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# THE DENVER POST

# Disabled win Kmart payout

**\$16.25 million settles Denver woman's class-action suit**

By Greg Griffin  
Denver Post Staff Writer

Kmart will pay \$16.25 million and improve access for disabled shoppers at its 1,400 stores nationwide in a record class-action

settlement announced Monday in Denver. Disabled Kmart customers or would-be customers from seven states are eligible for \$50 to \$8,000 each. In Colorado, disabled people

who shopped at Kmart or those who were unable to shop there because of access issues may be eligible to receive \$50 to \$100. "I hope this causes other businesses to pay attention when people complain about wheelchair

access," said Carrie Ann Lucas of Denver who filed the suit in 1999. As part of the settlement, Kmart agreed to make changes to its stores within a 7½-year pe-

> See **KMART** on 4A

### Kmart facts

**Size:** Kmart has about 1,400 stores and 133,000 employees. Its 2005 revenues were \$19.7 billion.  
**Recent history:** After emerging from Chapter 11 bankruptcy in 2003, Kmart merged with Sears to form the chains' parent, Sears Holding Corp.  
*Source: Yahoo Finance*

# Gay men gain "confidence," lose control with meth use

# Blunder may let terrorist avoid death sentence

The Moussaoui trial is on hold for an investigation

likely to "spread concern" said. "There's a huge concern they will go out and spread HIV to other people."

### HIV-meth link possible

From that same survey, Thrun said, health officials learned that meth users were three times as likely to have had unprotected sex within the past 12 months as non-meth users. Also, 9 percent of those men who were HIV-negative had used meth in the past year, while 21 percent of those who were HIV-positive had used it

out of San Francisco snow that link, he said. "It's just a matter of time before we have that data in Denver," Thrun said.

One gay Denver man, who did not want his name used for fear of retaliation, said he began using meth shortly after being diagnosed with HIV. "I went straight from finding out to using crystal meth," he said. "I wasn't depressed at all if I was using meth."

Yet soon, his addiction — costing him \$200-\$800 a month

"When I was at a bathroom, I wasn't careful," he said. "I wasn't even thinking anything about that when I was on meth."

He stopped using the drug three months ago, he said, when he was arrested for possession. He was sentenced to probation, rehabilitation and random drug screenings, and has a felony on his record. Despite his recklessness, he doesn't think he infected anyone, he said, because "all the people I messed with were (al-

The Colorado AIDS Project is partnering with Denver Public Health to run a center for gay men in Denver's Capitol Hill neighborhood, said CAP executive director Deirdre Maloney.

The soon-to-open center, which will offer HIV and STD testing, as well as education and activities, will be funded by a three-year, \$100,000 annual grant from the national Centers for Disease Control and Prevention, Maloney said. "This is the first gay-specific

specific health concerns. Fall believes that a sense of isolation and low esteem contribute to the self-destructive behavior of some gay men. "I think society has not respected gay men for so long that they don't respect themselves," Fall said.

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# KMART: Deal to pay \$16.25 million, boost access for disabled

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ried to bring them into compliance with standards of the Americans With Disabilities Act. Those changes could cost up to \$60 million, said Amy Robertson of Fox & Robertson in Denver, Lucas' attorney.

The company will make immediate changes such as keeping store aisles unobstructed and guaranteeing that a disabled-accessible checkout line is always open, Robertson said.

Kmart will survey each store to determine what physical changes must be made for compliance with the Americans With Disabilities Act.

Those changes could include adding or widening handicapped parking spaces, adding accessible checkout lanes and widening fitting-room doors, Robertson said. Chris Brathwaite, a spokesman for Sears Holdings Corp., which owns Kmart, would not comment on what changes might be made or how much they might cost. "We are clearly focused on making sure our customers have a safe and enjoyable

shopping experience at our Kmart stores," he said. "The new management determined it was appropriate to settle and to work with the plaintiffs' counsel."

The damages of \$13 million — \$8 million in cash and \$5 million in gift cards — plus \$3.25 million in attorneys' fees, are the largest such award in a disability-access lawsuit, Robertson said.

Plaintiffs' attorneys said they will run ads in national publications and post notices in Kmart stores to notify potential class members. The settlement must be approved by a federal judge.

Macy's settled a similar suit in 2001 for \$2.9 million and agreed to improve access at its California stores. In most other major access settlements, damages beyond attorneys' fees have not been awarded or were minimal.

That's because damages are not awarded under the ADA. The act requires the government, businesses and other organizations to take reasonable actions to remove barriers to access in public facilities.

Seven states, however, allow varying levels of damages to be

awarded in disability-access cases. Colorado allows damages but caps them at \$50. In the Kmart settlement, the firm agreed to pay for up to two violations for each member of the class action.

Lucas was a community organizer with the Colorado Cross-Disability Coalition, an advocacy group, when she filed the action. She's now an attorney for the organization.

She was on crutches then and was later diagnosed with central core myopathy, a progressive neuromuscular disease. She's now in a wheelchair.

Lucas said she encountered various problems at Denver-area Kmarts, including inadequate parking, aisle access, fitting rooms and checkout lines. She said she tried to persuade store managers to make changes.

"I would get so frustrated I would put my stuff down and go somewhere else," she said. "It was like they didn't want my money."

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Lyn Alweis | The Denver Post

Carrie Ann Lucas, above, who filed the lawsuit against Kmart, works as an attorney for the Colorado Cross-Disability Coalition. She uses a wheelchair and is legally blind and deaf.

The Colorado Cross-Disability Coalition is known for its public protests, but the group is equally active in the courts as an advocate for access. Lawsuits by the coalition have resulted in changes in the way accessible seating is handled at Coors Field, the Pepsi Center and Red Rocks Amphitheatre. Taco Bell and Conoco have felt the group's wrath. Stores at Park Meadows mall, including Right Start and Abercrombie & Fitch, altered their layouts after the group sued them. The Home Builders Association of Metropolitan Denver agreed to install access ramps and make other accommodations at its annual Parade of Homes after being pressured by the coalition.

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he wanted to move out of the curriculum. More said: "More said that most asked what it was like to be on the 'Today' questions, More said. After the class period Benish was surrounded by about 15 students up and shook More said.

Later in the day, Allen father met with district to discuss school, mother, Patrice, said. "At this point, the can disclose is I will not to Overland." Sean Al a telephone interview 45-minute meeting.

Earlier in the day a day, Allen said he was in Cherry Creek High District spokeswoman Amole said she could about what was discussed meeting. Benish will continue three honors go two world history co-er said.

Frieler, sounding full and protective dents and staff, also the public to allow school to return to "Schools operate families," Frieler said working hard to our Blazer family what is important hand — academics."

Staff writer Karen I reached at 303-820-krouse@denverpost Indiana: Judge rules teacher who claims job after telling class for peace" - 9A.