findings of significance.

#### INITIAL DIAGNOSIS

Based upon the history, symptoms and objective findings, the following initial diagnosis was rendered on May 20, 2002:

Sprain/Strain, Cervical 847 0  
Sprain/Strain, Thoracic 847 1

#### UPDATED DIAGNOSIS

Following a review of the subjective and objective findings, the following diagnosis was established on April 30, 2003:

PRIMARY Sprain/Strain, Thoracic 847 1  
PRIMARY Sprain/Strain Lumbar 847 2  
PRIMARY Sprain/Strain sacroiliac 846 0  
SECONDARY Subluxations multiple, Cervical 839 08

#### ASSESSMENT

Based upon a review of the mechanism of injury, the state of Ms Bowe's condition when she initiated care compared to the state I would anticipate if the injury occurred during the accident, and my experience in practice, I can say with a reasonable degree of certainty that the conditions identified are the direct result of the trauma sustained in the accident.

#### TREATMENT PLAN

In order to address the conditions identified, the following procedures were provided to Ms Bowe under the initial treatment plan which was established on May 20, 2002:

- Manual Adjustments
- In office cryotherapy

- Out of office cryotherapy
- Moist heat
- Ultrasound Therapy
- Electrical myo-stimulation (EMS)
- Trigger point therapy
- Manual muscle stimulation

The following limitations were established as part of that treatment plan to avoid exacerbation of Ms Bowe's condition

- Until further notice, no sports activities

Ms Bowe was scheduled to be seen at a rate of approximately 2 to 3 times a week. This frequency of care was designed to continue for 4 to 5 weeks. This treatment plan includes an examination at the end of the scheduled care to re-evaluate Ms Bowe's condition and evaluate her progress

#### MONITORING EXAMS

Ms Bowe's progress was monitored by performing the following examinations comprehensive orthopedic, neurologic, and chiropractic re-examinations on December 16, 2002 and April 20, 2003

#### LIMITATIONS

The trauma Ms Bowe suffered has resulted in a permanent injury which predisposes her to further injury from incidents which would not normally cause injury in someone of similar age and physical condition

#### PROGNOSIS

The injuries sustained by Ms Bowe will cause acceleration of degenerative processes such as disc disease and arthritis, predispose her to re-injury, result in intermittent periods of pain, and cause accelerated degeneration of other anatomic structures due to the aberrant functioning of the injured area

The initial treatment plan was for two to three treatments per week for four to five weeks. At that point a re-examination was given and Ms Bowe was placed on an as-needed basis for her next twelve to fifteen visits. The most recent treatment plan suggested one visit every three to four weeks for six months, then Ms Bowe was put on an as-needed basis to help control a slight exacerbation

Ms Bowe's treatments included specific chiropractic adjustments, myofascial release, manual muscle stimulation, and application of ice/heat when necessary

Anna's current treatment plan is to continue treating one time per month through October 2003. At that point she will treat on an as-needed basis. Ms Bowe's condition appears to remain at an acceptable level, both subjectively and objectively, when treating one time per month. Therefore, I anticipate the likelihood that Ms Bowe's condition will require ongoing treatment at this frequency

Ms Bowe is currently under lifting and sitting restrictions. She has been instructed to limit lifting to around ten pounds when possible and to sit for no more than thirty minutes at a time. She has also been advised to limit repetitive movements involving the lower back

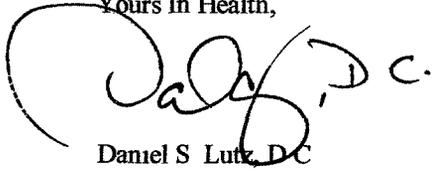
It is my opinion that Ms Bowe has suffered a permanent injury to the thoracic spine. I base this opinion on my objective findings obtained prior to the fall on May 16, 2002, after this date, and currently

The traumatically induced injuries to the Cervicothoracic and Lumbar spines and the manifested subjective complaints and corresponding objective examination findings indicate that future conservative chiropractic care will be necessary to reach and maintain optimal and functional integrity of the spine and the supportive soft tissue structures. At this time, I would estimate the frequency of care to be one to three treatments per month, at an average expense of \$40 to \$80 per treatment

Periods may also arise when aggravation in Ms. Bowe's thoracic spine condition necessitate an increased need for care. These periods will be largely dependent on the patient's activity level, both vocationally and recreationally, the functional demands placed upon the spine and the ability of the patient to tolerate these various stresses.

Should you have any additional questions, please feel free to contact me at this clinic.

Yours In Health,

A handwritten signature in black ink, appearing to read "Daniel S. Lutz, D.C.", written in a cursive style.

Daniel S. Lutz, D.C.

DSL/bll

Page 2 of 2  
September 10, 2003

permanent, and that she will need ongoing medical care at a frequency of one to three treatments per month at an average expense of \$40 00 to \$80 00 per treatment. Assuming she were required to treat two times per month, at an average cost of \$60 00 per treatment, she would incur annual medical expense in the future of \$1,440 00. Since Ms. Bowe has a life expectancy on excess of 13 years, her future medical expense is likely exceed \$18,000 00.

In addition, from the date of the incident through January 27, 2003, Ms. Bowe had incurred medical expense of \$2,506 00. We are enclosing an itemized medical bill for your reference. It is our understanding that her medical bills now exceed \$3,000 00.

In addition, her injuries have greatly impacted her life. She has had to endure significant ongoing pain and suffering. At the time of the injury, she was in good health and did not have any significant problem with ongoing pain or restrictions. She has had to limit many of the activities she enjoys, and find that many activities significantly exacerbate her pain. For example, Ms. Bowe enjoys traveling very much, and has had to limit her traveling as a result of the injuries. Further, when she is able to travel it significantly aggravates her symptoms. This is just one example of the way her injuries have significantly impacted her life.

In light of the significant past and future medical expense, the significant pain and suffering she has had to endure, as well as the problems she will continue to suffer as a result of her permanent injuries, we feel her claim has a value in excess of \$50,000 00. However, we would be able to agree that her claim has a value of \$50,000 00 for purposes of this matter.

Please let us know if you would like to review any additional medical records, or if any further information is needed to fully evaluate this matter. We are enclosing an extra copy of our Proof of Claim along with a self-addressed, stamped envelope, and would ask that you provide acknowledgement of our claim.

Very truly yours,



Michael C. Van Berkom  
mvanberkom@borkonlaw.com

enclosures  
MVB att  
cc Ms. Anna Bowe

LAW OFFICES

**BORKON, RAMSTEAD, MARIANI, FISHMAN & CARP, LTD**

SUITE 100 PARKDALE I

5401 GAMBLE DRIVE

MINNEAPOLIS, MINNESOTA 55416 1552

EDWARD H BORKON  
JOHN H RAMSTEAD  
JOHN D MARIANI\* \*\*  
WILLIAM M FISHMAN†  
HOWARD S CARP  
LORRIE L BESCHEINEN  
MARTIN T MONTILINO  
ROBERT K RANDALL  
HOWARD L BOLTER  
DAVID G JOHNSON  
MICHAEL C VAN BERKOM\*\*

TELEPHONE (952) 546 6000

FACSIMILE (952) 546 6001

OF COUNSEL  
HOWARD S MARKER†

\*ALSO ADMITTED IN WISCONSIN  
\*\*ALSO ADMITTED IN NORTH DAKOTA

September 10, 2003

PRIOR LAKE OFFICE  
SUITE 240  
16670 FRANKLIN TRAIL S E  
PRIOR LAKE MN 55372  
(952) 447 6030

Bankruptcy Management Corporation  
PO Box 900  
El Segundo, CA 90245-0900

Re Anna Bowe vs Fleming Companies Inc  
Court File No 03-10945  
Court U S Bankruptcy Court for the District of Delaware  
Date of Injury May 16, 2002  
Our File 02-19,966

Dear Sir/Madam

Please find enclosed a Proof of Claim on behalf of our firm and our client, Anna Bowe. We represent Ms Bowe for injuries sustained in a fall down incident on May 16, 2002. Ms Bowe has a claim for personal injuries arising out of this incident, and we have been retained to represent Ms Bowe with regard to claims arising out of this accident. We are enclosing a copy of our Retainer Agreement, and we are entitled to a percentage of the recovery in addition to our costs.

Again, we are submitting this Proof of Claim on behalf of both Anna Bowe and our firm. Please allow me to briefly provide some additional information with regard to our claim. On May 6, 2002, Ms Bowe was caused to fall down when she tripped over a pallet which had been left in an aisle at Rainbow Foods in Blaine, Minnesota. We believe that Rainbow was negligent in leaving this pallet in the aisle, as it clearly constitutes a hazardous condition. Further, under Minnesota Law, a merchant must provide a safe walkway because the merchant has invited the customer to look at displays in the store, and not where he or she is walking. Harris v Campbell Cereal Company, 67 n w 2d 824 (Minn 1954). As such, we believe liability is clear against Fleming Corporation on behalf of Rainbow Foods.

As a result of the injuries sustained in the fall down incident, Ms Bowe sustained severe permanent injuries. We are enclosing a copy of a narrative report dated June 4, 2003, from Dr Daniel Lutz, outlining his diagnosis, assessment, treatment plan and prognosis. As you will see, Dr Lutz has diagnosed sprain/strain injuries to her neck and back. Dr Lutz also confirms that her injuries are permanent, that she is predisposed to further injury from incidents which would not normally cause injury to someone of her age and physical condition, and that she has permanent lifting and sitting restrictions as a result of her injuries. Further, he confirms her injuries are

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**In re Fleming Companies, Inc et al.  
Case No 03-10945-(MFW)-11**

**DOCUMENTS APPENDED TO CLAIM**

On September 19, 2005, document(s) were appended to Claim Number **13226** for the following reason(s)

- Settlement Agreement dated 9/7/05
- Proof of Payment
- Change of Address Confirmation Notice
- Withdrawal Notice
- Other Docket Number #####

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re	)	Chapter 11
	)	
FLEMING COMPANIES, INC , <u>et al</u> , <sup>63</sup>	)	Case No 03-10945 (MFW)
	)	
Debtors	)	(Jointly Administered)
	)	
	)	

STIPULATION BY AND BETWEEN PCT  
AND Ms Anna Bowe

This Stipulation is entered into by and among PCT<sup>64</sup> and Anna Bowe  
("Claimant" and together with the PCT, the "Parties")

RECITALS

A On April 1 2003, the above-captioned debtors filed their voluntary petitions for relief under chapter 11 of title 11 of the United States Code

B Claimant filed claim number 13226 as an unsecured claim in the amount of \$50,000 00 Claim number 13226 remains pending against the Debtors' estates

C On July 26, 2004 this Court entered an order confirming the Debtors' plan of reorganization The plan became effective on August 23, 2004 Pursuant to Article X A of the plan, the PCT has the authority to enter into this Stipulation

<sup>63</sup> The Debtors whose cases remain open are as follows Core-Mark International, Inc , Fleming Companies, Inc , ASI Office Automation, Inc , C/M Products, Inc , Core-Mark Interrelated Companies, Inc , Core-Mark Mid-Continent, Inc , General Acceptance Corporation, Head Distributing Company, Marquise Ventures Company, Inc and Minter-Weisman Co

<sup>64</sup> The PCT is the trust that was created pursuant to the Debtors' and Official Committee of Unsecured Creditors Third Amended and Revised Joint Plan of Reorganization of Fleming Companies Inc. and its Filing Subsidiaries Under Chapter 11 of the United States Bankruptcy Code (the "Plan") and the PCT Agreement (as defined in the Plan) for the purposes of carrying out certain provisions of the Plan

D As a result of discussions between the PCT and Creditor, the Parties have agreed to settle Creditor's claims against the PCT as set forth herein

STIPULATION

NOW, THEREFORE, the Parties hereto stipulate and agree as follows

1 In full and final satisfaction of claim number 13226 Claim number 13226 is allowed as a Class 6A general unsecured claim in the amount of \$5,000 00 and shall be satisfied as provided in the Debtors' confirmed plan of reorganization

2 Claimant agrees that upon satisfaction of its claim as set forth in paragraph 1, the PCT, the Debtors and their respective successors and assigns will have satisfied in full all of their obligations to Claimant, including but not limited to those obligations alleged in claim number 13226

3 Claimant agrees that it will not file any additional, amended or supplemental claims, motions or applications seeking payment or property from the PCT, the Debtors, the Debtors' estates, their respective insurance carriers or any of their respective successors Any such claims that are filed shall be deemed immediately expunged This Stipulation shall be a full and final resolution of all claims, motions, requests, and applications, whether or not filed, that Claimant has or could bring against the PCT, its successors or assigns

4 Claimant and its respective successors or assigns hereby release all claims and causes of action which they have or may have, whether known or unknown, against the PCT, the Debtors, the Debtors' estates, their respective insurance carriers or any of their respective successors or assigns, arising out of any matter including, but not limited to, the claims set forth herein, occurring prior to the date hereof To be clear, claimant shall not be permitted to assert or maintain any claim against the Debtors' or PCT's insurance carriers on account of the incidents alleged in proof of claim number 13226, and any insurance claims on account of those

incidents (or any other pre-bankruptcy incidents) that have been asserted as of the date hereof shall be deemed satisfied

5 This Stipulation is not an admission of liability by the PCT, its successors or assigns

6 This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. The Parties agree that facsimile signatures shall be acceptable and binding as if original signatures

7 This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of any of the Parties hereto, including (without limitation) any chapter 11 or chapter 7 trustee appointed in the chapter 11 case

8 Modifications of this Stipulation may be made only if such modifications are in writing and signed by each of the Parties hereto

9 The Parties hereto represent to each other that they have authority to act in connection with this Stipulation and will be bound by the terms of this Stipulation

10 The Parties hereto hereby expressly consent to the personal and subject matter jurisdiction of the Bankruptcy Court with respect to all matters relating to the interpretation of this Stipulation and any controversy arising with respect thereto. The Parties hereto agree that the Bankruptcy Court shall have exclusive jurisdiction to resolve any disputes arising under or related to this Stipulation, and to interpret, implement and enforce the provisions of this Stipulation

11 Each party hereto represents and warrants to the other Parties that this Stipulation was executed freely and voluntarily, that no promises or representations that are not contained in this Stipulation have been made to induce them to execute this Stipulation, that they have not

relied on any promise or representation (except as set forth herein), and that they have conducted their own independent investigation of all matters they deem relevant regarding this Stipulation

12 This Stipulation constitutes the entire agreement between the Parties hereto relating to the subject matter hereof, notwithstanding any previous negotiations or agreements, oral or written, between the Parties hereto with respect to all or any part of the subject matter hereof All prior or contemporaneous agreements, understandings, representations and statements, oral or written, with respect to all or any part of the subject matter of this Stipulation are superceded by this Stipulation and shall be of no further force or effect.

13 The Parties hereto have each cooperated in drafting this Stipulation Therefore, in any action or proceeding concerning this Stipulation, the provisions hereof shall be construed against any of the Parties hereto

14 This Stipulation shall be governed by and construed and enforced under and in accordance with the internal laws of the State of Delaware, without giving effect to the conflicts of laws provisions of such state

972-535-7149

IN WITNESS WHEREOF, this Stipulation has been duly executed on behalf of each of the Parties

Dated 9/1, 2005

PCT, The Post-Confirmation Trust for the Estate of Fleming Companies, Inc and its former subsidiaries

By Steve S Eaton

Name Steve S Eaton  
Title Authorized Representative

Dated 9/7/05, 2005

Ms Anna Bowe

By Anna Bowe

LAW OFFICES

**BORKON, RAMSTEAD, MARIANI, FISHMAN & CARP, LTD.**

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PRIOR LAKE MN 55  
(952) 447-4444

**FACSIMILE INFORMATION TRANSMISSION SHEET**

Date September 15, 2005

To Fleming Solicitation Agent

Company Bankruptcy Management Corp

Fax No 816-228-1440

From: **MICHAEL C. VAN BERKOM**

Company. **Borkon, Ramstead, Mariani, Fishman & Carp, Ltd**

Re: Fleming Companies et al Case # 03-10, 945 (Bar)

The number of pages you should receive is 7 including this page

Remarks. \_\_\_\_\_

Our fax number is (952) 546-6001 If there is a problem with this transmission, please call our office and speak with ~~Ann~~ at (952) 546-6000  
Krissy

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OF COUN  
HOWARD S MARK

\*ALSO ADMITTED IN WISCONSIN  
\*\*ALSO ADMITTED IN NORTH DAKOTA

PRIOR LAKE OFFICE  
16670 FRANKLIN TRAIL  
PRIOR LAKE, MN 55073  
19521-447-6001

September 15, 2005

Fleming Industries  
5801 North Broadway  
Suite 100  
Oklahoma City, OK 73118

RE *In re Fleming Companies et al*, Case No 03-10945 (Bank D Del )  
Proof of Claim  
Our Client Anna Bowe  
D/A 5/16/02  
Our File No 02-19,966

Dear Sir/Madam,

Please find enclosed an executed Stipulation by and Between PCT and Ms Anna Bowe in the above-referenced matter. By and through this Stipulation, Ms. Bowe is accepting the offer outlined in your correspondence of August 31, 2005. Please let us know if you need any further information at this time to process this matter. Thank you

Very Truly Yours,



Michael C Van Berkorn  
[mvanberkom@borkonlaw.com](mailto:mvanberkom@borkonlaw.com)

Enclosure  
MVB/kjm

cc Ms Anna Bowe (via U S Mail only)  
Bankruptcy Management Corporation, Attn Fleming Solicitation Agent  
(via facsimile and U S Mail)  
United State Bankruptcy Court, District of Delaware (via U.S. Mail only)  
David M Fournier, Esq., Pepper Hamilton, PLLP (via facsimile and U S Mail)  
Laura Davis Jones, Esq Pachulski, Stange, et al (via facsimile and U S Mail)