

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

**PROOF OF CLAIM**



s130330

Scheduled Claim Ref # 2-F7-12933  
**YOUR CLAIM IS SCHEDULED AS**

In re  
**Fleming Companies, Inc , et al .**

Case Number  
**03-10945**

UNKNOWN UNSECURED  
DISPUTED UNLIQUIDATED

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**

June Boadwine 0354429382348  
c/o Thomas H Boyd  
Winthrop & Weinstine, P A  
225 South Sixth Street, Suite 3500  
Minneapolis, MN 55402-4629

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

The amounts reflected above constitute your claim as scheduled by the Debtor If you agree with the amounts set forth herein and have no other claim against the Debtor you do not need to file this proof of claim EXCEPT as stated below

**If the amounts shown above are listed as Contingent, Unliquidated or Disputed a proof of claim must be filed**  
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 (612)-604-6400

CREDITOR TAX I D #

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR

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

**1 BASIS FOR CLAIM**

- Goods sold
- Services performed
- Money loaned
- Personal injury/wrongful death
- Taxes
- Other (describe briefly)  
See attached Amended Complaint
- Retiree benefits as defined in 11 U S C § 1114(a)
- Wages salaries and compensation (Fill out below)  
Your social security number \_\_\_\_\_  
Unpaid compensation for services performed from \_\_\_\_\_ to \_\_\_\_\_  
(date) (date)

**2 DATE DEBT WAS INCURRED** see attached

**3 IF COURT JUDGMENT, DATE OBTAINED**

**4 TOTAL AMOUNT OF CLAIM AS OF PETITION DATE** \$ 150,000 00 (unsecured) \$ (secured) \$ (unsecured priority) \$ 150,000 00 (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

**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 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

Fleming Companies Claim



3297

USE ONE

**FILED**

SEP 15 2003

**BMC**

DATE SIGNED

SIGN and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)

9/12/03

June Boadwine

*June L Boadwine*

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

10-26-01

CASE TYPE PERSONAL INJURY

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

June L Boadwine,

File No \_\_\_\_\_

Plaintiff,

vs

**AMENDED COMPLAINT**

David Shepka and Rainbow Foods,

Defendants

COMES NOW Plaintiff June L Boadwine, by and through her undersigned counsel, and as and for her Amended Complaint against Defendants David Shepka and Rainbow Foods ("Rainbow"), hereby states and alleges as follows

**PARTIES**

1 Plaintiff June L Boadwine is and at all relevant times has been a resident of Mendota Heights, Minnesota

2 Defendant David Shepka, upon information and belief, is and at all relevant times herein has been a residence of West St Paul, Minnesota

3 Defendant Rainbow owns and operates a chain of supermarkets located in Minnesota and Wisconsin, including a supermarket located at 1660 South Robert Street in West St Paul, Minnesota

**JURISDICTION**

4 Ms Boadwine's claims arise under Minnesota law and relate to actions and events that occurred and resulted in injuries she sustained in Dakota County, Minnesota

5 The defendants reside and/or have places of business located in Dakota County, Minnesota

6 This Court has jurisdiction over the subject matter and the parties, and venue is proper in the District Court for Dakota County by reason of the location of the defendants and the site where the events and conduct that gave rise to this action took place

### FACTS

7 On September 20, 1999, Ms Boadwine was a patron in Rainbow's supermarket located at 1660 South Robert Street, in West St Paul, Minnesota

8 Mr Shepka was also present in Rainbow's supermarket in West St Paul on September 20, 1999

9 Upon information and belief, Mr Shepka had been in Rainbow's supermarket on prior occasions and, on at least some of those occasions, he had manifested menacing and bizarre behavior that was observed by Rainbow employees

10 Mr Shepka was behaving in a menacing and bizarre manner in the Rainbow supermarket on September 20, 1999

11 Ms Boadwine was waiting in the checkout line in Rainbow's supermarket on September 20, 1999, when Mr Shepka suddenly, violently, and without any provocation attacked Ms Boadwine from behind

12 As a result of Mr Shepka's attack on Ms Boadwine, Ms Boadwine was caused to strike a metal stand and eventually fall to the floor

13 Ms Boadwine suffered serious and substantial physical injuries as a result of this attack

14 Ms Boadwine continues to suffer significant and substantial physical injuries, as well as grave physical and mental pain and suffering as a result of this attack

**COUNT I  
ASSAULT AND BATTERY - SHEPKA**

15 Ms Boadwine hereby incorporates by reference herein all of the allegations contained in the paragraphs set forth above

16 Mr Shepka's attack on Ms Boadwine on September 20, 1999 constitutes common law assault and battery

17 Ms Boadwine has suffered and continues to suffer significant and substantial injuries, as well as physical and mental pain and suffering, as a result of Mr Shepka's attack

18 Ms Boadwine has incurred and will continue to incur significant and substantial medical expenses and costs for the care and treatment of the injuries she sustained as a result of Mr Shepka's attack

**COUNT II  
NEGLIGENCE - SHEPKA**

19 Ms Boadwine hereby incorporates by reference herein all of the allegations contained in the paragraphs set forth above

20 Mr Shepka's attack on Ms Boadwine on September 20, 1999 constitutes, at the very least, negligence on behalf of Mr Shepka

21 Ms Boadwine has sustained substantial physical injuries as well as physical and mental pain and suffering as a result of Mr Shepka's negligence

22 Ms Boadwine has incurred and will continue to incur significant and substantial medical expenses and costs for the care and treatment of the injuries she sustained as a result of Mr Shepka's negligence

**COUNT III  
NEGLIGENCE – RAINBOW**

23 Ms Boadwine hereby incorporates by reference herein all of the allegations contained in the paragraphs set forth above

24 Rainbow owed a duty to Ms Boadwine as a patron of Rainbow's store to, among other things, ensure the premises were maintained as safe and free from potential harm, protect patrons against attacks and physical injury caused by other persons in the store, and avoid positioning or situating equipment in a manner that could cause and/or aggravate injuries that patrons may sustain in the store

25 Rainbow breached the duty it owed to Ms Boadwine in this regard, and Rainbow's breach of said duty is a direct cause of the injuries Ms Boadwine sustained as well as the mental and physical suffering she has experienced due to Mr Shepka's attack on her on September 20, 1999

26 Ms Boadwine has incurred and will continue to incur significant and substantial medical expenses and costs for the care and treatment of the injuries she sustained as a result of Rainbow's negligence

**PRAYER FOR RELIEF**

Whereas, based on the foregoing, Ms Boadwine hereby seeks and prays for the following relief

1 An award of monetary damages in an amount in excess of \$50,000 against Mr Shepka to compensate her for past, present, and future physical injuries, past, present, and future medical care and treatment, and past, present, and future pain and suffering,

2 An award of monetary damages in an amount in excess of \$50,000 against Rainbow to compensate her for past, present, and future physical injuries, past, present, and future medical care and treatment, and past, present, and future pain and suffering,

3 An award of the costs, fees, and expenses incurred in these proceedings, including but not limited to reasonable attorneys' fees, and

4 For such other and further relief as the Court deems just and equitable under the circumstances

**JURY DEMAND**

Ms Boadwine hereby respectfully demands trial by jury of all claims and issues so triable as allowed pursuant to applicable law

Dated October 26, 2001

WINTHROP & WEINSTINE, P A

By 

Thomas H Boyd, #200517

3200 Minnesota World Trade Center  
30 East Seventh Street  
St Paul, Minnesota 55101  
(651) 290-8400

Attorneys for Plaintiff June L Boadwine


idmsstp 637104\_1

**ACKNOWLEDGMENT**

The undersigned hereby acknowledge that pursuant to Minn Stat § 549 211, Subd 2, costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court

Dated October 26, 2001

WINTHROP & WEINSTINE, P A

By   
Thomas H Boyd, #200517

3200 Minnesota World Trade Center  
30 East Seventh Street  
St Paul, Minnesota 55101  
(651) 290-8400

Attorneys for Plaintiff June L Boadwine

  
WINTHROP WEINSTINE  
ATTORNEYS AND COUNSELORS AT LAW

September 12, 2003

Thomas H Boyd  
(612) 604-6505  
tboyd@winthrop.com

**VIA FEDERAL EXPRESS**

Bankruptcy Management Corporation  
1330 East Franklin Avenue  
El Segundo, CA 90245

Re **Fleming Companies, Inc , et al**  
**Bky Case No 03-10945**

Dear Sir or Madam

Enclosed for filing in connection with the above-referenced matter, please find a Proof of Claim  
We are also enclosing an extra copy which we would ask you to date stamp and return to our  
office

Thank you

Very truly yours,

WINTHROP & WEINSTINE, P A



Thomas H Boyd

lms

Enclosures

cc June Boadwine  
2059839v1