

*FILE ORIGINAL FOR CHAPTERS 7 and 11, IN DUPLICATE FOR CHAPTER 13, FOR DATE-STAMPED COPY, SEE #9 BELOW

United States Bankruptcy Court		<input type="checkbox"/> CH 7 <input type="checkbox"/> CH 13 <input type="checkbox"/> CH 11 PLEASE CHECK CHAPTER
Northern District of Illinois,	Eastern	Division
Name of Debtor K-Mart Corporation	Case Number 02-B02474	PROOF OF CLAIM
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		File Claim Form With: United States Bankruptcy Court P. O. Box A3613 Chicago, Illinois 60690-3612 Creditor # _____ THIS SPACE IS FOR COURT USE ONLY
Name of Creditor (The person or other entity to whom the debtor owes money or property) Peter Frasca and Patricia Frasca	<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 c/o Lake H. Lytal, III., Esquire 515 North Flagler Drive - 10th Floor West Palm Beach, Florida 33401 Telephone No. (561) 820-2248	<input checked="" type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <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:	<input type="checkbox"/> 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"/> Wages, salaries, and compensation (Fill out below)
<input type="checkbox"/> Money loaned	<input checked="" type="checkbox"/> Personal injury/wrongful death	Your social security number _____
<input type="checkbox"/> Taxes	<input type="checkbox"/> Other _____	Unpaid compensation for services performed
<input type="checkbox"/> Retiree benefits as defined in 11 U.S. C. § 1114 (a)		from _____ to _____ (date) (date)
2. DATE DEBT WAS INCURRED:		3. IF COURT JUDGMENT, DATE OBTAINED:
4. Total Amount of Claim at Time Case Filed: \$ <u>undetermined</u>		
If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.		
<input 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		6. Unsecured Priority Claim
<input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff).		<input type="checkbox"/> Check this box if you have an unsecured priority claim
Brief Description of Collateral:		Amount entitled to priority \$ _____
<input type="checkbox"/> Real Estate		Specify the priority of the claim:
<input type="checkbox"/> Motor Vehicle		<input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300), *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"/> Other _____		<input type="checkbox"/> Contributions to an employee benefit plan-11 U.S.C. § 507(a)(4)
Value of collateral: \$ _____		<input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6)
Amount of arrearage and other charges at time case filed included in secured claim above, if any: \$ _____		<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 type="checkbox"/> Other—Specify applicable paragraph of 11 U.S.C. § 507(a) _____
		<i>*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.</i>
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 FILED KENNETH S. GARDNER MAILROOM - MM MAR 22 2002 NORTHERN DISTRICT OF ILLINOIS <i>RP 979 3/22/02</i>
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. ANY ATTACHMENT MUST BE 8-1/2" BY 11"		
9. DATE-STAMPED COPY: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and an additional copy of this proof of claim.		
Date: 3/19/02	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) Lake H. Lytal, III., Esquire	

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

PATRICIA FRASCA and PETER
FRASCA,

CASE NO.

02-00515An

Plaintiff(s),

vs.

K-MART CORPORATION, a
Florida corporation,

Defendant(s).

DOROTHY H. WILKEN
CLERK OF CIRCUIT COURT
CIRCUIT CIVIL DIVISION
JAN 15 2002
COPY / ORIGINAL
RECEIVED FOR FILING

C O M P L A I N T

COME NOW Plaintiffs, PATRICIA FRASCA and PETER FRASCA, by and through their undersigned attorneys and hereby file suit against Defendant, K MART CORPORATION (hereinafter referred to as "K MART"), based on the following allegations:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages which exceed the sum of Fifteen Thousand Dollars (\$15,000.00).
2. At all times material hereto, Defendant, K MART, was a Florida corporation operating and conducting business in the State of Florida and more specifically at K MART Store #3164 located on North Lake Boulevard in Lake Park, Palm Beach County, Florida.
3. At all times material hereto, Defendant, K MART, owed a duty to Plaintiff, PATRICIA FRASCA, and other members of the general public, similarly situated, to keep its property and

premises in a reasonably safe condition and to protect Plaintiff, PATRICIA FRASCA, from dangers which the business or its employees, were or should have been aware of.

4. On or about August 8, 2001, Plaintiff, PATRICIA FRASCA, was a patron/business invitee of Defendant, K MART, at the above-mentioned location.

5. At that time and place, Plaintiff, PATRICIA FRASCA, was in the process of entering a shopping cart corral located in the parking lot directly in front of Defendant's business.

6. At all times material hereto, the aforementioned shopping cart corral was owned, controlled and/or maintained by Defendant, K MART.

7. At all times material hereto, Defendant, K MART, owed a duty to Plaintiff, PATRICIA FRASCA, and other members of the general public similarly situated, to keep and maintain this shopping cart corral in a reasonably safe condition and to protect Plaintiff, PATRICIA FRASCA, from dangers which the business or its employees, were or should have been aware of.

8. At that time and place, a portion of the shopping cart corral was raised and sticking up from the surface of the parking lot creating a tripping hazard at the entrance of the shopping cart corral.

COUNT I

9. The dangerous and/or hazardous condition of the raised portion of the shopping cart corral was created by Defendant,

K MART.

10. At all times material hereto, Defendant, K MART, was negligent in one or more, but not limited to the following respects:

a) Negligently permitting the dangerous and/or hazardous condition of the shopping cart corral to remain in an area where it knew or should have known customers would travel;

b) Failing to take reasonable steps to correct or remedy the dangerous and/or hazardous condition created by the shopping cart corral;

c) Failing to exercise reasonable care in the inspection of its premises including the shopping cart corral;

d) Negligently repairing the dangerous and/or hazardous created by the raised portion of the shopping cart corral;

e) Failing to warn Plaintiff of the existence or presence of the dangerous and/or hazardous condition created by the shopping cart corral;

f) Failing to exercise reasonable care under all of the relevant surrounding circumstances.

11. As a direct and proximate result of the aforementioned negligence, Plaintiff, PATRICIA FRASCA, was caused to trip and fall over the above-mentioned dangerous and/or hazardous condition causing injury in and about her body.

12. The aforementioned dangerous and/or hazardous condition was known to Defendant, K MART, it's agents, or employees or had

existed for a sufficient length of time so that Defendant, K MART, should have known about.

13. As a direct and proximate result, Plaintiff, PATRICIA FRASCA, was injured in and about her body, suffered aggravation of a pre-existing condition, pain and suffering, disability, disfigurement, impairment of working ability, mental anguish, loss of the enjoyment of life, and Plaintiff, PATRICIA FRASCA, has incurred medical expenses in the care and treatment of said injuries; all of said injuries are permanent within a reasonable degree of medical probability.

WHEREFORE, Plaintiff, PATRICIA FRASCA, demands judgment for damages against Defendant, K MART CORPORATION, and further demands trial by jury.

COUNT II

14. Plaintiff realleges paragraphs 8 through 12 as if fully set forth herein.

15. At all times material hereto, Plaintiff's were married to each other and living together as husband and wife.

16. As a result, Plaintiff, PETER FRASCA, has been in past and will in the future be deprived of the comfort, society, and consortium of his wife, PATRICIA FRASCA.

WHEREFORE, Plaintiff, PETER FRASCA, demands judgment for damages against Defendant, K MART CORPORATION, and further demands trial by jury.

DATED THIS 15th day of January, 2002.

Lake H. Lytal, III., of
Lytal, Reiter, Clark, Fountain
& Williams
515 North Flagler Drive
10th Floor - Northbridge Ctr
West Palm Beach, Florida 33401
(561) 655-1990
Attorney for Plaintiffs

A handwritten signature in black ink, appearing to read 'Lake H. Lytal, III', written over a horizontal line.

Lake H. Lytal, III
Florida Bar # 0129119