FORM B10 (Official Form 10) 4005824

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

PROOF OF CLAIM
Chapter 11

In Re Kmart Corporation, et al.	**Case Numbers 02-02462 through 02-02499**
Name of Debtor (see attached for complete list of debtors)	**Case Number:**

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)

SULAICA, JOSE
C/O BENDER, THOMPSON & SOGGE, PC 11 2431206
PETER BENDER
85 NORTH MAIN STREET
SUITE 201
MOUNT CLEMENS, MI 48043-5616

- ☐ 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
- ☐ Check box if you have never received any notices from the bankruptcy court in this case
- ☐ Check box if the address differs from the address on the envelope sent to you by the court

Your claim is scheduled as follows:

Class

UNSECURED NON PRIORITY

Amount

CONTINGENT, DISPUTED, UNLIQUIDATED

If address differs from above, please complete the following:
Creditor Name Telephone #

Address

City/St/Zip

10100928

This Space is for Court Use Only

Account or other number by which creditor identifies debtor

Check here if this claim ☐ replaces ☐ amends a previously filed claim, dated

1 Basis for Claim
- ☐ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☒ Personal injury/wrongful death 6/11/99
- ☐ Taxes
- ☐ Other

- ☐ Retiree benefits as defined in 11 U.S.C. §1114(a)
- ☐ Wages, salaries, and compensation (fill out below)
  Your SS #
  Unpaid compensation for services performed from (date) to (date)

2. Date debt was incurred:

3. If court judgment, date obtained: Case pending

4. Total Amount of Claim at Time Case Filed: $ Undetermined personal injury claim.
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, if any $

6. Unsecured Priority Claim.
☐ Check this box if you have an unsecured priority claim
Amount entitled to priority $ _____
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)( )

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 the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

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RECEIVED
TRUMBULL SERVICES COMPANY
APR 1 2002
4/11/02
BANKRUPTCY
3577

Date	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)
4/10/02	Peter J. Bender (P10672) Attorney for Jose Sulaica

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

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JOSE A. SULAICA and KRISTI SULAICA, Jointly and Severally,

Plaintiffs.

vs.

RECEIVED FOR FILING OAKLAND COUNTY CLERK Case No

00-025205-NO

JUDGE RICHARD D. KUHN
SULAICA, JOSE vs KMART CORP

KMart CORPORATION, a Michigan corporation,

'00 AUG 10 A9 :26

Defendant

DEPT - JUNI CLERK

PETER J. BENDER (P10672)
Attorney for Plaintiffs
85 N Main, Ste 201
Mt Clemens, MI 48043-5616
(810) 463-1588

/

COMPLAINT

NOW COME the plaintiffs, JOSE SULAICA and KRISTI SULAICA, jointly and severally, by and through their attorney, BENDER, THOMPSON & SOGGE, P C , and for their complaint against the defendant, KMart CORPORATION, say unto this Honorable Court as follows:

1. That plaintiffs, Jose Sulaica and Kristi Sulaica, at all times relevant hereto were residents of the City of Lake Orion, County of Oakland, State of Michigan.

2 That the defendant, KMart Corporation was, at all times relevant hereto, a domestic corporation franchised and authorized under the laws of the State of Michigan, and doing business in the County of Oakland, State of Michigan.

3. The amount in controversy exceeds the jurisdictional requirement of this Honorable Court.

4. That on or about the 11th day of June, 1999, the plaintiff, Jose Sulaica, was on the

defendant's premises as a business invitee at its KMart store in Lake Orion, Michigan for the purposes of purchasing goods and services offered by the defendant, KMart Corporation.

5 That it thereupon became the duty of the Defendant KMart Corporation to exercise reasonable care to provide a reasonably safe premises, said duties included, but are not limited to the following:

a A duty to maintain the premises in a reasonably safe condition.

b A duty to exercise ordinary care to protect a business invitee from unreasonable risk of injury that were known to the possessor or should have been known in the exercise of ordinary care.

b. A duty to warn the invitee of dangers that are known or should have been known to the possessor of an open and obvious danger if the possessor should expect that the invitee would not discover the danger or would not protect himself adequately against it.

c. A duty to discover possible dangerous conditions of which the possessor does not know if a reasonable person would have inspected the premises under the said circumstances.

6 That despite said duty, the defendant KMart Corporation by and through its officers, agents and employees did breach same when the KMart Corporation retail store located in Lake Orion allowed a slippery substance to remain on the floor area near aisle 10 or 11, and that the defendant's officers, agents, and/or employees knew that there was a dangerous condition presented by such foreign substance being on the floor, yet failed to warn the plaintiff that there was this dangerous condition, and this dangerous condition was likewise not readily discernable by plaintiff, and at the time and date and place as aforesaid while the plaintiff was attempting to pick-up some prescription medicine he slipped and fell on the slippery substance, and suffered

serious personal injury.

7. That it was the duty of the Defendant KMart Corporation to warn the plaintiff of any conditions on the premises of which the defendant knew to be dangerous and or eliminate the danger, and they failed to do so.

8. That despite the existence of the duties as outlined above, the defendant did breach same when he failed to warn plaintiff of the dangerous condition as aforesaid, and failed to remedy the condition by either marking the area with warning cones and/or removing the substance from the floor.

9 That despite the duties as aforesaid, the defendant failed to remedy the defective and dangerous condition presented by the substance being on the floor when it knew of or should have reasonably discerned that this dangerous condition existed for some time prior to plaintiff's fall.

10. That as a direct and proximate result of the negligence of the defendant as aforesaid, the plaintiff, Jose Sulaica, did unknowingly encounter such dangerous condition on the defendant's premises which caused plaintiff to slip and fall causing personal injuries which included, among others, an injury to his back and leg areas, but more specifically an aggravation of a pre-existing condition in his back causing new injuries and aggravation of pre-existing back injuries

11. That as a direct and proximate result of the injuries and damages suffered by plaintiff, plaintiff suffered severe pain, discomfort, mental anguish and aggravation of pre-existing conditions, and new back injuries which caused him to incur medical expenses.

12. That at all times relevant hereto, Kristi Sulaica was the lawful spouse of plaintiff Jose

Sulaica, and as a direct and proximate result of the injuries and damages suffered by Jose Sulaica, she likewise suffered the loss of marital services commonly known as the loss of consortium.

WHEREFORE, plaintiffs request that this Honorable Court grant judgment in their favor against the defendant in whatever amount is found to be entitled together with costs, interest and attorney fees.

BENDER, THOMPSON & SOGGE, P.C.

BY: PETER J. BENDER (P10672)
Attorney for Plaintiffs
85 N. Main Street, Ste. 201
Mt. Clemens, MI 48043-5616
(810) 463-1588

Date: June 8, 2000

JURY DEMAND

NOW COME the plaintiffs, JOSE A. SULAICA and KRISTI SULAICA, by and through their attorneys, BENDER, THOMPSON & SOGGE, P.C., and hereby makes a demand for a trial by jury in the above entitled cause of action

BENDER, THOMPSON & SOGGE, P.C.

BY: PETER J. BENDER (P10672)
Attorney for Plaintiffs
85 N. Main Street, Ste. 201
Mt. Clemens, MI 48043-5616
(810) 463-1588

Date: June 8, 2000