

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KELLY FOODS, INC. d/b/a CLEARFIELD :
COUNTY MARKET, :

Plaintiff :

vs. :

C.B. TRACY & ASSOCIATES, INC., :

Defendant :

No. 2001- 1084-CD

Type of Case:
CIVIL

Type of Pleading:
COMPLAINT

Filed on Behalf of:
PLAINTIFF

Attorney for this party:
Peter F. Smith, Esquire
Supreme Court No. 34291
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED

JUL 06 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KELLY FOODS, INC. d/b/a CLEARFIELD :
COUNTY MARKET, :

Plaintiff :

vs. :

No. 2001- :

C.B. TRACY & ASSOCIATES, INC., :

Defendant :

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF
YOU DO NOT HAVE OR CANNOT AFFORD A LAWYER, GO TO OR
TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE
YOU CAN GET LEGAL HELP.**

Clearfield County Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KELLY FOODS, INC. d/b/a CLEARFIELD:
COUNTY MARKET,

Plaintiff

vs.

No. 2001-

C.B. TRACY & ASSOCIATES, INC.,
Defendant

COMPLAINT

COMES NOW, KELLY FOODS, INC. d/b/a CLEARFIELD COUNTY MARKET, by its attorney, Peter F. Smith, which avers in support of the complaint:

1. The name of the Plaintiff is **KELLY FOODS, INC. d/b/a CLEARFIELD COUNTY MARKET**, which is a Pennsylvania business corporation with address of P.O. Box 567, Clearfield, PA 16830.

2. The name of the Defendant is **C.B. TRACY & ASSOCIATES, INC.**, which is believed to be a Pennsylvania business corporation with address at 506 Pellis Road, Greensburg, PA 15601.

3. The Defendant is an insurance agency.

4. For several years Plaintiff purchased various policies of insurance to cover its supermarket in Lawrence Township, Clearfield County, Pennsylvania from the Defendant.

5. Plaintiff sold its assets to an unrelated third party in early November 2000.

6. On November 5, 2000 Susan Kelly, who was an officer of Plaintiff, contacted Gary Helman, who was employed as Defendant's account representative with Plaintiff and advised him to cancel all coverage's as of November 5, 2000.

7. Plaintiff and Defendant had established a custom of making changes or cancellations of various insurance policies or coverage's during their years of business verbally by phone. In the past, Defendant made these changes effective for an entire month if it received notice by the tenth of the month.

8. Plaintiff has made verbal and written demand upon the Defendant to refund Plaintiff's premiums for the month of November 2000, but Plaintiff without excuse has failed to refund these amounts.

9. Plaintiff attaches to and incorporates herein by reference as Plaintiff's Exhibit 1 a true and correct invoice submitted to it by Defendant for various types of insurance on Plaintiff's former employees for the period commencing November 1, 2000.

10. Plaintiff paid Defendant Eleven Thousand Five Hundred Ninety Five Dollars and Sixty-Five (\$11,595.65) Cents, the invoiced amount for said coverage. A true and correct copy of both sides of said check is attached hereto and incorporated herein by reference as Plaintiff's Exhibit 2.

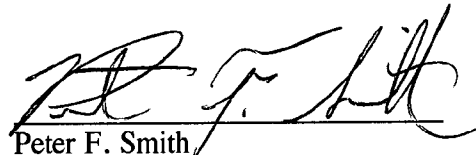
11. Attached hereto and incorporated herein by reference as Plaintiffs Exhibit 3 is a letter dated May 8, 2001 by Thomas K. Kelly, Plaintiff's President, to Gary (Helman) at Defendant's business address requesting the refund at issue.

12. Defendant has complete copies of the insurance policies, binders and other documentation representing the insurance coverage's listed on the November 1, 2000 invoice. Therefore copies are not attached to the complaint.

WHEREFORE, Plaintiff prays this Honorable Court to enter judgment in its favor and against the Defendant in the amount of \$11,595.65 together with interest from November 5th and court costs.

Respectfully submitted,

Dated: 6-28-01

A handwritten signature in black ink, appearing to read 'Peter F. Smith', written over a horizontal line.

Peter F. Smith
Attorney for Plaintiff

Client: 10002 Affiliated Retail Outlets/SNS
17800 Clearfield County Market

INVOICE

Invoice Number: 13848

Page: 1

Employee Name	Change Date	Health Class	Life/Ad	W1 Amount	LTD Amount	Hosp Amount	Drug Amount	Dent Amount	Vision Amount	Retiree Amount	Employee Amount	Total Amount
17800 Clearfield County Market												
Employee Detail and Adjustment Billing												
Kelly, St. Thomas K		OWN	49.00	426.35	78.43	31.50	6.50					591.78
Hildebrand, Donna L		MG	4.90	150.52	28.22	11.50	2.20					197.34
Kelly, Susan K		MG	4.90									4.90
Tracie, Todd A		MG	4.90	426.35	78.43	31.50	6.50					547.68
Dudak, Michael E		FT	2.45	150.52	28.22	11.50	2.20					194.89
Franson, Carolyn I		FT	2.45	426.35	78.43	31.50	6.50					545.23
Michael, Cindy L		FT	2.45	381.97	73.36	31.50	6.50					495.78
Reiter III, William J		FT	2.45	426.35	78.43	31.50	6.50					545.23
Spingola, Bridget M		FT	2.45	426.35	78.43	31.50	6.50					545.23
Behel, Pamela		MG	4.90	150.52	28.22	11.50	2.20					197.34
Billotte, Edmund		MG	4.90	381.97	73.36	31.50	6.50					498.23
Coble, Dennis L		MG	4.90	426.35	78.43	31.50	6.50					547.68
Thompson, Todd	CH 8/31/2000	MG	4.90	381.97	73.36	31.50	6.50					498.23
Thurston, Joseph J		MG	4.90	150.52	28.22	11.50	2.20					197.34
Weaver, Ronald		MG	4.90	381.97	73.36	31.50	6.50					498.23
Fama, Rosemarie		FT	2.45	150.52	28.22	11.50	2.20					194.89
Green, Juan		FT	2.45	381.97	73.36	31.50	6.50					495.78
Gulher, Jimmie J		FT	2.45	150.52	28.22	11.50	2.20					194.89
Heaton, Scott M		FT	2.45	150.52	28.22	11.50	2.20					194.89
Collins, Gloria J		PT	2.45	150.52	28.22	11.50	2.20					194.89
Farmery, Sherri		PT	2.45	150.52	28.22	11.50	2.20					194.89
Meek, Dorothy L		PT	1.23	150.52	28.22	11.50	2.20					193.67
Ogden, Barbara A		PT	2.45	150.52	28.22	11.50	2.20					194.89
Parks, Karen L		PT	2.45	150.52	28.22	11.50	2.20					194.89
Quinn, Joyce R		PT	2.45	150.52	28.22	11.50	2.20					194.89
Remaud, Sonya L		PT	2.45	426.35	78.43	31.50	6.50					545.23
Wisor, Cora E		PT	2.45	150.52	28.22	11.50	2.20					194.89
Baecher, Gary		PT	2.45	150.52	28.22	11.50	2.20					194.89
Buck, Judy		PT	2.45	150.52	28.22	11.50	2.20					194.89
Buck, Tina		PT	2.45	150.52	28.22	11.50	2.20					194.89
Bulter, Kenneth L		PT	2.45	150.52	28.22	11.50	2.20					194.89
Gillingham, Judith		PT	2.45	150.52	28.22	11.50	2.20					194.89

365.99

Client: 10002 Affiliated Retail Outlets/SNS
17808 Clearfield County Market

INVOICE

***** IMPORTANT *****

Invoice Number: 13848

Page: 3

Federal Law Requires COBRA Offering within 14 days of Qualifying Event.

Is Any New Employee eligible for benefits?

Has anyone terminated employment?

Is anyone off work due to accident or illness?

Is anyone on workers compensation?

Has anyone returned to work following medical leave or workers compensation leave?

Change Code explanation:

DR - Debit

CH - Change

TE - Termination

CR - Credit

AD - Addition

KE - Keinstate

All adjustments (CR, DR, TE) will appear on the bottom of the bill for each employee with retro activity

Invoice Total Summary

Life Amount/Count:	141.01	41	WT Amount/Count:	0.00	0	Hospital Amount/Count:	8,403.31	39
ADD Amount/Count:	6.00	41	LTD Amount/Count:	0.00	0	Prescription Amount/Count:	1,578.69	39
Total Life/ADD Amount:	147.01		Retiree Life Amount/Count:	0.00	0	Dental Amount/Count:	619.00	39
			Vision Amount/Count:				124.19	39
			Employee Amount/Count:				365.99	1
			D00	619.00	39			
			H08	8,403.31	39			
			P08	1,578.69	39			
			V00	124.19	39			

NOT AN INVOICE
STORE COPY

Payable: C. B. Tracy & Associates, Inc.

506 Pellis Road

Greensburg, PA 15601

724-834-1090

724-834-1070-FAX

1-800-838-1090

Total Invoice Amount Due By: October 31, 2006

11,393.98

Total Due After: October 31, 2000

11,621.86

Invoice Amount: 10,872.11

Service Fee: 521.87

Invoice Amount Past Due: 0.00

***Please do not adjust — pay as rendered
2% late fee charge on past due balances...***

Thomas K.Kelly
P.O.Box 567
Clearfield, Pa. 16830

May 8, 2001

C.B.Tracy & Associates Inc.
506 Pellis Road
Greensburg, Pa 15601

Dear Gary,

I am inquiring to find out when I can expect repayment for the November insurance permium which you received from Clearfield County Market and was advised by Telephone conversation from Sue to you to cut all employee benefits as of Nov 5, 2000.

I have dealt with C.B.Tracy for over 20 years and think that this matter should be taken care of immediately. We were never late on payments and I think that you should treat us in the same matter.

I have a very good rapor with many fellow Retailers and would not want to have to relay the information to them as to how I have been treated. If I do not receive reimbursement by 5-20-01 Then I will be forced to contact these Retailers and relay the message. Also after 5-20-01 I will turn this matter over to my Attorneys and ask for cost and interest on the moneys due back to us in November 2000.

I have been a good customer and should not have to take these steps to get repaid.

Looking for a quick reply,

Thomas K.Kelly

AFFIDAVIT

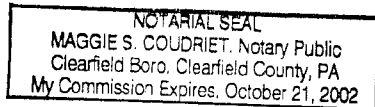
STATE OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

THOMAS K. KELLY, being duly sworn according to law, deposes and says that he is the President for KELLY FOODS, INC. d/b/a CLEARFIELD COUNTY MARKET, and, as such, is duly authorized to make this Affidavit, and further, that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

Thomas K. Kelly, Pres.
Thomas K. Kelly
President

SWORN TO AND SUBSCRIBED
before me this 20th
day of June, 2001.

Maggie S. Coudriet
Notary Public



				<p> PETER F. SMITH ATTORNEY 30 SOUTH SECOND STREET P.O. BOX 130 CLEARFIELD, PA. 16830 </p>
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COMMERCIAL PRINTING CO., CLEARFIELD, PA.

FILED

JUL 06 2001
 0/105/MS
 William A. Shaw
 Prothonotary
 80--
 3 cert to Atty.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11203

KELLY FOODS, INC. d/b/a CLEARFIELD COUNTY MARKET

01-1084-CD

VS.

C.B. TRACY & ASSOCIATES, INC.

COMPLAINT

SHERIFF RETURNS

NOW JULY 6, 2001, CHRIS SCHERER, SHERIFF OF WESTMORELAND COUNTY
WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY
TO SERVE THE WITHIN COMPLAINT ON C.B. TRACY & ASSOCIATES INC.,
DEFENDANT.

NOW JULY 12, 2001 SERVED THE WITHIN COMPLAINT ON C.B. TRACY &
ASSOCIATES INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF WESTMORELAND
COUNTY. THE RETURN OF SHERIFF SCHERER IS HERETO ATTACHED AND
MADE A PART OF THIS RETURN STATING THAT HE SERVED GARY HELMAN,
PRES./CEO

Return Costs

Cost	Description
27.89	SHFF. HAWKINS PAID BY: PLFF.
29.30	SHFF. SCHERER PAID BY: PLFF.
10.00	SURCHARGE PAID BY: PLFF.
<u>67.19</u>	

FILED
JUL 31 2001

William A. Shaw
Prothonotary

Sworn to Before Me This

31st Day Of July 2001,

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,

Chester A. Hawkins
Chester A. Hawkins
Sheriff

10.

CHRIS SCHERER, SHERIFF OF WESTMORELAND COUNTY
2 NORTH MAIN STREET
GREENSBURG, PA 15601
(724) 830-3457 FAX (724) 830-3660

DATE 07-10-01
RECEIPT 8032
PAGE 88

LAST DAY TO SERVE: 8-05-01

PLAINTIFF: Kelly Foods Inc. dba Clearfield
County Market.

VS.

DEFT(S): C.B. Tracy + Associates, Inc.

SERVE: C.B. Tracy + Associates, Inc.
(DEFT (S)/GARNISHEE)

ADDRESS: 506 Pellis Road
Greensburg, PA 15601

INDICATE TYPE OF SERVICE:

- ☐ PERSON IN CHARGE ☐ PERSONAL ONLY ☐ DEPUTIZE
☐ CERT. MAIL ☐ POST ☐ OTHER
☐ SEIZE & STORE

CASE NO. 01-1084-CD

Clearfield County

- ☐ SUMMONS
☐ SEIZURE OR POSSESSION
☒ NOTICE/COMPLAINT (1)
☐ REVIVAL OR SCI FA
☐ INTERROGATORIES
☐ EXECUTION, GARNISHEE
☐ HANDBILL
☐ NOTICE OF SALE/DEBTORS RIGHT
☐ OTHER
☐ LETTER MAILED

ATTY: Peter Smith
ADDRESS: 30 S. Second St.

PO BOX 130 Clearfield, PA

PHONE: 814-765-5595 16830

DATE:

SHERIFF'S OFFICE USE ONLY

I hereby CERTIFY and RETURN that on the 12th day of JULY, 2001, at 930 O'clock, A.M./P.M. (Address Above/Address Below, County of Westmoreland, Pennsylvania

I have served in the manner Described below:

- ☐ Defendant(s) personally served.
☐ Adult in charge of Defendant's residence at time of serve (name & relationship)
☒ Manager/other person authorized to accept GARY HEIMAN - PRES / CEO
☐ Agent or person in charge of Defendant(s) office or usual place of business.
☐ Other
☐ Property Posted

Defendant not found because: ☐ Moved ☐ Unknown ☐ No Answer ☐ Vacant ☐ Other

☐ Certified Mail ☐ 1st Class Mail ☐ Ordinary Mail/Certificate of Mailing

ATTEMPTS

DEPUTY SHAREK

Westmoreland County Costs	DS/Notary	Deputized County Costs	Costs Due	Refund	Total Costs (West. Co. Only)
\$ 27.30	\$ 2.00	\$	\$	\$	\$ 29.30

NOW: 20 I, SHERIFF OF WESTMORELAND COUNTY, PA do hereby deputize the Sheriff of County to execute this Writ and make return thereof according to law.

CK# \$

Notarial Seal
Mary Ann Jordan, Notary Public
Greensburg, Westmoreland County
My Commission Expires June 14, 2004

SHERIFF

AFFIRMED and subscribed to before me this

16 Day of July 20 01

Mary Ann Jordan
Notary Public/Prothonotary

Prothonotary (White Copy)

Attorney (Canary Copy)

Deputized Sheriff
Chris Scherer
Signature of Sheriff (Westmoreland County)

Sheriff (Pink Copy)

Deputized Sheriff (Gold Copy)

Date
7-13-01
Date



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765-5915

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KELLY FOODS INC. d/b/a

VS:

C.B. TRACY & ASSOCIATES INC

SERVE BY: 8/5/01

or

HEARING DATE:

TERM & NO.: 01-1084-CD

DOCUMENT TO BE SERVED:
COMPLAINT

SERVE: C.B. TRACY & ASSOCIATES INC

ADDRESS: 506 Pellis Road, Greensburg, Pa.15601

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF of WESTMORELAND County Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 6th day of JULY 2001.

MAKE REFUND PAYABLE TO: THOMAS K. KELLY SR.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

PETER F. SMITH
ATTORNEY
CLEARFIELD, PA. 16830
814 - 765-5595

CERTIFIED TRUE AND CORRECT COPY

ATTORNEY FOR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KELLY FOODS, INC. d/b/a CLEARFIELD :
COUNTY MARKET, :
Plaintiff :

vs. :

No. 2001-1084-CD

C.B. TRACY & ASSOCIATES, INC., :
Defendant :

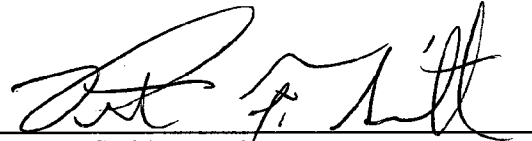
PRAECIPE TO DISCONTINUE

TO: William A. Shaw, Prothonotary

Dear Sir:

On behalf of the Plaintiff in the above captioned matter, please mark the docket
"DISCONTINUED."

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Plaintiff

Date: August 10, 2001

FILED

AUG 14 2001

William A. Shaw
Prothonotary

FILED no cc

0105381 Certificate to
AUG 14 2001

Atty Smith

William A. Shaw
Prothonotary
Copy to c/a

[Signature]

COPY

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

CIVIL DIVISION

**Kelly Foods, Inc.
Clearfield County Market**

Vs.

No. 2001-01084-CD

C. B. Tracy & Associates, Inc.

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on August 14, 2001 marked:

Discontinued

Record costs in the sum of \$147.19 have been paid in full by Attorney and Plaintiff.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 14th day of August A.D. 2001.

William A. Shaw, Prothonotary