

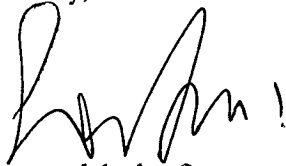
North

United States Bankruptcy Court, Chicago District of <u>IL</u>		PROOF OF CLAIM
Name of Debtor <u>K Mart or Big K</u>		UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS FILED MAR 19 2002 KENNETH S. GARDNER MAILROOM - MM This Space For Court Use Only
Case Number <u>0202474</u>		
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.		
Name of Creditor (The person or other entity to whom the debtor owes money or property) <u>Foruzandeh ASEFI</u>	<input type="checkbox"/> 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 and Address Where Notices Should be Sent <u>Foruzandeh ASEFI 2635 Portola Dr #13 Santa Cruz CA 95062</u>	<input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case.	
Telephone No <u>(831) 475-5881</u>	<input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Account or other number by which creditor identifies debtor	Check here if this claim <input type="checkbox"/> amends <input type="checkbox"/> replaces a previously filed claim dated _____	
1. BASIS FOR CLAIM <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other	<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114 (a) <input type="checkbox"/> Wages, salaries, and compensation (Fill out below) Your social security number <u>920-7284</u> Unpaid compensation for services performed from _____ to _____ (date)	
2. Date Debt Was Incurred	3. If Court Judgment, Date Obtained:	
4. Total Amount of Claim at Time Case Filed: \$ <u>5,000.00</u> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input checked="" type="checkbox"/> 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 <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff) Brief Description of Collateral <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other _____ Value of collateral \$ <u>2000</u> Amount of arrearage and other charges at time case filed included in secured claim above, if any \$ <u>3000</u> <u>total 5000</u>	6. Unsecured Priority Claim <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ <u>2,000 + 3,000 = 5000</u> Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4000)* 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) <input type="checkbox"/> Contributions to an employee benefit plan-11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$1,800* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use-11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child-11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental units-11 U.S.C. § 507(a)(8) <input checked="" type="checkbox"/> Other-Specify applicable paragraph of 11 U.S.C. § 507(a)(____) <small>*Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment</small>	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.	This Space is for Court Use Only <u>3-19-02</u> <u>794 SM</u>	
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 the filing of your claim, enclose a stamped, self-addressed envelope and copy of the proof of claim.		
Date <u>2/11/02</u>	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) <u>Foruzandeh ASEFI</u>	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§152 and 3571.		

Foruzandeh Asefi
2635 Portola Dr #13
Santa Cruz, CA 95010
(831) 475-5881
3/11/02

On June 14, 2001 I was shopping at K mart. K mart did accuse me of stilling and I got a ticket. I want to the court and represent by lawyer which cost me \$2000 .00 of lawyer fee. On January 22,002 judge found out I am not guilty. K mart cost me embarrassments and many days of stress . I am asking for \$ 50000.00 which is penny regarding what K mart did to me .

Sincerely,

A handwritten signature in black ink, appearing to read 'Foruzandeh Asefi', written in a cursive style.

Foruzandeh Asefi

Ps . copy of trail and lawyer fee

FILED

JAN 23 2002

CHRISTINE PATTON CLERK
BY *[Signature]*
DEPUTY, SANTA CRUZ COUNTY

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CRUZ

PEOPLE OF THE
STATE OF CALIFORNIA,
Plaintiff
v.
FORUNZANDEH ASEFI,
Defendant.

No. M 07914
ORDER AFTER
COURT TRIAL
(Penal Code §484)

January 18, 2002
Dept. 1
1:30 pm

This matter came on for Court Trial. Jon Thornton for Defendant; Shiva Elihu, ADA for the People.

Defendant is charged with a violation of §484 of the Penal Code, petty theft, based on a citation issued June 14, 2001 alleging Kmart to be the victim..

After reviewing the evidence, the court finds as follows:

On June 14, 2001, Defendant was shopping at Kmart. At the time, she was recovering from a surgery affecting her right hand. She wore a brace on that hand that immobilized her thumb and wrist, but allowed her fingers to move. She used a shopping cart. She placed a black shoulder bag in the child-seat portion of the shopping cart. She had money and credit cards in her

1 her possession when she entered the store.

2 The Kmart store has numerous video cameras, some stationary and some not. The only video
3 evidence presented begins with Defendant departing the store, leaving her shopping cart,
4 reentering the store for a few moments and then leaving. An attempt at focusing a moveable
5 camera on Defendant on the way to the Detention Room was largely unsuccessful.

6 While in the store, she picked up an electric toothbrush valued at \$89.99 from a display and
7 examined it. The toothbrush and its box were separated from one another.

8 From that point the accounts of what took place differ, until the conclusion of this incident, at
9 which point Kmart acknowledges the toothbrush was recovered. It was, apparently, returned to
10 stock and not kept as evidence.

11 According to the Prosecution, while being observed from behind, Defendant opened the
12 toothbrush box, put several parts from the toothbrush box into her bag, placed and hid the empty
13 box on a shelf nearby and left the store without paying.

14 According to the Defense, after retrieving the box from display, she was unable to open the
15 box and had two women in the area assist. She also questioned a pharmacist about the brush.
16 She decided not to buy it, put the box on a shelf about three feet away from the contents and left
17 the store.

18 The Prosecution did not present the toothbrush or the box as evidence. The Defense
19 presented a toothbrush claimed to be identical to the one alleged to have been stolen, agreed by
20 Security Officer Frick to be similar to the one alleged to have been taken, but with a different
21 UPC (Uniform Product Code). The toothbrush and box submitted by Defendant were received
22 into evidence without objection (Exhibit H).

23 During the course of the trial, Defendant was asked if she was able to open the toothbrush
24 box without assistance. She replied she could not because of her hand injury. Pursuant to
25 *People v. Baldine* xxxx DAR 2001 (December 20, 2001) (To be reported at: 114 Cal.Rptr.2d
26 570), the court decided to do an experiment with the evidence. In *Baldine*, the court described
27 the permissible scope of experiments on evidence undertaken by the jury:

28 [The trier of fact] may carry out experiments within the lines of offered evidence, but if

1 their experiments shall invade new fields and they shall be influenced in their verdict by
2 discoveries from such experiments which will not fall fairly within the scope and purview
3 of the evidence, then, manifestly, the jury has been itself taking evidence without the
4 knowledge of either party, evidence which it is not possible for the party injured to meet,
5 answer, or explain.'

6 The court has tried to open the box and remove the toothbrush one-handed. It is impossible
7 without the aid of one's other arm or a second hand.

8 The prosecution insists the toothbrush was in the box in pieces, which were separately placed
9 into Defendant's purse or bag. These pieces were purportedly returned to Mr. Frick in the store
10 while walking toward the Detention Room. Some fell or were thrown onto the floor. This event
11 was observed by another employee who so testified.

12 Yet, the toothbrush brought to court makes the prosecution's version impossible. The
13 toothbrush brought to court was, with the exception of a large blue plastic carry case in the box
14 loose, entirely encased in shrink-wrap plastic, with all of the parts attached to a larger, folded
15 piece of cardboard. Removal of the plastic would require two hands. Removal of the interior
16 plastic to separate the pieces in the box is inconsistent with what Mr. Frick observed Defendant
17 doing.

18 Further, the Defendant testified that while on the way back into the store, she wanted to show
19 Mr. Frick where she left the toothbrush (separate from the box), but Mr. Frick had her go another
20 direction when they reentered the store. While walking to the Detention Room, Defendant
21 testified that another employee came on scene with the contents in her hand (denied by Mr.
22 Frick). Importantly, Defendant gestured that the employee (in the vest) was holding the contents
23 of the box only as one could consistent with the interior wrapping of the toothbrush in evidence.
24 Her hand was horizontal during the gesture, as one would hold the shrink-wrap package, and not
25 "palm-up" as one would cradle separate parts in one's hand.

26 The prosecutor brings Deputy Brenner to link the arrest to Mr. Frick's claim. The defense
27 presents evidence through Deputy Brenner substantiating Defendant's claimed inability to return
28 the toothbrush to the box. That conversation took place within minutes of her detention.

The Prosecution's version, while lacking the crucial physical evidence that may have

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disproved much of the defense testimony is reasonable. Mr. Frick's inconsistent statements are not substantial enough to discredit the balance of his testimony.

But, the Prosecution has failed to disprove or rebut another reasonable explanation of what may have taken place. There is evidence to support the Defendant's version. Besides the toothbrush packaging and Mr. Frick's limited ability to observe the Defendant, Defendant presented her history of an honest act at Palace Arts.

Given two reasonable explanations and the lack of physical evidence to prove one or the other, the defendant must be given the nod.

Defendant Asefi is found not guilty of the charged offense.

DATED: 1-22-02



IRWIN H. JOSEPH
Commissioner

701 Ocean Street Room 340

SANTA CRUZ COUNTY SHERIFF - CORONER

Santa Cruz, California 95060

CASE NO 01-05388

X CRIME REPORT

INCIDENT RPT

SUPPLEMENTAL RPT

CONTINUATION

WARRANT REQUESTED

FOLLOW UP TO CHARGE YES NO X

CRIMES AGAINST CHILDREN

CRIMES AGAINST VIOLENCE

CRIMES AGAINST SEXUAL ABUSE

PAGE 1 OF 2

SECTION SUBJECT/IN CODE CRIME CLASSIFICATION 20th JUN 14 P 11:47 REPORT AREA 4-1

DATE & TIME OCCURRED DAY DATE & TIME REPORTED LOCATION OF OCCURRENCE CHECK IF MORE NAMES IN CONTINUATION

V (001) NAME - LAST FIRST MIDDLE (FIRM IF BUSINESS) RESIDENCE ADDRESS RES PHONE OCCUPATION Race SEX AGE DOB BUSINESS ADDRESS BUS PHONE

W (001) NAME - LAST FIRST MIDDLE (FIRM IF BUSINESS) RESIDENCE ADDRESS RES PHONE OCCUPATION Race SEX AGE DOB BUSINESS ADDRESS BUS PHONE

CODE NAME - LAST FIRST MIDDLE (FIRM IF BUSINESS) RESIDENCE ADDRESS RES PHONE OCCUPATION Race SEX AGE DOB BUSINESS ADDRESS BUS PHONE

CODE NAME - LAST FIRST MIDDLE (FIRM IF BUSINESS) RESIDENCE ADDRESS RES PHONE OCCUPATION Race SEX AGE DOB BUSINESS ADDRESS BUS PHONE

VEHICLE CODE VIN or LICENSE NO STATE YEAR MAKE MODEL COLOR (OTHER IDENTIFYING CHARACTERISTICS) TOWED YES NO REGISTERED OWNERS NAME REGISTERED OWNERS RESIDENCE ADDRESS VEH HELD YES NO

VEHICLE CODE VIN or LICENSE NO STATE YEAR MAKE MODEL COLOR (OTHER IDENTIFYING CHARACTERISTICS) TOWED YES NO REGISTERED OWNERS NAME REGISTERED OWNERS RESIDENCE ADDRESS VEH HELD YES NO

I SUSPECT NAME (LAST FIRST MIDDLE) RACE SEX AGE DATE OF BIRTH HEIGHT WEIGHT HAIR EYES ADDRESS DRIVERS LICENSE NO ARRESTED ADV OF RIGHTS CITIZEN OCCUPATION BUSINESS ADDRESS BUS PHONE RES PHONE CITATION NO

HAIR LENGTH/TYPER UNK HAIR STYLE UNK FACIAL HAIR UNK WEAPON USED UNK X N/A

SUSPECT NAME (LAST FIRST MIDDLE) RACE SEX AGE DATE OF BIRTH HEIGHT WEIGHT HAIR EYES ADDRESS DRIVERS LICENSE NO ARRESTED ADV OF RIGHTS CITIZEN OCCUPATION BUSINESS ADDRESS BUS PHONE RES PHONE CITATION NO

HAIR LENGTH/TYPER UNK HAIR STYLE UNK FACIAL HAIR UNK WEAPON USED UNK X N/A

WAS THERE A RAPE? YES (PLACE AN X IN BOX) CONFIDENTIALITY REQUESTED BY VICTIM COURT PROB 0 1 2 3 4 5 6 7 8 OFFICER REVIEWED V. Brenner 3601 NUMBER FID NUMBER DATE AND TIME JUN 15 2001 DIRECT FILE JUN 15 2001 DET BUR JUN 15 2001 INDEXED

MEDICAL TREATMENT		NAME (LAST FIRST MIDDLE)	REFUSED	CODE	Nature of Injury	Where Hospitalized or Examined	
STRUCTURE TYPE N/A		POINT OF ENTRY UNK		METHOD OF ENTRY UNK N/A		TOOLS USED X N/A UNK	
COMMERCIAL		RESIDENTIAL		UNK		A AXE K Pry Tool	
A	Appture/Shed	X	Apartment/Condo	A	Attempt	B	Bolt Cutter L Saw
B	Auto Repair/Park	Y	Campsite	B	Break/Smash	C	Brick/Rock M Screw Driver
C	Bar	Z	Garage	C	Burn	D	Channel Lock/Pliers N Slim Jim
D	Car Laundry	AA	Mobile home	E	Door	E	Orill O Slip device/wire
E	Construction	BB	Shed	F	Front	F	Garage Door Opener P Tire Iron
F	Convenience Store	CC	Single Family Dwelling	G	Garage	G	Glass Cutter O Torch/Explosive
G	Fast Food	DD	Miscellaneous	H	Ground Level	H	Hammer R Other (Specify)
H	Financial	DD	Airport/Hanger	I	Louvre	I	Key
I	Gas Station	EE	Beach	J	Pat Door	J	Pipe
J	Grocery/Supermarket	FF	Church	K	Rear	K	Lock Box
K	Hotel/Motel	GG	Government Bldg	L	Roof	L	Lock Break
L	Industrial/MFG	HH	Park	M	Side	M	Lock Pick
M	Jewelry	II	Parking Lot	N	Skylight	N	Lock Punch
N	Liquor Store	JJ	School	O	Sliding Glass Door	O	Lock Slip
O	Mechanical/Dental Hospital	KK	Vehicle	P	Upper Level	P	No Force
P	Office Building	LL	Auto	Q	Wall	Q	Pry
Q	Pharmacy	MM	Boat	R	Window	R	Removed
R	Restaurant/Sports	NN	Bus	S	Window	S	Taped/broke
S	Restaurant	KK	Convertible Top	T	Door	S	Turned
T	Storage	PP	Motorcycle	V	Head	S	Unlocked
U	Video/Appliance	RR	RV/Camper	U	Roof		
V	Video	TT	Taxi	V	Sunroof		
W	Warehouse	RR	Truck/Pickup/Van	X	Turk/Hatchback		
				Y	Wind Wing Window		
PHYSICAL EVIDENCE		VICTIM PROFILE		SUSPECT ACTIONS			
A	Blood/Salva	A	Blindfolded	A	Alarm Disabled	Y	Purse Snatch
B	Clothing	R	Bound	B	Alarm/Drunk on Premises	Z	Ransacked
C	Documents	F	Choked	C	Attempt to Purchase	AA	Safe Attacked
D	Fingerprints	II	Clothes Ripped	D	Cashed Location	BB	Stashed Lock
E	Glass/Fragments	F	Cut/Strabed	E	Cash Demanded	CC	Threaten to Kill
F	Hair	F	Disrobed	F	Car Burglar	DD	Threaten Retaliation
G	Mud/Soil	F	Gagged	G	Defeated	EE	Threaten Victim's Family
H	Narcotics	II	Impressed	H	Demand Note Used	FF	Towel Used
I	Paint Samples	II	Kidnapped	I	Exit Prepared	GG	Took Only TV/Stereo
J	Photo	J	Molested	J	Forged Documents	HH	Took Only Money
K	Projectile	K	Moisturizer	K	Gloves Worn	II	Took Only Concealable
L	Rape Kit	J	Photography used	L	Had in Building	JJ	Took only Jewelry
M	Serum	M	Ripped	M	Inflcted Injury	KK	Under Influence
N	Tire Tracks/Forkmarks	M	Raped with Object	N	Knaw Location of Property	LL	Unusual Odor
O	Tool Marks	N	Sexually Assaulted	O	Lookout Used	MM	Unusual
P	Video	N	Skidmarked	P	Mask Worn/Face Hidden	NN	Vandalized
Q	Weapons	P	Slitd	Q	Matches Used	OO	Vehicle Required
R	Other	P	Struck	R	Masturbated	PP	Victim's Name Used
S	X None Located	R	Tortured	S	Multiple Suspects	QQ	Victim's Tools Used
		S	Other	T	Phone Disabled	RR	Weapon Fired
				U	Power Disabled	SS	Other (Specify)
				V	Pillowcase used		took toothbrush
				W	Power Disabled		
				X	Pretended to be		

SYNOPSIS: Frick, a store plainclothes security officer, saw the suspect put an electric toothbrush, valued at \$89.99, in her purse after she removed the packaging. Asefi put the box back on the shelf. Asefi then left the store and made no attempt to pay for the toothbrush. She did not purchase any other items. He contacted her in the parking lot and had her return to the store. Once inside the store, he retrieved the toothbrush from her purse. Refer to Frick's attached report for further details. Frick placed Asefi under private person's arrest. I issued her a citation. I read her Miranda rights from an Office-issued card. She said "yes" she understood her rights and "yes, I do" to agreeing to talk with me. She said that she had taken the toothbrush from the packaging, but could not put it back in due to a hand injury, for which she wears a brace. She said that Frick contacted her with an empty box in his hand and said she had taken the toothbrush. She said that he did not find it in her purse and denied taking it. Asefi overheard a conversation between Frick and his manager about the store video system. She believed they said she was on video. Frick said that they were discussing another incident, and that this incident was not recorded. I recommend that Asefi be prosecuted as charged. It should be noted that Asefi identified herself with a California driver's license.

CONCLUSIONS/RECOMMENDATIONS	
1) Warrant requested	3) Prosecution not recommended.
X 2) Prosecution recommended	4) Investigation Bureau follow-up requested
5) Investigation continuing (by Patrol)	8) Report for insurance purposes only
6) Insufficient evidence for prosecution.	10) Refer to outside agency
7) Insufficient information for further investigation at this time	11) Other
9) Report for information only	

REFERENCES/EXPLANATIONS

RECEIPT


DATE 8/14/01 No. 527607

FROM FORU2 ASEFI \$2,000.00

two thousand _____ DOLLARS

FOR RENT LEGAL SERVICES - PAID IN FULL

FOR _____

ACCT.	<u>2,000.00</u>	<input type="radio"/> CASH <input checked="" type="radio"/> CHECK <input type="radio"/> MONEY ORDER	FROM _____	TO _____
PAID	<u>2,000.00</u>		BY <u></u>	
DUE	<u>Ø</u>			

2501

John W. Thornton
Attorney at Law
303 Potrero #30
Santa Cruz, CA 95060
(408) 426-5800
fax: (408) 459-0532

ATTORNEY/CLIENT PRIVILEGE
CONFIDENTIAL COMMUNICATION
SEE AGREEMENT

It is hereby agreed by and between FORUZANDEH ASEFI
and the Law Office of John W. Thornton to represent FORUZANDEH ASEFI
regarding AN ARREST FOR PETTY THEFT 6/14/01.

The basic fee for attorney's services in this case will be \$ 2,000.00 up to the time of trial. This basic fee shall be a non-refundable retainer, regardless of how or when the case ends. Up to time of trial includes any negotiations on the day of trial. This fee does not include any Appeal or Writ to the County, State or Federal Courts of Appeal. The fee for any Appeal or Writ to the County, State or Federal Courts of Appeal shall be independently negotiated between the parties. This fee shall cover any sentencing proceedings, but does not cover any post-sentence revocation proceedings or probation disputes.

Should this matter proceed to trial, the fee will be an additional \$ 0 per day. For the purposes of computing a trial day, any one-half day of trial shall be considered one full trial day for purposes of the fee. Any time less than one-half of a day shall be charged at one-half the rate for a full day.

\$ 2,000.00 is required to be paid before attorney will become the attorney of record. Payment arrangements are IN FULL BY 8/14/01

In addition to the above mentioned fees, client shall be responsible for all costs incurred, including but not limited to investigation, transcript or expert witness fees as they are incurred.

Fees are payable in full on the date agreed upon only in funds legally received by the client.

Both parties agree to abide by this Agreement.
Attorney has malpractice insurance.

Dated: 8/14/01

[Signature]
JOHN W. THORNTON

Client [Signature] 8/14, 01