

04-445-CD  
KEVIN DISANTIS, et al. vs. KTF TRANSPORT, LLC, et al.

2004-445-CD

Kevin Disantis et al vs. KTF Transport et al

Date: 12/12/2005

**Clearfield County Court of Common Pleas**

User: LBENDER

Time: 11:00 AM

**ROA Report**

Page 1 of 3

Case: 2004-00445-CD

Current Judge: Fredric Joseph Ammerman

Kevin Disantis, Apple Core vs. KTF Transport, LLC, Scott Fleck, S & M Log Transportation

**Civil Other**

Date	Judge
04/01/2004 ✓ <del>X</del> Filing: Civil Complaint Paid by: Noble, Theron G., Esquire Receipt number: 1876351 Dated: 04/01/2004 Amount: \$85.00 (Check) 4 CC to Atty.	No Judge
05/03/2004 ✓ <del>X</del> Sheriff Return, Papers served on Defendant, Tara Finley. Not Found as to Defendant Scott Fleck, t/d/b/a S&M Log Transportation. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
05/05/2004 ✓ <del>X</del> Filing: Reissue Writ/Complaint Paid by: Noble, Theron G. (attorney for Apple Core) Receipt number: 1878563 Dated: 05/05/2004 Amount: \$7.00 (Check)	No Judge
05/13/2004 ✓ <del>X</del> Praeclipe To Enter Appearance On Behalf of Defendant, SCOTT FLECK, t/d/b/a S&M Log Transportation, Defendant. filed by, s/Dwight L. Koerber, Jr., Esquire Certificate of Service 4 cc to Atty	No Judge
05/19/2004 ✓ <del>X</del> Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	No Judge
06/07/2004 ✓ <del>X</del> Defendant KTF Transport LLC - Answer, New Matter and Counterclaim. filed by, s/Jeffre S. DuBois, Esquire Verification s/Tara Finley Certificate of Service 3 cc Atty DuBois	No Judge
07/20/2004 ✓ <del>X</del> Answer and New Matter on Behalf of Scott Fleck, filed by Atty. Koerber 4 cert. to Atty. Koerber	No Judge
09/09/2004 ✓ <del>X</del> Plaintiff's Reply to New Matter of Defendant Scott Fleck filed by Plff. Atty. Noble No cc.	No Judge
✓ <del>X</del> Plaintiff's Reply to New Matter of Defendant KTF Transport, LLC, filed by s/Theron G. Noble, Esq. No CC	Fredric Joseph Ammerman
10/20/2004 ✓ <del>X</del> Preliminary Objections, filed on behalf of Defendant KTF Transport, LLC by s/Jeffrey S. DuBois, Esq. Three CC Attorney DuBois .	No Judge
11/15/2004 ✓ <del>X</del> Order, AND NOW, this 15th day of Nov. 2004, in consideration of Defendant KTF Transport, LLC's Preliminary Ojections, IT IS HEREBY ORDERED AND DECREED that a hearing be scheduled for Dec. 16th, 2004 at 9:00 a.m. at the Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3 CC to Atty	Fredric Joseph Ammerman
11/30/2004 ✓ <del>X</del> Motion For Continuance, on behalf of Defendant KTF Transport, LLC, filed by s/ Jeffrey S. DuBois, Esquire. 3 CC to Atty	Fredric Joseph Ammerman
12/06/2004 ✓ <del>X</del> Order, AND NOW, this 6th day of December, 2004, in consideration of Defendant, KTF Transport, LLC's Motion for Continuance, IT IS HEREBY ORDERED AND DECREED that the hearing on Preliminary Objections be rescheduled for the 12th day of Jan., 2005 at 9:00 a.m. at the Clfd. Co. Courthouse. BY THE COURT: Fredric J. Ammerman, President Judge. 3CC Atty. Dubois	Fredric Joseph Ammerman
12/27/2004 ✓ <del>X</del> Plaintiff's Praeclipe to Discontinue (only as to Defendant Fleck). Filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
01/13/2005 ✓ <del>X</del> Order, NOW, this 12th day of Jan., 2005, following argument on the Preliminary Objections filed on behalf of KTF Transport, LLC, it is the ORDER of this Court that said Preliminary Objections be and are hereby dismissed. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 3CC to Atty DuBois	Fredric Joseph Ammerman
02/02/2005 ✓ <del>X</del> Defendant KTF Transport LLC'S Reply to Plaintiffs Additional New Matter, Fredric Joseph Ammerman filed by Atty. DuBois no cert. copies.	

Current Judge: Fredric Joseph Ammerman

Kevin Disantis, Apple Core vs. KTF Transport, LLC, Scott Fleck, S &amp; M Log Transportation

## Civil Other

Date	Judge
02/25/2005 <input checked="" type="checkbox"/> Filing: Praeclipe/List For Arbitration Paid by: Noble, Theron G. (attorney for Apple Core) Receipt number: 1896433 Dated: 02/25/2005 Amount: \$20.00 (Check) no cert. copies Copy to C/A	Fredric Joseph Ammerman
06/20/2005 <input checked="" type="checkbox"/> Order, NOW, this 20th day of June, 2005, above matter is scheduled for Arbitration on Tuesday, August 16, 2005 at 9:00 a.m. in Conf./hearing room no. 3. The following have been appointed as Arbitrators: Richard A. Bell, Esquire, Chairman Ronald L. Collins, Esquire Kimberly M. Kubista, Esquire. BY THE COURT: /s/ FJA, Pres. Judge. 5CC C/A	Fredric Joseph Ammerman
08/16/2005 <input checked="" type="checkbox"/> Oath or Affirmation of Arbitrators: s/Richard A. Bell, Esq., Chairman s/Ronald Collins, Esq. s/Kimberly M. Kubista Award of Arbitrators: Now, this 16th day of August, 2005, find as follows: Award to Plaintiff \$5,562.00 Award to Defendant on Counterclaim \$425.00. Entry of Award/Witness My Hand and the Seal of the Court: August 16, 2005. s/William A. Shaw, Prothonotary	Fredric Joseph Ammerman
09/29/2005 <input checked="" type="checkbox"/> Filing: Praeclipe To Enter Judgment Paid by: Noble, Theron G. (attorney for Disantis, Kevin) Receipt number: 1909172 Dated: 09/29/2005 Amount: \$20.00 (Check) Judgment in favor of Plaintiff and against Defendant KTF Transport in the amount of \$5,137.00. Filed by s/ Theron G. Noble, Esquire. NO CC, Notice to Def. (Atty. DuBois), Statement to Atty <input checked="" type="checkbox"/> Notice of Service, filed. Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this 28th day of September, 2005, propound on Defendant Plaintiff's FIRST DISCOVERY MATERIALS IN AID OF EXECUTION to Jeffrey S. DuBois Esq., filed by s/ Theron G. Noble Esq. No CC.	Fredric Joseph Ammerman
11/15/2005 <input checked="" type="checkbox"/> Motion to Compel and for Sanctions, filed by Atty. Noble. no cert. copies. <input checked="" type="checkbox"/> Order AND NOW, this 15th day of November, 2005, upon consideration of Plaintiff's MOTION TO COMPEL, it is the ORDER of this Court that Defendant KTF Transport, LLC, shall fully respond to the INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS (in aid of execution) within twenty (20) days hereof. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Noble.	Fredric Joseph Ammerman
11/17/2005 <input checked="" type="checkbox"/> Defendant KTF Transport LLC's Response to Plaintiffs Motion to Compel and Sanctions filed by s/ Jeffrey S. DuBois Esq. 3CC Atty DuBois. <input checked="" type="checkbox"/> Plaintiff's Notice of Service, filed. This 16th day of November 2005 mail a true and correct copy of the ORDER issued upon Plaintiff's Motion to Compel to Jeffrey S. DuBois Esq., filed by s/ Theron G. Noble Esq. No CC.	Fredric Joseph Ammerman
<input checked="" type="checkbox"/> Rule to Show Cause Now, this 16th day of November, 2005, upon consideration of the attached Plaintiff's Motion for Sanctions, a Rule is hereby issued upon the Defendant, KTF Transport, LLC, to show cause why the Motion should not be granted. RULE RETUNABLE, for filing written response, is set for the 7th day of December 2005 at 10:30 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Noble.	Fredric Joseph Ammerman

Date: 12/12/2005

Time: 11:00 AM

Page 3 of 3

**Clearfield County Court of Common Pleas**

User: LBENDER

ROA Report

Case: 2004-00445-CD

Current Judge: Fredric Joseph Ammerman

Kevin Disantis, Apple Core vs. KTF Transport, LLC, Scott Fleck, S && M Log Transportation

Civil Other

Date	Judge
12/05/2005	<input checked="" type="checkbox"/> Certificate of Service, filed. Served a true and correct copy of the within Fredric Joseph Ammerman Defendant Response to Plaintiff's First Set of Discovery Materials in Aid of Execution on the 5th day of December, 2005 to Theron G. Noble, Esq., filed by s/ Jeffrey S. DuBois Esq. 1CC Atty DuBois.
12/07/2005	<input checked="" type="checkbox"/> Certificate of Service, filed. This 3rd day of December, 2005 mail a true Fredric Joseph Ammerman and correct copy of the RULE TO SHOW CAUSE issued upon Plaintiff's Motion for Sanction, to Jeffrey S. DuBois Esq., filed by s/ Theron G. Noble Esq. No CC.

Date: 07/13/2006

Time: 11:03 AM

Page 1 of 1

**Clearfield County Court of Common Pleas**

**ROA Report**

**Case: 2004-00445-CD**

User: LMILLER

Current Judge: Fredric Joseph Ammerman

Kevin Disantis, Apple Core vs. KTF Transport, LLC, Scott Fleck, S & M Log Transportation

**Civil Other**

Date	Selected Items	Judge
12/15/2005	✓ ORDER, filed. cert. to Atty. Noble & DuBois NOW, this 14th day of December, 2005, RE: Defendant's Motion for Sanctions, ORDER of this Court that said Motion be and is hereby DISMISSED.	Fredric Joseph Ammerman
06/12/2006	✓ Motion To Compel And For Sanctions, filed by s/ Theron G. Noble, Esquire. No CC	Fredric Joseph Ammerman
06/16/2006	✓ Rule To Show Cause, NOW, this 16th day of June, 2006, upon consideration of the Plaintiff's Motion to Compel And For Sanctions, a Rule is issued upon the Defendant. Rule Returnable for filing written response is set for the 5th day of July, 2006 and argument on the Motion set for the 18th day of July, 2006, at 9:30 a.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Noble	Fredric Joseph Ammerman
06/28/2006	✓ Certificate of Service, filed. This 26th day of June 2006, mailed a true and correct copy of the Rule Returnable issued upon Plaintiff's Motion to Compel and for Sanctions to Jeffrey S. DuBois Esq., filed by s/ Theron G. Noble Esq. No CC.	Fredric Joseph Ammerman
07/05/2006	✓ Certificate of Service, filed. Served a true and correct copy of the within Defendant KTF Transport, LLC, Reply to Plaintiff's Second Set of Discovery Material in Aid of Execution to Theron G. Noble Esq., filed by s/ Jeffrey S. DuBois Esq. 2 CC Atty DuBois.	Fredric Joseph Ammerman
	✓ Defendant's Response to Plaintiff's Motion to Compel, filed by s/ Jeffrey S. Fredric Joseph Ammerman DuBois Esq. 2 CC Atty DuBois.	

7-19-06 ✓ Order, dated July 18, 2006

6-28-07 ✓ Notice of Service

7-20-07 ✓ Certificate of Service

7-25-07 ✓ Motion to Compel

8-7-07 ✓ Rule, dated August 6, 2007

8-10-07 ✓ Notice of Service

8-29-07 ✓ deft's Rule Returnable in Response.



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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

04  
No. 03-445-CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company; and SCOTT FLECK, t/d/b/a  
S&M Log Transportation, an adult individual,

DEFENDANTS.

Type of Pleading:

**CIVIL COMPLAINT**

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

**FILED**

APR 01 2004

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;

PLAINTIFF,

v.  
KTF, TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;  
and SCOTT FLECK, t/d/b/a S&M Log Transport,  
and adult individual.

DEFENDANTS.

No. 04-445 CD

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM 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 CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

David Meholic, Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830  
(814)-765-2641

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) *04-445* CD  
v. ) No. 03-  
KTF, TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
DEFENDANTS. )

**CIVIL COMPLAINT**

**NOW COMES, Kevin DiSantis, t/d/b/a Apple Core, Plaintiff, by and through his  
counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows  
in support of his CIVIL COMPLAINT:**

**The Parties**

1. Plaintiff is Kevin DiSantis, t/d/b/a Apple Core, hereinafter "Apple Core", a sole proprietorship with principal place of business as 10 Lincoln Drive, DuBois, Clearfield County, Pennsylvania.
2. That first Defendant is KTF Transport, LLC, hereinafter "KTF", upon information and belief, a duly formed and existing Pennsylvania Limited Liability Company, with a principal place of business being 1672 Treasure Lake, DuBois, Clearfield County, Pennsylvania.
3. That second Defendant is Scott Fleck, t/d/b/a S & M Log Transport, hereinafter "S&M", upon information and belief, a sole proprietorship with a principal place of business being located at 7901, Route 153, Brockport, Jefferson County, Pennsylvania.

**Background**

5. Apple Core is primarily engaged in the business of purchasing and selling automotive parts.

6. KTF is primarily engaged in the business of hauling goods in intrastate and interstate commerce.
7. S&M is also primarily engaged in the business of hauling goods in intrastate and interstate commerce.
8. On or about May 16, 2003, Apple Core contracted with KTF to haul automotive parts which it had sold to Northeast Core and Component, Inc., located at Blakeslee, Pennsylvania. Upon doing so, KTF was also to "back haul", from Northeast Core Components, Inc., to Apple Core an order consisting of 108 air conditioning compressors.
9. Upon information and belief, KTF in turn contracted with S&M to complete its contractual obligations with Apple Core.
10. That S&M delivered the order to Northeast Core and Component, Inc., and in turn picked up the order of air conditioning compressor parts for delivery to Apple Core.
11. Upon information and belief, at the time S&M took custody of said parts, the same were in good order and condition.
12. That S&M delivered the air conditioning compressors to Apple Core, and when the door to the trailer was opened, there was no other freight on board and the box, which was not secured in the trailer, containing the air conditioning compressors was broken open. Furthermore, about 15 - 18 of the compressors were lying loosely on the floor of the trailer.
13. The air conditioning compressors were placed in Apple Core's warehouse and were then inventoried and inspected by Apple Core.
14. Upon inventory and inspection, it was determined that all but 18 of the air conditioning compressors had been significantly damaged.
15. Apple Core promptly notified KTF of the situation, which remains unresolved despite Apple Core's attempt to do so.
16. That these air conditioning compressors, which Apple Core had sold and promised for delivery at a price of \$125 per unit, could not be replaced as these parts are not readily available on the market.
17. That the remaining 18 undamaged air conditioning compressors are essentially useless to Apple Core as it is not cost effective to ship such a minimal order.

18. That Apple Core has suffered a loss of \$13,500 representing 108 air conditioning compressors at a unit price of \$125.

Count I: Negligence

19. That the averments of paragraph 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.

20. That KTF and S&M owed Apple Core a duty created by each of their agreements to undertake transportation of the air conditioning compressors.

21. That KTF by hiring or contracting with S&M, made S&M its agent in this matter and is liable for S&M's negligence.

22. That S&M was negligent in that its driver, being S&M's employee or agent, and an employee or agent of KTF, in that:

(a) he failed to adequately load the air conditioning compressors onto the trailer;

(b) he failed to adequately secure the air conditioning compressors in place on the trailer such that they would not become damaged in transport;

(c) he failed to drive in a safe and prudent manner such that the air conditioning compressors became dislodged in transport and suffered damage; and

(d) he failed to inspect the air conditioning compressors while in transport to make certain they were being safely transported.

23. Besides its vicarious liability for the above, KTF was also negligent in that it hired S&M to do the hauling when it should have known that S&M was likely to not safely haul the air conditioning compressors.

24. That as a direct and proximate result of KTF's and S&M's negligence, Apple Core suffered the aforementioned damage.

**WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in the amount of \$13,500, together with interest and costs.**

Count II: Breach of Contract

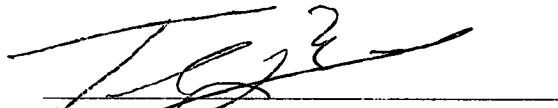
25. That the averments of paragraph 1 - 24, inclusive, are hereby incorporated as if again fully set forth at length.
26. That Apple Core contracted with KTF for the transportation of the aforementioned air conditioning compressors.
27. That implied within said contract was that KTF, or its agents, would transport said items in a non-negligent manner.
28. That for the aforementioned reasons, KTF breached the contract with Apple Core.
29. That Apple Core was the intended beneficiary of the contract between KTF and S&M.
30. That for the aforementioned reasons, S&M breached its contract with KTF and is liable to Apple Core as the intended beneficiary of said contract.
31. That as a result of the breaches by KTF and S&M, Apple Core has suffered a loss in the amount of \$13,500.
32. That for the foregoing reasons, defendants are liable, jointly and severally, to Apple Core in said amount.

**WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in the amount of \$13,500, together with interest and costs.**

33. That jurisdiction is proper.
34. That venue is proper.
35. That Defendants have joint and several liability.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in the amount of \$13,500, together with interest and costs.

Respectfully Submitted,



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Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;

PLAINTIFF,

v.  
KTF, TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;  
and SCOTT FLECK, t/d/b/a S&M Log Transport,  
and adult individual.

DEFENDANTS.

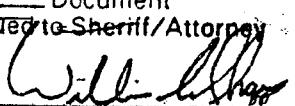
No. 03-04-1145-CD

**VERIFICATION**

I, Kevin DiSantis, t/d/b/a Apple Core, Plaintiff, does hereby swear and affirm that I have read the foregoing and attached CIVIL COMPLAINT in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 25<sup>th</sup> day of ~~October~~ March 4, 2003.

  
Kevin DiSantis, t/d/b/a Apple Core; Plaintiff

5/5/04 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
  
Deputy Prothonotary

FILED

APR 01 2004

01/10:58 a.m.

William A. Shaw  
Prothonotary

\* to attorney

In The Court of Common Pleas of Clearfield County, Pennsylvania

DISANTIS, KEVIN t/d/b/a Apple Core

Sheriff Docket # 15381

VS.

04-445-CD

KTF TRANSPORT al

COMPLAINT

**SHERIFF RETURNS**

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NOW APRIL 30, 2004 AT 10:30 AM SERVED THE WITHIN COMPLAINT ON KTF TRANSPORT, LLC a duly formed & existing Pennsylvania Limited Liability Company, DEFENDANT AT EMPLOYMENT, COZY ACRES FURNITURE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO TARA FINLEY, CO-PARTNER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: MCCLEARY/SNYDER

---

NOW APRIL 2, 2004, THOMAS DEMKO, SHERIFF OF JEFFERSON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKNIS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON SCOTT FLECK t/d/b/a S&M LOG TRANSPORTATION, DEFENDANT.

NOW APRIL 19, 2004 ATTEMPTED TO SERVE THE WITHIN COMPLAINT ON SCOTT FLECK t/d/b/a S&M LOG TRANSPORTATION, DEFENDANT BY DEPUTIZING THE SHERIFF OF JEFFERSON COUNTY. THE RETURN OF SHERIFF DEMKO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "NOT FOUND" ADDRESS IS IN ELK COUNTY.

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**Return Costs**

Cost	Description
60.87	SHERIFF HAWKINS PAID BY: ATTY CK# 1369
20.00	SURCHARGE PAID BY: ATTY CK# 1370
29.64	JEFFERSON CO. SHFF. PAID BY: ATTY.

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Sworn to Before Me This

30 Day Of May 2004  
Will A. Shaw

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

So Answers,

*Chester Hawkins*  
*by Maury Harr*  
Chester A. Hawkins  
Sheriff

FILED  
01/03/2004  
MAY 03 2004

William A. Shaw  
Prothonotary/Clerk of Courts

No. 04-445-CD

Now, April 19, 2004, I return the within Notice to Defend and Civil Complaint for SCOTT FLECK, t/d/b/a S&M LOG TRANSPORTATION, Defendant, as unable to make service, Defendant's address is in Elk County.

Advance Costs Received:	\$125.00
My Costs:	\$ 27.64 Paid
Prothy:	\$ 2.00
Total Costs:	\$ 29.64
Refunded:	\$ 95.36

Sworn and subscribed  
to before me this 22nd  
day of April 2004  
By Thomas J. Denner

My Commission Expires The  
First Monday January 2008

So Answers,

John G. Schubert Deputy  
Thomas J. Denner Sheriff  
JEFFERSON COUNTY, PENNSYLVANIA

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

No. 03-04-445CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company; and SCOTT FLECK, t/d/b/a  
S&M Log Transportation, an adult individual,

DEFENDANTS.

Type of Pleading:

**CIVIL COMPLAINT**

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

APR 01 2004

Attest.

*William L. Ober*  
Prothonotary/  
Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;  
PLAINTIFF,  
v.  
KTF, TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;  
and SCOTT FLECK, t/d/b/a S&M Log Transport,  
and adult individual.  
DEFENDANTS.)  
No. 03-661-4445-CD

**NOTICE TO DEFEND**

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

David Meholick, Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830  
(814)-765-2641

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF, TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
DEFENDANTS. )  
No. 04-445-CD

**CIVIL COMPLAINT**

NOW COMES, Kevin DiSantis, t/d/b/a Apple Core, Plaintiff, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his CIVIL COMPLAINT:

## The Parties

1. Plaintiff is Kevin DiSalvatore, t/d/b/a Apple Core, hereinafter "Apple Core", a sole proprietorship with principal place of business as 10 Lincoln Drive, DuBois, Clearfield County, Pennsylvania.
2. That first Defendant is KTF Transport, LLC, hereinafter "KTF", upon information and belief, a duly formed and existing Pennsylvania Limited Liability Company, with a principal place of business being 1672 Treasure Lake, DuBois, Clearfield County, Pennsylvania.
3. That second Defendant is Scott Fleck, t/d/b/a S & M Log Transport, hereinafter "S&M", upon information and belief, a sole proprietorship with a principal place of business being located at 7901, Route 153, Brockport, Jefferson County, Pennsylvania.

## Background

5. Apple Core is primarily engaged in the business of purchasing and selling automotive parts.

6. KTF is primarily engaged in the business of hauling goods in intrastate and interstate commerce.

7. S&M is also primarily engaged in the business of hauling goods in intrastate and interstate commerce.

8. On or about May 16, 2003, Apple Core contracted with KTF to haul automotive parts which it had sold to Northeast Core and Component, Inc., located at Blakeslee, Pennsylvania. Upon doing so, KTF was also to "back haul", from Northeast Core Components, Inc., to Apple Core an order consisting of 108 air conditioning compressors.

9. Upon information and belief, KTF in turn contracted with S&M to complete its contractual obligations with Apple Core.

10. That S&M delivered the order to Northeast Core and Component, Inc., and in turn picked up the order of air conditioning compressor parts for delivery to Apple Core.

11. Upon information and belief, at the time S&M took custody of said parts, the same were in good order and condition.

12. That S&M delivered the air conditioning compressors to Apple Core, and when the door to the trailer was opened, there was no other freight on board and the box, which was not secured in the trailer, containing the air conditioning compressors was broken open. Furthermore, about 15 - 18 of the compressors were lying loosely on the floor of the trailer.

13. The air conditioning compressors were placed in Apple Core's warehouse and were then inventoried and inspected by Apple Core.

14. Upon inventory and inspection, it was determined that all but 18 of the air conditioning compressors had been significantly damaged.

15. Apple Core promptly notified KTF of the situation, which remains unresolved despite Apple Core's attempt to do so.

16. That these air conditioning compressors, which Apple Core had sold and promised for delivery at a price of \$125 per unit, could not be replaced as these parts are not readily available on the market.

17. That the remaining 18 undamaged air conditioning compressors are essentially useless to Apple Core as it is not cost effective to ship such a minimal order.

18. That Apple Core has suffered a loss of \$13,500 representing 108 air conditioning compressors at a unit price of \$125.

Count I: Negligence

19. That the averments of paragraph 1 - 18, inclusive, are hereby incorporated as if again fully set forth at length.

20. That KTF and S&M owed Apple Core a duty created by each of their agreements to undertake transportation of the air conditioning compressors.

21. That KTF by hiring or contracting with S&M, made S&M its agent in this matter and is liable for S&M's negligence.

22. That S&M was negligent in that its driver, being S&M's employee or agent, and an employee or agent of KTF, in that:

(a) he failed to adequately load the air conditioning compressors onto the trailer;

(b) he failed to adequately secure the air conditioning compressors in place on the trailer such that they would not become damaged in transport;

(c) he failed to drive in a safe and prudent manner such that the air conditioning compressors became dislodged in transport and suffered damage; and

(d) he failed to inspect the air conditioning compressors while in transport to make certain they were being safely transported.

23. Besides its vicarious liability for the above, KTF was also negligent in that it hired S&M to do the hauling when it should have known that S&M was likely to not safely haul the air conditioning compressors.

24. That as a direct and proximate result of KTF's and S&M's negligence, Apple Core suffered the aforementioned damage.

**WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in the amount of \$13,500, together with interest and costs.**

Count II: Breach of Contract

25. That the averments of paragraph 1 - 24, inclusive, are hereby incorporated as if again fully set forth at length.
26. That Apple Core contracted with KTF for the transportation of the aforementioned air conditioning compressors.
27. That implied within said contract was that KTF, or its agents, would transport said items in a non-negligent manner.
28. That for the aforementioned reasons, KTF breached the contract with Apple Core.
29. That Apple Core was the intended beneficiary of the contract between KTF and S&M.
30. That for the aforementioned reasons, S&M breached its contract with KTF and is liable to Apple Core as the intended beneficiary of said contract.
31. That as a result of the breaches by KTF and S&M, Apple Core has suffered a loss in the amount of \$13,500.
32. That for the foregoing reasons, defendants are liable, jointly and severally, to Apple Core in said amount.

**WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in the amount of \$13,500, together with interest and costs.**

33. That jurisdiction is proper.
34. That venue is proper.
35. That Defendants have joint and several liability.

WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against Defendants, jointly and severally, in the amount of \$13,500, together with interest and costs.

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

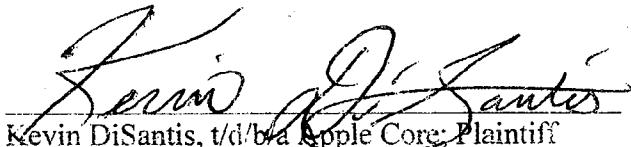
)  
KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual; )  
 )  
 )  
PLAINTIFF, )  
 )  
 )  
 )  
v. )  
KTF, TRANSPORT, LLC. a duly formed and  
existing Pennsylvania Limited Liability Company;  
and SCOTT FLECK, t/d/b/a S&M Log Transport,  
and adult individual. )  
 )  
DEFENDANTS. )  
 )

No. 03 445 -CD  
04

**VERIFICATION**

I, Kevin DiSantis, t/d/b/a Apple Core, Plaintiff, does hereby swear and affirm that I have read the foregoing and attached CIVIL COMPLAINT in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 25<sup>th</sup> day of ~~October~~ March 4, 2003.

  
Kevin DiSantis, t/d/b/a Apple Core; Plaintiff

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

)  
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
)  
PLAINTIFF, )  
)  
v. )  
KTF, TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
DEFENDANTS. )  
No. 04- 445 -CD

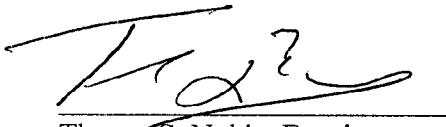
**PRAECIPE TO REINSTATE**

To: William A. Shaw, Prothonotary

Date: May 5, 2004

Please REINSTATE the CIVIL COMPLAINT in the above captioned case.

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

**FILED**

**MAY 05 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple  
Core, an adult individual,  
Plaintiff

\*

\*

\*

\*

\*

Docket No. 04-445-CD

v.

\*

\*

\*

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company and SCOTT  
FLECK, t/d/b/a S&M Log Transportation,  
an adult individual,  
Defendant

\*

\*

\*

\*

Type of Pleading:  
PRAECIPE TO ENTER APPEARANCE

Filed on Behalf of:

Plaintiff:

SCOTT FLECK, t/d/b/a S&M Log  
Transportation

Counsel of Record for  
This Party:

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

LAW OFFICES OF  
DWIGHT L. KOERBER, JR.  
110 N. Second Street  
P.O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

**FILED**

MAY 13 2004

William A. Shaw  
Prothonotary

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

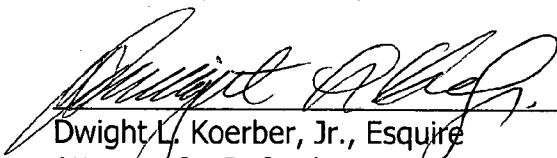
KEVIN DISANTIS, t/d/b/a Apple	*	
Core, an adult individual,	*	
Plaintiff	*	
	*	
	*	Docket No. 04-445-CD
V.	*	
	*	
	*	
KTF TRANSPORT, LLC, a Pennsylvania	*	
Limited Liability Company and SCOTT	*	
FLECK, t/d/b/a S&M Log Transportation,	*	
an adult individual,	*	
Defendant	*	

**PREACIPE TO ENTER APPEARANCE**

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Defendant, SCOTT FLECK, t/d/b/a S&M Log Transportation, Defendant in the above proceeding.

Respectfully submitted,

  
\_\_\_\_\_  
Dwight L. Koerber, Jr., Esquire  
Attorney for Defendant:  
SCOTT FLECK, t/d/b/a S&M Log Transportation

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

KEVIN DISANTIS, t/d/b/a Apple  
Core, an adult individual,  
Plaintiff

\*  
\*  
\*  
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\*

Docket No. 04-445-CD

v.

\*  
\*  
\*  
\*

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company and SCOTT  
FLECK, t/d/b/a S&M Log Transportation,  
an adult individual,  
Defendant

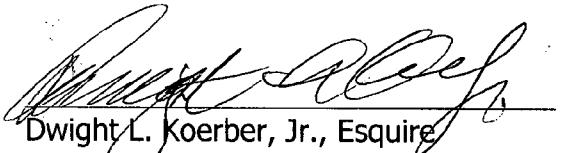
\*  
\*  
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\*

**CERTIFICATE OF SERVICE**

I certify that on the 13<sup>th</sup> day of May, 2004, the undersigned served a certified  
copy of the Praeclipe to Enter Appearance in the above-captioned matter upon the  
following via United States First Class Mail.

Theron G. Noble, Esquire  
FERRARACCIO & NOBLE  
301 East Pine Street  
Clearfield, PA 16830

KTF TRANSPORT, LLC  
1672 Treasure Lake  
DuBois, PA 15801

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Defendant:  
SCOTT FLECK, t/d/b/a S&M Log Transportation

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET NO. 04-445-CD

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,  
Plaintiff

v.

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company and SCOTT  
FLECK, t/d/b/a S&M Log Transportation  
an adult individual,  
Defendant

PRACICE TO ENTER APPEARANCE

O 3:04 am 4/1/2004  
MAY 13 2004 *DK*

WILHELM OFFICE OF LAW  
DWIGHT K. KOERBER, JR.  
ATTORNEY AT LAW  
110 NORTH SECOND STREET  
P. O. BOX 1330  
CLEARFIELD, PENNSYLVANIA 16830



# In The Court of Common Pleas of Clearfield County, Pennsylvania

DISANTIS, KEVIN t/d/b/a Apple Core

VS.

KTF TRANSPORT al

COMPLAINT

Sheriff Docket # 15381

04-445-CD

## SHERIFF RETURNS

NOW MAY 5, 2004, THOMAS KONTES, SHERIFF OF ELK COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON SCOTT FLECK t/d/b/a S & M LOG TRANSPORTATION, DEFENDANT.

NOW MAY 10, 2004 SERVED THE WITHIN COMPLAINT ON SCOTT FLECK t/d/b/a S&M TRANSPORTATION, DEFENDANT BY DEPUTIZING THE SHERIFF OF ELK COUNTY. THE RETURN OF SHERIFF KONTES IS HERETO ATTACHE AND MADE A PART OF THIS RETURN.

---

### Return Costs

Cost	Description
18.97	SHERIFF HAWKINS PAID BY: ATTY CK# 1410
10.00	SURCHARGE PAID BY: ATTY CK# 1411
39.00	ELK CO. SHFF. PAID BY: ATTY

---

Sworn to Before Me This

19 Day Of May 2004  
William A. Shaw

So Answers,

Chester A. Hawkins  
Sheriff

**FILED**  
02:00 PM  
MAY 19 2004  
*GW*

William A. Shaw  
Prothonotary

15381

15381

# Affidavit of Service

Kevin Desantis, t/d/b/a Apple  
Core, an adult individual  
vs.

Scott Fleck, t/d/b/a S&M Log  
Transportation, an adult individual,  
et al.

No. 445 Term, 20 04

Returnable within \_\_\_\_\_ days  
from date of service hereof.

NOW May 10, 2004 at 9:25 o'clock A.M.

served the within Complaint on Scott Fleck, t/d/b/a S&M  
Log Transportation

at 7901 Rt. 153, Brockport, Elk County, PA

by handing to Scott Fleck

a true and attested copy of the original Complaint and made  
known to him the contents thereof. Sheriff's Costs - \$39.00 PAID

Sworn to before me this 11th

day of May A.D. 2004

Carrie S. F.

My Commission Expires January 7, 2008  
Prothonotary

118.11-010

So answers,

Thomas G. Fanta

Sheriff

John G. Wolf

Deputy



# Sheriff's Office Clearfield County

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

CHESTER A. HAWKINS  
SHERIFF

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

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

PAGE 15381

KEVIN DISANTIS t/d/b/a

TERM & NO. 04-445-CD

VS

DOCUMENT TO BE SERVED:

COMPLAINT

KTF TRANSPORT al

SERVE BY: 06/04/2004

**MAKE REFUND PAYABLE TO:** THERON G. NOBLE, ESQ.

**SERVE:** SCOTT FLECK t/d/b/a S&M LOG TRANSPORTATION

**ADDRESS:** 7901 RT. 151 BROCKPORT, PA. (JEFF. CO. STATED THIS IS IN YOUR COUNTY)

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby depose the SHERIFF OF ELK COUNTY, Pennsylvania to execute this writ. This Deposition being made at the request and risk of the Plaintiff this 5th Day of MAY 2004

Respectfully,

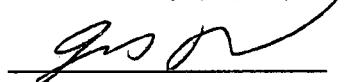
A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-455-CD *445*  
Plaintiff : Type of Pleading:  
Vs. : **DEFENDANT KTF TRANSPORT**  
: **LLC – ANSWER, NEW MATTER**  
: **AND COUNTERCLAIM**  
KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

You are hereby notified to  
file a responsive pleading  
within twenty (20) days.



FILED

JUN 07 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a/ Apple Core, : No. 04-455-CD  
an adult individual, :

Plaintiff :

Vs. :

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, :

Defendants :

**DEFENDANT KTF TRANSPORT LLC  
ANSWER TO PLAINTIFF'S COMPLAINT**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its  
attorney, Jeffrey S. DuBois, Esquire, who files this Answer to Plaintiff's Complaint and  
in support thereof avers the following:

1. Admitted.
2. Admitted.
3. Admitted.
4. There was no paragraph 4 to Plaintiff's complaint.
5. Defendant is without sufficient information to believe the truth or falsity of the  
averments contained in Plaintiff's paragraph number 5 and strict proof thereof is  
demanded at Trial.
6. Admitted, among other business.

7. Admitted.

8. Admitted in part and denied in part. It is admitted that on or about May 16, 2003, Plaintiff contracted with Defendant KTF Transport, LLC, to haul automotive parts to Blakeslee, Pennsylvania. It is specifically denied that KTF Transport, LLC, contracted to "back haul" any orders for Apple Core.

9. Admitted, to the extent that KTF Transport, LLC, contracted with Defendant S&M for the hauling of automotive parts to Blakeslee, Pennsylvania, and nothing more.

10. Defendant KTF Transport, LLC, is not in possession of sufficient information to believe the truth or falsity of the averments contained in paragraph ten of Plaintiff's Complaint and strict proof thereof is demanded at Trial. By way of further answer, said paragraph relates to parties other than Defendant KTF Transport, LLC, and therefore is not responsible for answering the same.

11. Defendant KTF Transport, LLC, is not in possession of sufficient information to believe the truth or falsity of the averments contained in paragraph eleven of Plaintiff's Complaint and strict proof thereof is demanded at Trial. By way of further answer, said paragraph relates to parties other than Defendant KTF Transport, LLC, and therefore is not responsible for answering the same.

12. Defendant KTF Transport, LLC, is not in possession of sufficient information to believe the truth or falsity of the averments contained in paragraph twelve of Plaintiff's Complaint and strict proof thereof is demanded at Trial. By way of further answer, said paragraph relates to parties other than Defendant KTF Transport, LLC, and therefore is not responsible for answering the same.

13. Defendant KTF Transport, LLC, is not in possession of sufficient information to believe the truth or falsity of the averments contained in paragraph thirteen of Plaintiff's Complaint and strict proof thereof is demanded at Trial. By way of further answer, said paragraph relates to parties other than Defendant KTF Transport, LLC, and therefore is not responsible for answering the same.

14. Defendant KTF Transport, LLC, is not in possession of sufficient information to believe the truth or falsity of the averments contained in paragraph fourteen of Plaintiff's Complaint and strict proof thereof is demanded at Trial. By way of further answer, said paragraph relates to parties other than Defendant KTF Transport, LLC, and therefore is not responsible for answering the same.

15. It is admitted that Plaintiff contacted Defendant KTF Transport, LLC, though it is unknown by Defendant, and strict proof thereof is demanded, whether or not Plaintiff promptly notified Defendant KTF Transport, LLC. By way of further answer, as Defendant KTF Transport, LLC, informed Plaintiff at the time, Defendant KTF Transport, LLC, had absolutely nothing to do with the transportation of said air conditioning compressors, was not aware of the same, and therefore bore no responsibility to Plaintiff for the same.

16. Denied. As set forth in paragraph fifteen herein, Defendant KTF Transport, LLC has no responsibility to Plaintiff Apple Core for said air conditioning compressors.

17. Denied. As set forth in paragraph fifteen herein, Defendant KTF Transport, LLC has no responsibility to Plaintiff Apple Core for said air conditioning compressors.

18. Denied. It is denied that Apple Core suffered any loss. By way of further answer, Defendant KTF Transport, LLC, is in no way responsible for any alleged loss by

Plaintiff Apple Core, as there was no agreement, nor contract, of any shipment of said compressors, nor was Defendant KTF Transport, LLC, aware of the same.

**COUNT I: NEGLIGENCE**

19. No responsive pleading is required.

20. Denied. It is specifically denied that Defendant KTF Transport, LLC, had a duty to Plaintiff Apple Core as there was no agreement between Plaintiff Apple Core and Defendant KTF Transport, LLC, for the transportation of the air conditioning compressors.

21. Denied. It is specifically denied that Defendant KTF Transport, LLC, simply by hiring or contracting with S&M is liable for all of S&M's alleged negligence. On the contrary, the only contracting KTF Transport, LLC, did with S&M with respect to Plaintiff, Apple Core, was for the delivering of automotive parts to Blakeslee, Pennsylvania. Any other matters between the parties would be strictly between Defendant S&M and Plaintiff Apple Core and not Defendant KTF Transport, LLC.

22. Paragraph twenty two sets forth an allegation against a Defendant other than KTF Transport, LLC, and no responsive pleading is required by KTF Transport, LLC. By way of further answer, KTF Transport, LLC, made no agreement with either S&M or Plaintiff Apple Core for the transportation of the air compressors.

23. Denied. It is denied that KTF Transport, LLC, is negligent in any manner with respect to S&M, or Plaintiff, and on the contrary, KTF Transport, LLC, contracted with S&M and Plaintiff Apple Core for the hauling of automotive parts to Blakeslee,

Pennsylvania, which were done correctly and no complaints have been received by KTF Transport, LLC, for said transportation.

24. Denied. It is denied that Plaintiff Apple Core suffered any damage as the result of any conduct on the part of KTF Transport, LLC.

WHEREFORE, Defendant KTF Transport, LLC, respectfully requests this Honorable Court to dismiss Plaintiff's Complaint in its entirety against Defendant KTF Transport, LLC.

**COUNT II – BREACH OF CONTRACT**

25. No responsive pleading is required.

26. Denied. It is specifically denied that Plaintiff Apple Core contracted with KTF Transport, LLC, for the transportation of the air conditioning compressors. By way of further answer, Plaintiff Apple Core has failed to include in its Complaint any writing, or contract, or agreement, between Defendant KTF Transport, LLC, and Plaintiff Apple Core for the alleged transportation of the air conditioning compressors.

27. Denied. As is set forth herein, there was never any contract between Plaintiff Apple Core, and Defendant KTF Transport, LLC, therefore, there is no responsibility for the same.

28. Denied. There was no breach between the parties, as there was never a contract between the parties.

29. Denied. It is denied that Plaintiff Apple Core was the intended beneficiary of the contract, as there was no intended beneficiary and there was no contract between the parties.

30. Paragraph thirty of Plaintiff's complaint relates to a Defendant other than Defendant KTF Transport, LLC, and no responsive pleading is required.

31. Denied. It is denied that there were any breaches, as there were no contracts between Defendant KTF Transport, LLC, and Plaintiff Apple Core. Therefore, Plaintiff has suffered no loss as a result of Defendant KTF Transport, LLC.

32. Denied. It is specifically denied that Defendant KTF Transport, LLC, is liable at all to Plaintiff Apple Core.

WHEREFORE, Defendant KTF Transport, LLC, respectfully requests that this Honorable Court dismiss Plaintiff's complaint in its entirety against Defendant KTF Transport, LLC.

33. No responsive pleading is required.

34. No responsive pleading is required.

35. The averments contained in Plaintiffs paragraph thirty-five set forth conclusions of law to which no responsive pleading is required. By way of further answer, as set forth herein, Defendant KTF Transport, LLC, has no liability to Plaintiff Apple Core.

WHEREFORE, Defendant KTF Transport, LLC, requests this Honorable Court to dismiss Plaintiff's complaint in its entirety against Defendant KTF Transport, LLC.

**NEW MATTER**

36. Defendant hereby incorporates paragraphs one through thirty five (35) as if each were set forth hereunder.

37. The only contact in which Defendant KTF Transport, LLC, had with the Plaintiff with respect to the transportation of goods was for the transportation of automotive parts to Blakeslee, Pennsylvania.

38. Defendant KTF Transport, LLC had no other contact with Plaintiff concerning any other transportation, and Defendant was not aware of any "back hauling" of air conditioner compressors between Defendant S&M and Plaintiff.

39. There was never any agreement nor contract, between Defendant KTF Transport, LLC, and Plaintiff for any back hauling or any transportation of any air conditioner compressors.

40. Defendant, KTF Transport, LLC was not aware of any transportation or back hauling of the air conditioner compressors until they arrived in DuBois, Clearfield County, and Plaintiff contacted KTF Transport, LLC.

41. As a consequence, Defendant KTF Transport, LLC, did not contract with, nor even know about, any back hauling or transportation of the air conditioner compressors, Defendant, KTF Transport, LLC, cannot be liable to Plaintiff for any amounts.

WHEREFORE, Defendant, KTF Transport, LLC, respectfully requests this Honorable Court to dismiss Plaintiff's complaint in its entirety.

**COUNTERCLAIM**

42. Defendant hereby incorporates paragraphs one through forty one (41) as if each were set forth hereunder.

43. Defendant, KTF Transport, LLC, is a valid Limited Liability Company existing and organized under the laws of the Commonwealth of Pennsylvania with an address of 1672 Treasure Lake, DuBois, Clearfield County, Pennsylvania.

44. Plaintiff, KEVIN DISANTIS, t/d/b/a/ Apple Core, is believed to be a business operating within the Commonwealth of Pennsylvania with an address of 10 Lincoln Drive, DuBois, Clearfield County, Pennsylvania.

45. As set forth by Plaintiff in his Complaint, Plaintiff contracted with Defendant for the transportation of automotive parts to Blakeslee, Pennsylvania.

46. As part of their agreement, Plaintiff was to pay Defendant for the use of the truck to Blakeslee, Pennsylvania.

47. The cost to Plaintiff for this use was Three Hundred Twenty Five and 00/100 (\$325.00) Dollars. A copy of said invoice is attached hereto and made a part hereof as Exhibit "A".

48. To date, despite repeated requests by Defendant to Plaintiff for the payment of the same, Plaintiff has wholly failed and refused to pay said amount.

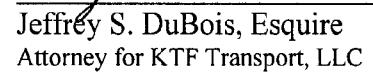
49. As was admitted by Plaintiff in its complaint, the above transportation did take place and the automotive parts were transported to Blakeslee, Pennsylvania.

50. Therefore, because of the fact Defendant complied with the terms of the agreement, Plaintiff owes Defendant the amount pursuant to the agreement, specifically

Three Hundred Twenty Five and 00/100 (\$325.00) Dollars, plus interest and late fees.

WHEREFORE, Defendant, KTF Transport, LLC, respectfully requests this Honorable Court to award judgment in its favor and against Defendant, in an amount of Three Hundred Twenty Five and 00/100 (\$325.00) Dollars, together with interest, costs of suit, and any other relief this Court deems just and equitable.

Respectfully submitted,



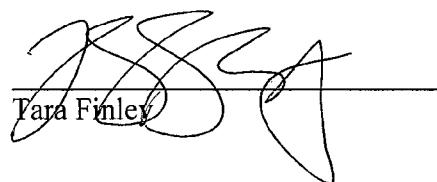
---

Jeffrey S. DuBois, Esquire  
Attorney for KTF Transport, LLC

**VERIFICATION**

I, TARA FINLEY, President of KTF Transportation, LLC, verify that the statements in the foregoing Pleading are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.

  
Tara Finley

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

# Invoice

PAGE 1

Invoice No.  
00000158

Invoice Date  
06/04/04

TAXPAYER ID  
25-1883760

Sold

To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number		Date Ordered	Date Shipped	Ship Via	F.O.B.
Salesperson		Terms		Payment Due	Notes
Item	Ordered	Shipped	Description	Price	Amount
			TRIP TO BLAKESLEE, PA	325.00	325.00
			6/22/03 INTREST	58.50	58.50
			7/22/03 INTREST	58.50	58.50
			8/22/03 INTREST	58.50	58.50
			9/22/03 INTREST	58.50	58.50
			10/22/03 INTREST	58.50	58.50
			11/22/03 INTREST	58.50	58.50
			12/22/03 INTREST	58.50	58.50
			1/22/04 INTREST	58.50	58.50
			2/22/04 INTREST	58.50	58.50
			3/22/04 INTREST	58.50	58.50
			4/22/04 INTREST	58.50	58.50
			5/22/04 INTREST	58.50	58.50

Message

18% INTREST PER M/ LATE CHARGE

SubTotal  
Sales Tax  
Shipping  
TOTAL 1,027.00

EXHIBIT "A"

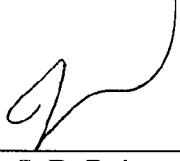
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
:  
Vs. :  
:  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :  
:

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 7<sup>th</sup> day of June, 2004, I served a true and correct  
copy of the within Defendant KTF Transport, LLC, Answer to Plaintiff's Complaint, by  
first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois

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

KEVIN DISANTIS, t/d/b/a  
APPLE CORE, an adult  
individual,  
Plaintiff

-vs-

KTF TRANSPORT, LLC, a  
Pennsylvania Limited  
Liability Company; and  
SCOTT FLECK, t/d/b/a  
S & M LOG TRANSPORTATION,  
an adult individual,  
Defendants

\*

\*

Docket No. 04-445-CD

Type of pleading:  
ANSWER AND NEW MATTER ON  
BEHALF OF SCOTT FLECK,  
t/d/b/a S & M LOG  
TRANSPORT, DEFENDANT

Filed on behalf of:  
DEFENDANT, Scott Fleck,  
t/d/b/a S & M Log  
Transport

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

JUL 20 2004 (red)  
c/ r. r. l. a.  
William A. Shaw  
Prothonotary

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

4 cent to Attn

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

\*  
KEVIN DISANTIS, t/d/b/a \*  
APPLE CORE, an adult \*  
individual, \*  
Plaintiff \*  
  
-vs- \* Docket No. 04-445-CD  
  
KTF TRANSPORT, LLC, a \*  
Pennsylvania Limited \*  
Liability Company; and \*  
SCOTT FLECK, t/d/b/a \*  
S & M LOG TRANSPORTATION, \*  
an adult individual, \*  
Defendants \*

NOTICE TO PLAINTIFF KEVIN DISANTIS, t/d/b/a APPLE CORE  
AND TO DEFENDANT KTF TRANSPORT, LLC

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE  
ENCLOSED ANSWER AND NEW MATTER WITHIN TWENTY (20) DAYS FROM  
SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

Dwight L. Koerber, Jr.,  
Esquire  
Attorney for Defendant,  
Scott Fleck, t/d/b/a S & M  
Log Transport

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

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

\*

KEVIN DISANTIS, t/d/b/a	*
APPLE CORE, an adult	*
individual,	
Plaintiff	*
 -vs-	
	*
	Docket No. 04-445-CD
KTF TRANSPORT, LLC, a	*
Pennsylvania Limited	*
Liability Company; and	*
SCOTT FLECK, t/d/b/a	*
S & M LOG TRANSPORTATION,	*
an adult individual,	
Defendants	*

ANSWER AND NEW MATTER ON BEHALF OF  
SCOTT FLECK, t/d/b/a S & M LOG TRANSPORT, DEFENDANT

COMES NOW, Scott Fleck, t/d/b/a S & M Log Transport (not Transportation as shown in the caption) (referred to hereinafter as "S & M"), and files the within Answer and New Matter in support of his position in opposition to the Complaint filed herein.

1. Admitted.
2. Admitted in part, with the understanding that S & M acknowledges that KTF Transport is a defendant, but does not know, and therefore cannot admit, whether it is an LLC, and likewise what its principal place of business might be.
3. Admitted in part and denied in part. The information alleged is correct with the exception of the county involved, as S & M is located in Elk County, not Jefferson County, Pennsylvania.

4. N/A.

5. Admitted.

6. Admitted in part and denied in part. While it is admitted that KTF is engaged in the transportation business, S & M does not know what its primary business activity is and requires strict proof of same at trial.

7. Admitted.

8. Admitted in part and denied in part. While the date and some of the information alleged appears to be correct, S & M cannot confirm the full details of the exact number of air conditioning compressors transported, nor the other details alleged. Accordingly, strict proof of same is required at trial. See New Matter.

9. Legal conclusion. No answer required.

10. Upon reasonable investigation, S & M is unable to determine the exact details of the transaction that occurred herein, and requires strict proof of same at trial. See New Matter.

11. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

12. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore

denies them. Strict proof of same is required at trial. See New Matter.

13. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

14. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

15. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

16. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

17. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

18. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore

denies them. Strict proof of same is required at trial. See New Matter.

**COUNT I: NEGLIGENCE**

19. No answer required.
20. Denied, legal conclusion. See New Matter.
21. Denied, legal conclusion. See New Matter.
- 22(a) - (d). Denied, legal conclusion. See New Matter.
23. Denied, legal conclusion. See New Matter.
24. Denied, legal conclusion. See New Matter.

WHEREFORE, Defendant Scott Fleck, t/d/b/a S & M Log Transport, denies the claim filed herein, and requests that judgment be entered in his favor and against the plaintiff.

**COUNT II: BREACH OF CONTRACT**

25. No answer required.

26. Upon reasonable investigation, S & M is unable to determine the truth of the allegations set forth, and therefore denies them. Strict proof of same is required at trial. See New Matter.

27. Denied, legal conclusion. See New Matter.
28. Denied, legal conclusion. See New Matter.
29. Denied, legal conclusion. See New Matter.
30. Denied, legal conclusion. See New Matter.
31. Denied, legal conclusion. See New Matter.
32. Denied, legal conclusion. See New Matter.

WHEREFORE, Defendant Scott Fleck, t/d/b/a S & M Log Transport, denies the claim filed herein, and requests that judgment be entered in his favor and against the plaintiff.

33. Legal conclusion. No answer required.

34. Legal conclusion. No answer required.

35. Legal conclusion. No answer required.

WHEREFORE, Defendant Scott Fleck, t/d/b/a S & M Log Transport, denies the claim filed herein, and requests that judgment be entered in his favor and against the plaintiff.

NEW MATTER

In further support of his position herein, S & M offers the following New Matter.

36. For the transportation arrangement that involves this claim, the transportation services were arranged for and contracted directly between plaintiff and Defendant KTF Transport, LLC. S & M played no role in contracting for those transportation services nor in overseeing the transportation services.

37. If in fact there is any theoretical liability against S & M Log Transport, that liability is negated by the fact that a clean delivery receipt was signed upon delivery of the shipment in question. Attached hereto as Exhibit A is a true and correct copy of the delivery receipt.

38. For any claim that might be due and owing, because of the

alleged damage that occurred, the transportation services rendered were not rendered through the oversight, control or direction of S & M, and for that reason, S & M has no liability for the claim.

39. In further support of his position, S & M attaches hereto as Exhibit B a true and correct copy of the freight bill furnished by KTF to Apple Core. This invoice confirms the fact that the parties acknowledged that there is a direct shipper/carrier relationship between themselves, independent of S & M.

40. Overall, if there is any liability, or if there is any wrongdoing on behalf of an entity as the motor carrier, that wrongdoing exists solely through Defendant KTF, and not through S & M.

WHEREFORE, Scott Fleck, t/d/b/a S & M Log Transport, prays that judgment be entered in its favor and against the plaintiff.

NEW MATTER PURSUANT TO Pa.R.C.P. 2252(d)

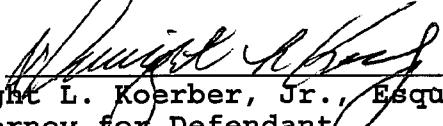
41. Without admitting or denying the averments set forth in the Complaint herein, and solely for the purposes of this cross claim, S & M hereby incorporates the portions of the plaintiff's Complaint that are directed to Defendant KTF.

42. It is S & M's position that if it should be determined at trial that plaintiff is entitled to recover, that the sole party that is liable to plaintiff is Defendant KTF, and if any liability is entered against S & M, KTF is liable over to S & M for payment

of liability by way of indemnity or contribution.

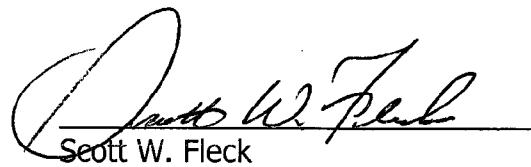
WHEREFORE, Defendant Scott Fleck, t/d/b/a S & M Log Transport, prays that its cross claim against Defendant KTF be granted, and that KTF alone be liable for all judgments, costs and claims that are entered in this matter.

Respectfully submitted,

By:   
Dwight L. Koerber, Jr., Esquire  
Attorney for Defendant,  
SCOTT FLECK, t/d/b/a S & M  
LOG TRANSPORT

## **VERIFICATION**

I certify that the statements made in the foregoing document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



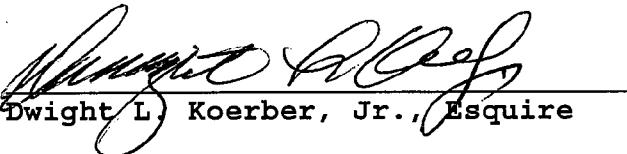
Scott W. Fleck

CERTIFICATE OF SERVICE

I certify that on this 20th day of July, 2004, a copy of the foregoing pleading was served by United States First Class Mail upon the following:

Theron G. Noble, Esquire  
FERRARACCIO & NOBLE  
301 East Pine Street  
Clearfield, PA 16830

KTF TRANSPORT, LLC  
1672 Treasure Lake  
DuBois, PA 15801



Dwight L. Koerber, Jr., Esquire

EXHIBIT A

Attached hereto is a true and correct copy of the clean delivery receipt signed by plaintiff.

RECEIVED, subject to the classifications and tariffs in effect on the date of the receipt by the carrier of the property described in the Original Bill of Lading,

at North East Co. - Camp from St. Louis, Mo.  
 the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown) marked, consigned and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possess of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own railroad, water line, highway route or routes, or within the territory of its highway operations, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each car or all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, (including the conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.)

(Mail or street address of consignee—For purposes of notification only.)

Consigned to Apple CorpDestination Falls Creek Street City State of \_\_\_\_\_ Zip Code \_\_\_\_\_ County of \_\_\_\_\_Delivering  
CarrierVehicle  
or Car Initial \_\_\_\_\_ No. \_\_\_\_\_

Routing: \_\_\_\_\_

Collect On Delivery

\$ \_\_\_\_\_ and remit to: \_\_\_\_\_

C. O. D. charge  
to be paid by { Shipper  
Consignee

Subject to Section 7 of conditions  
this shipment is to be delivered to  
consignee without recourse on the  
consignor, the consignor shall sign the  
following statements:

The carrier shall not make delivery  
of this shipment without payment of freight  
and all other lawful charges.

(Signature of Consignor.)

If charges are to be prepaid, write  
stamp here, "TO BE PREPAID."

Received \$ \_\_\_\_\_ to apply to  
prepayment of the charges on this  
property described hereon.

Agent or Cashier

Per \_\_\_\_\_  
(The signature here acknowledges only  
the amount prepaid.)

Charges Advanced: \$ \_\_\_\_\_

No. Packages	Description of Articles, Special Marks, and Exceptions	"Weight" (Sub. to Car.)	Class or Rate	Check Column
1	<u>Shirt - All plus</u>	<u>1000 lbs</u>		

\*If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier or shipper's weight." NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby  
specifically stated by the shipper to be not exceeding

Shipper, Per \_\_\_\_\_

Agent, Per \_\_\_\_\_

Permanent post-office address of shipper,

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

*Rud. Burns & Son 5-16-03*

EXHIBIT B

Attached hereto is a true and correct copy of the invoice presented by Defendant KTF to plaintiff.

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

Sold  
To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	05/22/03	05/22/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	05/22/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA RETURN TRIP TO FALLS CREEK	325.00 100.00	325.00 100.00

Message

SubTotal  
Sales Tax  
Shipping  
TOTAL 425.00

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
Docket No. 04-445-CD

KEVIN DISANTIS, t/d/b/a APPLE  
CORE, an adult individual,  
Plaintiff

-vs-

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and  
SCOTT FLECK, t/d/b/a S & M LOG  
TRANSPORTATION, an adult  
individual,  
Defendants

ANSWER AND NEW MATTER ON BEHALF OF  
SCOTT FLECK, t/d/b/a S & M LOG  
TRANSPORTATION, DEFENDANT

LAW OFFICE  
DWIGHT KOERBER, JR.  
ATTORNEY-AT-LAW  
110 NORTH SECOND STREET  
P. O. BOX 1320  
CLEARFIELD, PENNSYLVANIA 16830

FILED

JUL 20 2004

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

No. 04- 445 -CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company; and SCOTT FLECK, t/d/b/a  
S&M Log Transportation, an adult individual,

DEFENDANTS.

Type of Pleading:

PLAINTIFF'S REPLY TO NEW  
MATTER OF DEFENDANT  
SCOTT FLECK, t/d/b/a S&M LOG  
TRANSPORT

Filed By:  
Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

**FILED**  
in 12:09 AM NOCC  
b4 SEP 09 2004

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )

**PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT**  
**SCOTT FLECK, t/d/b/a S&M LOG TRANSPORT**

**AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, who avers as follows in support of its REPLY TO NEW MATTER of Defendant Scott Fleck, t/d/b/a S&M Log Transport, hereinafter "S&M", as follows:**

36. Admitted in part, Denied in part. It is ADMITTED that Plaintiff and Defendant KTF Transport entered into a contract concerning transportation services. After reasonable investigation, it can not either be admitted or denied that Defendant S&M played no role in that contract and did not oversee the transportation services. Strict proof of the same is demanded at time of trial.
37. The same is a legal conclusion for which no response is necessary. By way of further response, Exhibit "A" demonstrates nothing more that the delivery was completed, not that the goods arrived in "clean" condition. Strict proof of the same is demanded at time of trial.
38. Denied. After reasonable investigation, it can neither be admitted or denied that Defendant S&M had no oversight, control or direction as to this matter, as such the same is DENIED. Strict proof of the same is demanded at time of trial.
39. Admitted in part, denied in part. It is admitted that Exhibit "B" is a true and correct copy of the invoice submitted to Plaintiff by Defendant KTF Transport, LLC. As to the relationship between the parties, the same is a legal conclusion for which no response is deemed necessary. To the extent such a response might be deemed necessary, Plaintiff hereby incorporates his response to averment 37 as being responsive hereto.

40. The same is a legal conclusion for which no response is necessary.

**WHEREFORE, Plaintiff requests judgment in his favor and against Defendant Scott Fleck, t/d/b/a S&M Log Transport as per his CIVIL COMPLAINT.**

41 - 42. Said averments are directed to another party, as such, no response is deemed necessary.

**WHEREFORE, Plaintiff requests judgment in his favor and against Defendants as per his CIVIL COMPLAINT.**

Respectfully Submitted,

---

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

)  
KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;  
)  
PLAINTIFF,  
)  
v.  
KTF TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;  
and SCOTT FLECK, t/d/b/a S&M Log Transport,  
an adult individual.  
)  
No. 04- 445 -CD  
)  
)  
)  
)

**VERIFICATION**

I, Kevin DiSantis, t/d/b/a Apple Core, Plaintiff, does hereby swear and affirm that I have read the foregoing and attached REPLY TO NEW MATTER in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 30<sup>th</sup> day of July, 2004.

  
\_\_\_\_\_  
Kevin DiSantis, Plaintiff

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
)

No. 04- 445 -CD

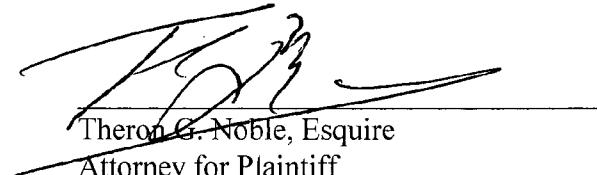
**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
8th day of September, 2004, mail a true and correct copy of  
Plaintiff's RESPONSIVE PLEADING to DEFENDANT SCOTT FLECK's, t/d/b/a S&M  
Log Transport NEW MATTER to the below listed individuals, being all counsels of  
record, via United States Mail, first class, postage pre-paid, as follows:

Dwight L. Koerber, Jr., Esquire  
P.O. Box 1320  
Clearfield, PA 16830

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF, :  
v. : No. 04- 445 -CD

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company; and SCOTT FLECK, t/d/b/a  
S&M Log Transportation, an adult individual,

DEFENDANTS. :

Type of Pleading:

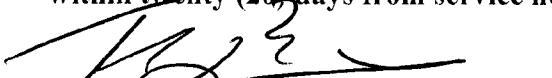
**PLAINTIFF'S REPLY TO NEW  
MATTER OF DEFENDANT  
KTF TRANSPORT, LLC**

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

**To: Defendant KTF Transport, LLC**

**You are hereby notified to file a written response to the enclosed Additional New Matter  
within twenty (20) days from service hereof or a judgment may be entered against you.**

  
\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff

EGK  
**FILED**  
M 10/09 8A NO EC

SEP 09 2004

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
)

) No. 04- 445 -CD

**PLAINTIFF'S ANSWER TO COUNTER-CLAIM, REPLY TO NEW MATTER  
OF DEFENDANT KTF TRANSPORT, LLC and PLAINTIFF'S NEW MATTER**

**AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, who avers as follows in support of its ANSWER TO COUNTER-CLAIM and REPLY TO NEW MATTER of Defendant KTF TRANSPORT, LLC, hereinafter "KTF", as follows:**

Reply to New Matter

36. Plaintiff hereby incorporates his pleadings of averments 1 - 35 as if again fully set forth at length.
37. Denied. Said defendant also agreed to haul from Blakeslee, Pennsylvania the air compressors discussed in Plaintiff's civil complaint. Strict proof of the same is demanded at time of trial. Plaintiff has hereto attached as Exhibit "A", a true and correct copy of the invoice submitted by said Defendant to Plaintiff which clearly includes a billing charge for such "back hauling".
38. Denied. For the reasons set forth in response to averment 37, as well as those set forth in Plaintiff's CIVIL COMPLAINT, the same is DENIED and strict proof is demanded at time of trial.
39. Denied. For the reasons set forth in response to averment 37, as well as those set forth in Plaintiff's CIVIL COMPLAINT, the same is DENIED and strict proof is demanded at time of trial.
40. Denied. For the reasons set forth in response to averment 37, as well as those set

forth in Plaintiff's CIVIL COMPLAINT, the same is DENIED and strict proof is demanded at time of trial.

41. Denied. For the reasons set forth in response to averment 37, as well as those set forth in Plaintiff's CIVIL COMPLAINT, the same is DENIED and strict proof is demanded at time of trial.

WHEREFORE, Plaintiff requests judgment in his favor as requested in his civil complaint.

Answer to Counter-Claim

42. Plaintiff hereby incorporates his pleadings of averments 1 - 35, as well as his Reply to New Matter, as if again fully set forth at length.

43. After reasonable investigation, the same can not be admitted nor denied and strict proof is demanded at time of trial.

44. Admitted.

45. Admitted in part, Denied in part. It is admitted that Plaintiff and Defendant contracted for transportation of certain automotive parts, but in addition to those delivered to Blakeslee, Pennsylvania, also included was delivery for other parts back to DuBois from Blakeslee.

46. Denied. It is DENIED that Plaintiff was to pay for "use of the truck" but was to pay for transportation of the items in a safe and prudent manner, and is reflected in Defendant's invoice and a bill of lading as compared with a lease. Strict proof of the same is demanded at time of trial.

47. Denied. Defendant invoiced Plaintiff the agreed upon sum of \$425, which included a \$100 "back hauling" fee. (see Exhibit "A") It is fraudulent and perjurious for Defendant to suggest that the invoice attached to its New Matter and Counter-Claim is a true and correct copy of the invoice issued to Plaintiff. Strict proof of the same is demanded at time of trial.

48. Admitted. By way of further response, for the reasons set forth in Plaintiff's Civil Complaint, the same is not owed by Plaintiff to Defendant.

49. Admitted.

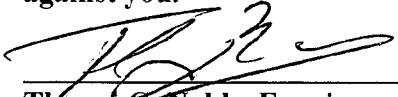
50. For the reasons herein set forth as well as those contained in Plaintiff's Civil Complaint, the same is DENIED and strict proof is demanded at time of trial.

**WHEREFORE, Plaintiff requests judgment in his favor and against this Defendant as per his CIVIL COMPLAINT.**

Additional New Matter

**To: Defendant KTF Transport, LLC**

**You are hereby notified to file a written response to the enclosed Additional New Matter within twenty (20) days from service hereof or a judgment may be entered against you.**



**Theron G. Noble, Esquire  
Attorney for Plaintiff**

51. That the driver of the Defendant's truck, Russ Butson, was hired by this Defendant to drive to Blakeslee, Pennsylvania on May 16, 2003.
52. That the invoice attached hereto is a true and accurate copy of the invoice actually issued to Plaintiff by this Defendant for services provided on May 16, 2003.
53. That included in the contract between Plaintiff and this Defendant was that reasonable care would be provided for those goods hauled by the Defendant.
54. That for the reasons set forth in Plaintiff's CIVIL COMPLAINT, reasonable care was not used, the goods suffered damage and this Defendant breached the agreement with Plaintiff.

**WHEREFORE, Plaintiff requests judgment in his favor and against Defendant KTF Transport, LLC as per his CIVIL COMPLAINT.**

Respectfully Submitted,



**Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942**

TF Transport LLC.

572

reasure Lake

uBois, PA 15801

SA

314)372-2266 FX:(814)372-0909

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID

25-1883760

Sold

To: **APPLE CORE**  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	05/22/03	05/22/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	05/22/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA 1 RETURN TRIP TO FALLS CREEK	325.00 100.00	325.00 100.00

Exhibit "A"

Message

SubTotal  
Sales Tax  
Shipping  
**TOTAL** 425.00

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

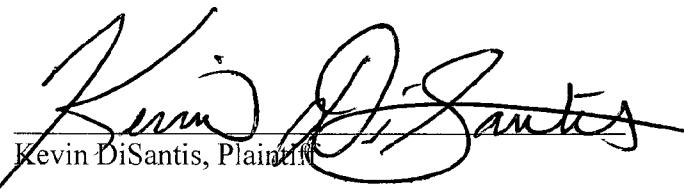
)  
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
 )  
PLAINTIFF, )  
 )  
 )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
 )

No. 04- 445 -CD

**VERIFICATION**

I, Kevin DiSantis t/d/b/a Apple Core, Plaintiff, does hereby swear and affirm that I have read the foregoing and attached RESPONSIVE PLEADING in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 31 day of August, 2004.

  
\_\_\_\_\_  
Kevin DiSantis, Plaintiff

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
)

No. 04- 445 -CD

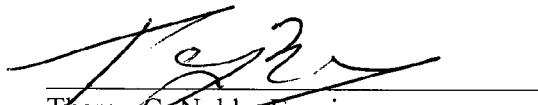
**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
8<sup>th</sup> day of September, 2004, mail a true and correct copy of  
Plaintiff's RESPONSIVE PLEADING to DEFENDANT's KTF Transport, LLC's  
pleadings to the below listed individuals, being all counsels of record, via United States  
Mail, first class, postage pre-paid, as follows:

Dwight L. Koerber, Jr., Esquire  
P.O. Box 1320  
Clearfield, PA 16830

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

445  
KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-455-CD  
Plaintiff : Type of Pleading:  
Vs. : PRELIMINARY OBJECTIONS  
KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

FILED 3cc  
01/22/04 Atty DuBois  
OCT 20 2004  
B64  
William A. Shaw  
Prothonotary/Clerk of Courts

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

## ORDER

AND NOW, this 15 day of November, 2004, in consideration of Defendant, KTF Transport, LLC's, Preliminary Objections,

IT IS HEREBY ORDERED AND DECREED that a hearing be scheduled for December 14, 2004, at 9:00 o'clock A.m. at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

FILED 2010  
03:42 PM 30 Oct 2010  
NOV 15 2004

## WHITE & GLOVER

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

KEVIN DISANTIS, t/d/b/a Apple Core,	:	No. 04-455-CD
an adult individual,	:	
Plaintiff	:	
	:	
Vs.	:	
	:	
KTF TRANSPORT, LLC, a Pennsylvania	:	
Limited Liability Company; and SCOTT	:	
FLECK, t/d/b/a S&M LOG Transportation	:	
an adult individual,	:	
Defendants	:	

**PRELIMINARY OBJECTIONS**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its attorney, Jeffrey S. DuBois, Esquire, who files this Preliminary Objections to Plaintiff's Additional New Matter and in support thereof avers the following:

**I. FAILURE OF PLEADING TO CONFORM TO LAW**

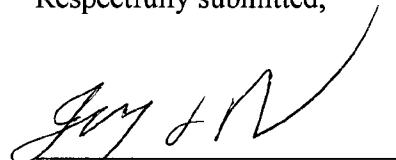
1. In the above captioned matter, Defendant filed an Answer and New Matter and Counterclaim to Plaintiff's Complaint.
2. In response, Plaintiff filed a Responsive Pleading, including paragraphs 51 through 54 of Plaintiff's Response which Plaintiff titled "Additional New Matter".
3. Under Pennsylvania Rules of Civil Procedure, specifically rule 1030, a Pleading of New Matter is designed to be set forth by a Defendant and for said Defendant

to assert affirmative defenses or other similar defenses during a pleading stage to avoid an unnecessary Trial.

4. As such, the New Matter is designed to be responded by Defendant to a Complaint from a Plaintiff. There is no rule setting forth or allowing an “Additional New Matter”, especially one filed by a Plaintiff.

5. Consequently, Plaintiff’s “Additional New Matter” does not conform to the law and paragraphs 51 through 54 of Plaintiff’s Response should be stricken.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for KTF Transport, LLC

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

KEVIN DISANTIS, t/d/b/a Apple Core, an adult individual,	:	No. 04-455-CD
	:	
Plaintiff	:	
	:	
Vs.	:	
	:	
KTF TRANSPORT, LLC, a Pennsylvania Limited Liability Company; and SCOTT FLECK, t/d/b/a S&M LOG Transportation an adult individual,	:	
	:	
Defendants	:	
	:	

## **CERTIFICATE OF SERVICE**

I do hereby certify that on the 20<sup>th</sup> day of October, 2004, I served a true and correct copy of the within Preliminary Objections, by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830

  
Jeffrey S. DuBois

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

445

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-455-CD  
Plaintiff : Type of Pleading:  
Vs. : **MOTION FOR CONTINUANCE**  
KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

FILED

NOV 30 2004  
o/12:00/11  
William A. Shaw  
Prothonotary/Clerk of Courts

3 cmto to ATT

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
Vs. :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :

ORDER

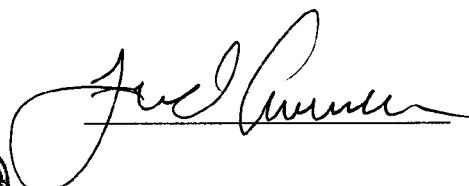
*December*

AND NOW, this 6<sup>th</sup> day of November, 2004, in consideration of Defendant,

KTF Transport, LLC's, Motion for Continuance,

IT IS HEREBY ORDERED AND DECREED that the hearing on Preliminary  
Objections be rescheduled for the 12 day of January, 2005, at 9:00 o'clock  
A.M. at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



**FILED**

6307 BA 300 *6/1/05*  
*Sub JAS*

DEC 06 2004

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
Vs. :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :

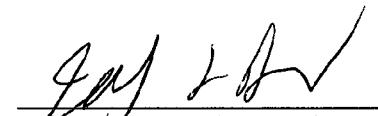
**MOTION FOR CONTINUANCE**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its attorney, Jeffrey S. DuBois, Esquire, who files this Motion for Continuance and in support thereof avers the following:

1. There is a Hearing scheduled for December 16, 2004, at 9:00 a.m. on Defendant's Preliminary Objections.
2. The undersigned has already been scheduled to appear in Jefferson County Court that same date and time.
3. It is in Defendant's best interest to have representation at said Hearing.
4. Therefore, Defendant's request this Hearing be rescheduled to another date and time.

WHEREFORE, Defendant's respectfully request this Honorable Court to  
continue the Hearing on Preliminary Objections to another date and time.

Respectfully submitted,



Jeffrey S. DuBois, Esquire  
Attorney for KTF Transport, LLC

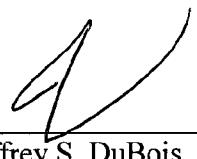
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a Apple Core,	:	No. 04-455-CD
an adult individual,	:	
	Plaintiff	:
Vs.	:	
KTF TRANSPORT, LLC, a Pennsylvania	:	
Limited Liability Company; and SCOTT	:	
FLECK, t/d/b/a S&M LOG Transportation	:	
an adult individual,	:	
	Defendants	:

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 30<sup>th</sup> day of November, 2004, I served a true and correct copy of the within Preliminary Objections, by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

: No. 04- 445 -CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company; and SCOTT FLECK, t/d/b/a  
S&M Log Transportation, an adult individual,

DEFENDANTS.

: Type of Pleading:

**PLAINTIFF'S PRAECIPE  
TO DISCONTINUE  
(only as to Defendant Fleck)**

: Filed By:

Plaintiff

: Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble  
: 301 East Pine Street  
: Clearfield, PA 16830  
: (814)-375-2221  
: PA I.D.#: 55942

6/2 m 11/18/04 FILED 10 CC  
DEC 27 2004 Copy to CIA

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
)

No. 04- 445 -CD

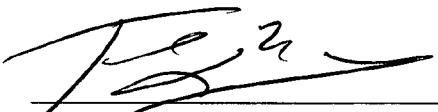
**PRAECIPE TO DISCONTINUE**  
**(only as to Defendant Fleck)**

To: William A. Shaw, Prothonotary

Date: December 23, 2004

Only as to Defendant Scott Fleck, t/d/b/a S&M Log Transport, please mark the above captioned case, settled, ended and forever DISCONTINUED.

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
)

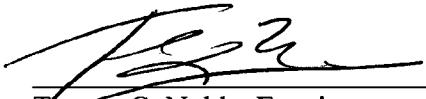
) No. 04- 445 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
23rd day of December, 2004, mail a true and correct copy of  
Plaintiff's PRAECIPE TO DISCONTINUE (only ad to Defendant Fleck) to the below  
listed individual, being said defendant's counsel of record, via United States Mail, first  
class, postage pre-paid, as follows:

Dwight L. Koerber, Jr., Esquire  
P.O. Box 1320  
Clearfield, PA 16830

Respectfully Submitted,



---

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

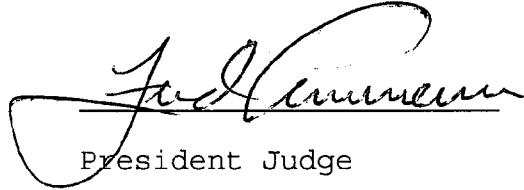
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a :  
APPLE CORE :  
VS. : NO. 04-445-CD  
KTF TRANSPORT, LLC, a :  
Pennsylvania Limited Liability :  
Company, and SCOTT FLECK, :  
t/d/b/a S&M LOG TRANSPORTATION :

O R D E R

NOW, this 12th day of January, 2005, following argument on the Preliminary Objections filed on behalf of KTF Transport, LLC, it is the ORDER of this Court that said Preliminary Objections be and are hereby dismissed.

BY THE COURT:

  
President Judge

FILED  
6P 0 9:55 AM 300 ft off  
Dubois

JAN 13 2005

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-455-CD <sup>445</sup>  
Plaintiff : Type of Pleading:  
Vs. : **DEFENDANT KTF TRANSPORT**  
: **LLC'S REPLY TO PLAINTIFFS**  
: **ADDITIONAL NEW MATTER**  
KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

82  
FILED  
M 11-28-05  
FEB 02 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, an adult individual,	:	No. 04-455-CD
Plaintiff	:	
Vs.	:	
KTF TRANSPORT, LLC, a Pennsylvania Limited Liability Company; and SCOTT FLECK, t/d/b/a S&M LOG Transportation an adult individual,	:	
Defendants	:	

**DEFENDANT KTF TRANSPORT LLC**  
**REPLY TO PLAINTIFF'S ADDITIONAL NEW MATTER**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its attorney, Jeffrey S. DuBois, Esquire, who files this Reply to Plaintiff's Additional New Matter and in support thereof avers the following:

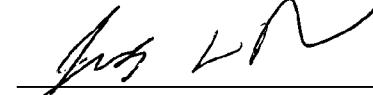
51. Admitted. By way of further answer, the transportation to Blakeslee, Pennsylvania, was the only part of the agreement of the parties.
52. Denied. It is denied that the invoice attached to Plaintiff's Additional new Matter is the correct invoice issued to Plaintiff, and on the contrary, the correct invoice is set forth in Defendant's Answer and New Matter, and Counterclaim.
53. Denied. It is denied that any such terms as reasonable care exist, and further, Plaintiff has failed to show any contract between Plaintiff and Defendant that sets forth the duties of the parties in this particular case. By way of further answer, as set forth in Defendants invoice, the only obligations that Defendant had would be to transport to

Blakeslee, Pennsylvania. There is no obligation, nor agreement for a return trip of goods, and more importantly, there is no duty nor obligation upon Defendant for any removal of any goods, or the transporting of the goods from the truck to any final destination. By way of further answer, any damage to the goods, which Defendant claims there are none, would have been due to the negligence of Plaintiff and not Defendant.

54. Denied. See answer to paragraph 53 herein. As set forth above, if there was any damage suffered to goods, it would have been because of the negligence of Plaintiff in the removal of the same in transporting said goods to their final destination.

WHEREFORE, Defendant KTF Transport, LLC, respectfully requests this Honorable Court to dismiss Plaintiff's Complaint in its entirety and award judgment in favor of Defendant KTF Transport, LLC, in an amount as set forth in their Counterclaim.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendant

**VERIFICATION**

I, JEFFREY S. DUBOIS, Esquire, verify that the statements in the foregoing Defendants Reply to Plaintiff's Additional New Matter are true and correct to the best of my knowledge, information and belief. The undersigned is in possession of this information based on conversations with and representation of Defendant. Defendant is currently unavailable and a signed verification by Defendant will be submitted as soon as Defendant is in contact with the undersigned.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendant

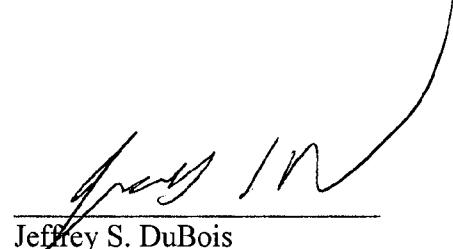
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a Apple Core,	:	No. 04-455-CD
an adult individual,	:	
Plaintiff	:	
	:	
Vs.	:	
	:	
KTF TRANSPORT, LLC, a Pennsylvania	:	
Limited Liability Company; and SCOTT	:	
FLECK, t/d/b/a S&M LOG Transportation	:	
an adult individual,	:	
Defendants	:	

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 15 day of February, 2005, I served a true and correct copy of the within Defendant KTF Transport, LLC, Reply to Plaintiff's Additional New Matter, by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830

  
\_\_\_\_\_  
Jeffrey S. DuBois

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**PRAECIPE TO LIST FOR ARBITRATION**

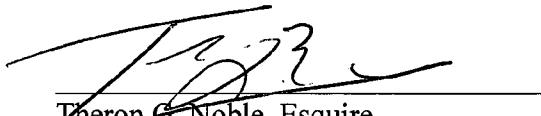
To: Clearfield County Prothonotary

Date: February 24, 2005

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that in the above captioned matter, (i) pleadings are closed; (ii) there is no outstanding discovery requests; and (iii) attempts to amicably resolve this matter have failed or would be non-productive.

Therefore, request is hereby made that the same be placed on the arbitration list.

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

**FILED**

FEB 25 2005  
m/14/05  
William A. Shaw  
Prothonotary/Clerk of Courts

No Cents  
COPY TO C/P

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
24th day of February, 2005, mail a true and correct copy of  
Plaintiff's PRAECIPE TO LIST FOR ARBITRATION to the below listed individual,  
being all counsel of record, via United States Mail, first class, postage pre-paid, as  
follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, an individual :  
vs. : No. 04-445-CD  
KTF TRANSPORT, LLC, a duly and existing Pennsylvania Limited Liability Company :

FILED 5cc  
12:13pm CIA  
JUN 20 2005 20

William A. Shaw  
Prothonotary/Clerk of Courts

ORDER

NOW, this 20th day of June, 2005, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on Tuesday, August 16, 2005 at 9:00 A.M. in the Conference/Hearing Room No. 3, 2<sup>nd</sup> Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

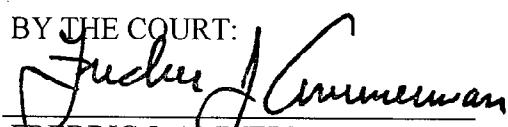
Richard A. Bell, Esquire, Chairman

Ronald L. Collins, Esquire

Kimberly M. Kubista, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Kevin Disantis, t/d/b/a Apple Core  
vs.

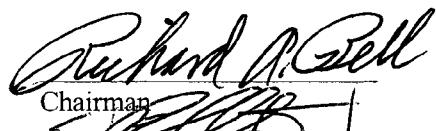
No. 2004-00445-CD

KTF Transport, LLC, a Pennsylvania Limited Liability  
Company; and Scott Fleck; t/d/b/a S & M Log Transportation

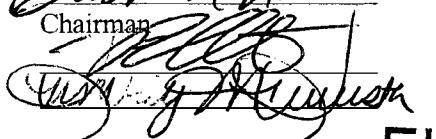
**OATH OR AFFIRMATION OF ARBITRATORS**

Now, this 16th day of August, 2005, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Richard A. Bell, Esq.

  
Richard A. Bell  
Chairman

Ronald L. Collins, Esq.

  
Ronald L. Collins

Kimberly M. Kubista, Esq.

  
Kimberly M. Kubista

Sworn to and subscribed before me this  
August 16, 2005

  
Prothonotary

**FILED** Notice to  
0121400 Augs:  
Noble  
AUG 16 2005 Dubois

  
William A. Shaw  
Prothonotary/Clerk of Courts

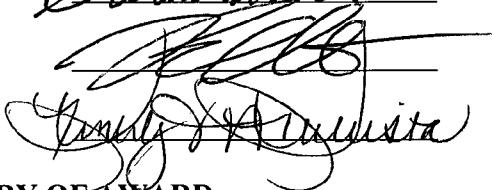
**AWARD OF ARBITRATORS**

Now, this 16 day of Aug., 2005, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

Award to Plaintiff \$5562.00

Award to Defendant on Counterclaim \$425.00

  
Richard A. Bell Chairman

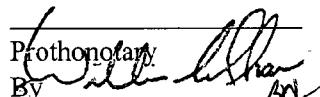
  
Kimberly M. Kubista

(Continue if needed on reverse.)

**ENTRY OF AWARD**

Now, this 16<sup>th</sup> day of August, 2005, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

**WITNESS MY HAND AND THE SEAL OF THE COURT**

  
Prothonotary  
By William A. Shaw

Kevin Disantis, t/d/b/a  
Apple Core

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2004-00445-CD

KTF Transport, LLC

 COPY

NOTICE OF AWARD

TO: THERON NOBLE, ESQ.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 16, 2005 and have awarded:

Award to Plaintiff \$5,562.00 Award to Defendant on Counterclaim \$425.00

William A. Shaw

Prothonotary

By \_\_\_\_\_

August 16, 2005

Date

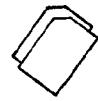
In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

Kevin Disantis, t/d/b/a  
Apple Core

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.  
KTF Transport, LLC

: No. 2004-00445-CD

 COPY

NOTICE OF AWARD

TO: JEFFREY S. DUBOIS

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 16, 2005 and have awarded:

Award to Plaintiff \$5,562.00 Award to Defendant on Counterclaim \$425.00

William A. Shaw

Prothonotary

By \_\_\_\_\_

August 16, 2005

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF, :  
v. : No. 04- 445 -CD

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT. :

Type of Pleading:

**PLAINTIFF'S PRAECIPE TO  
ENTER JUDGMENT**

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

FILED Atty pd. 20.00  
3/24/05  
SEP 29 2005 No CC

William A. Shaw  
Prothonotary/Clerk of Court  
Notice to Def  
(Amy Dubois)  
Statement  
to Atty  
6x

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) ) No. 04- 445 -CD  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
Defendant. )

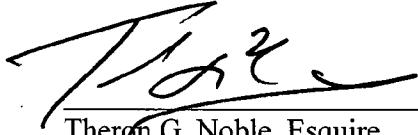
**PRAECIPE TO ENTER JUDGMENT**

To: Clearfield County Prothonotary

Date: September 28, 2005

Pursuant to the award of arbitrators, noting that no appeal has been entered and more than thirty (30) days have passed, please enter judgment, in the amount of \$5,137.00, plus interest and costs of record, in favor of Plaintiff and against defendant KTF Transport, LLC.

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

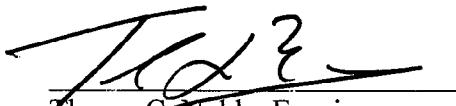
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
28th day of September, 2005, mail a true and correct copy of Plaintiff's  
PRAECIPE TO ENTER JUDGMENT to the below listed individual, being all counsel of  
record, via United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
STATEMENT OF JUDGMENT

 COPY

Kevin Disantis  
Apple Core  
Plaintiff(s)

No.: 2004-00445-CD

Real Debt: \$5,137.00

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

KTF Transport, LLC  
Scott Fleck  
S & M Log Transportation  
Defendant(s)

Entry: \$20.00

Instrument: Judgment on Arbitrators' Award  
against KTF Transport, LLC ONLY

Date of Entry: September 29, 2005

Expires: September 29, 2010

Certified from the record this 29th day of September, 2005.

---

William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment,  
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

---

Plaintiff/Attorney

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

Kevin Disantis, t/d/b/a Apple Core

Vs.

No. 2004-00445-CD

KTF Transport, LLC, Scott Fleck,  
S & M Log Transportation

To: Defendant KTF Transport, LLC ONLY

NOTICE is given that a JUDGMENT in the above captioned matter has been entered  
against you in the amount of \$5,137.00 on September 29, 2005.

William A. Shaw  
Prothonotary

---

William A. Shaw

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

: No. 04- 445 -CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

Type of Pleading:

**PLAINTIFF'S NOTICE OF SERVICE**

: Filed By:  
Plaintiff  
: Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble  
: 301 East Pine Street  
Clearfield, PA 16830  
: (814)-375-2221  
PA I.D.#: 55942

FILED NO  
M124951  
SEP 29 2005  
WM

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

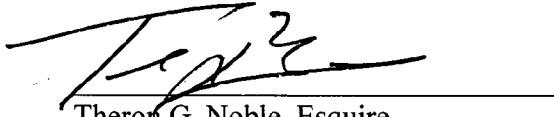
**NOTICE OF SERVICE**

To: William A. Shaw, Prothonotary

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
28th day of September, 2005, propound on Defendant Plaintiff's FIRST  
DISCOVERY MATERIALS IN AID OF EXECUTION to the below listed individual,  
being defendant's counsel of record, via United States Mail, first class, postage pre-paid,  
as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

No. 04-445-CD

Type of Pleading:

**MOTION TO COMPEL AND FOR  
SANCTIONS**

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

FILED

NOV 15 2005

11:20 AM

William A. Shaw

Prothonotary/Clerk of Courts

100 C/C

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;  
PLAINTIFF,  
v.  
KTF TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;

FILED <sup>CC</sup>  
09:35 AM Atty/Nobie  
NOV 17 2008  
S

William A. Shaw  
Prothonotary/Clerk of Courts

No. 04- 445 -CD

**RULE TO SHOW CAUSE**

Now, this 16 day of November, 2005, upon consideration of the attached Plaintiff's MOTION FOR SANCTIONS, a RULE is hereby issued upon the Defendant KTF Transport, LLC, to SHOW CAUSE why the MOTION should not be granted. RULE RETURNABLE, for filing written response, is set for the 7<sup>th</sup> day of December, 2005 and argument on the MOTION set for the 14<sup>th</sup> day of December, 2005, at 10:30, A.M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

**NOTICE**

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION YOU SHOULD DO SO BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITION. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

Court Administrator  
Second & Market Streets  
Clearfield, PA 16830  
(814)-765-2641

By The Court,

  
Judge...

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
No. 04-445-CD

## **ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2005, upon consideration of Plaintiff's MOTION TO COMPEL, it is the ORDER of this Court that Defendant KTF Transport, LLC, shall fully respond to the INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS (in aid of execution) within fifteen (15) days hereof.

By The Court,

---

Fredric J. Ammerman, PJ

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
and SCOTT FLECK, t/d/b/a S&M Log Transport, )  
an adult individual. )  
)

) No. 04- 445 -CD

**PLAINTIFF'S MOTION TO COMPEL AND FOR SANCTIONS**

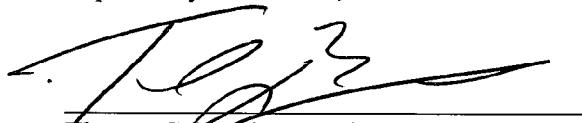
AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his MOTION TO COMPEL, as follows:

1. This matter was commenced by the filing of a CIVIL COMPLAINT against defendants.
2. That shortly after proceedings began, settlement was reached with one defendant while litigation pursued against Defendant KTF Transport, LLC..
3. On August 16th trial was held on this matter and an award in the amount of \$5,562.00 was awarded to Plaintiff. See Exhibit "A".
4. Following such award Plaintiff's counsel attempted on two occasions to call Defense counsel who did not respond to said phone calls, as was customary throughout this matter.
5. Based on the defendant's failure to respond, on September 28th, Plaintiff praeciped to enter judgment and propounded discovery materials in aid of execution on said defendant. See Exhibit "B".
6. Plaintiff's counsel also requested defense counsel to contact him concerning the scheduling of depositions in aid of execution, for which, not surprisingly, no reply has been received. See Exhibit "C".

7. Through out this matter the defense has only amounted to performing dilatory tactics and committing perjury.
8. That besides issuing an immediate order to force the defense into compliance with applicable discovery rules, argument should also be held on Plaintiff's request for sanctions, which should amount to Plaintiff's counsel reasonable attorney's fees to force defendant's compliance.
9. That Plaintiff's counsel made no effort to contact defense counsel in that all other efforts including previous phone calls and letter have received no reply and such was thought to be a futile effort in this circumstance.

**WHEREFORE, Plaintiff requests his MOTION TO COMPEL be immediately GRANTED and hearing be held on Plaintiff's request for sanctions.**

Respectfully Submitted,



---

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

Kevin Disantis, t/d/b/a  
Apple Core

: IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY

Vs.

: No. 2004-00445-CD

KTF Transport, LLC

NOTICE OF AWARD

TO: THERON NOBLE, ESQ.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on August 16, 2005 and have awarded:

Award to Plaintiff \$5,562.00 Award to Defendant on Counterclaim \$425.00

William A. Shaw

Prothonotary

By Will Shaw

August 16, 2005

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,  
PENNSYLVANIA  
STATEMENT OF JUDGMENT

Kevin Disantis  
Apple Core  
Plaintiff(s)

No.: 2004-00445-CD

Real Debt: \$5,137.00

Atty's Comm: \$

Vs.

Costs: \$

KTF Transport, LLC  
Scott Fleck  
S & M Log Transportation  
Defendant(s)

Entry: \$20.00

Instrument: Judgment on Arbitrators' Award  
against KTF Transport, LLC ONLY

Date of Entry: September 29, 2005

Expires: September 29, 2010

Certified from the record this 29th day of September, 2005.

  
\_\_\_\_\_  
William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment,  
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

EXHIBIT "B"

**FERRARACCIO & NOBLE**  
301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
**FAX: (814) 765-9377**

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

September 28, 2005

Re: Apple Core v. S&M Log Transport, et.al.;  
04-445-CD

Dear Jeff:

Please find enclosed copies of materials which were filed with the Prothonotary entering judgment in this matter. Also, you shall find include our initial discovery materials in aid of execution, which includes an original and 2 copies.

In that I have not received a return phone call from you, despite placing two in the past two weeks, I must assume your clients do not want to pay this debt. I[n] retrospect, I do not find that surprising given that they were willing to commit perjury in an attempt to escape their liability.

With this in mind, I trust you have advised your clients about Pennsylvania's criminal laws relating to defrauding secured creditors, which Mr. DiSantis now is. In the event they resort to such tactics, I shall have no problem advocating their criminal prosecution.

Lastly, please provide a date in Mid-November for Mrs. Findley's deposition, as well as a date in Mid-December for Mr. Findley's deposition. In this manner, I can count on the materials herein requested to be in my possession for the each deposition and have the benefit of the first deposition prior to the second.

I await to hear from you.

With regards, I am

Sincerely,



Theron G. Noble, Esquire

tn/TGN w.encl.  
cc: Mr. Kevin DiSantis w.encl.

Exhibit "C"

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

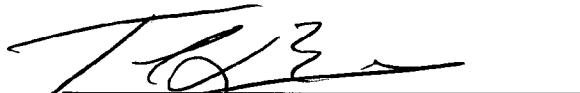
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

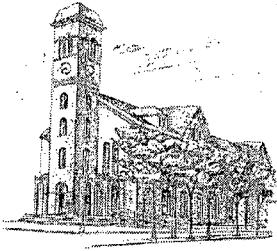
I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
14th day of November, 2005, mail a true and correct copy of Plaintiff's  
MOTION TO COMPEL AND FOR SANCTIONS to the below listed individual, being  
all counsel of record, via United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942



## Clearfield County Office of the Prothonotary and Clerk of Courts

**William A. Shaw**  
Prothonotary/Clerk of Courts

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

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

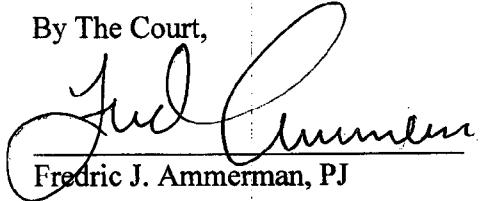
KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;  
PLAINTIFF,  
v.  
KTF TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;

No. 04- 445 -CD

ORDER

AND NOW this 15 day of November, 2005, upon consideration of Plaintiff's MOTION TO COMPEL, it is the ORDER of this Court that Defendant KTF Transport, LLC, shall fully respond to the INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS (in aid of execution) within ~~fifteen~~ <sup>twenty (20) FJA</sup> (15) days hereof.

By The Court,

  
Fredric J. Ammerman, PJ

FILED

NOV 15 2005  
013-5610-1  
William A. Shaw  
Prothonotary/Clerk of Courts

1 CERT TO ATT  
NOB/R

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

KEVIN DISANTIS, t/d/b/a/ Apple Core, : No. 04-455-CD<sup>4</sup>  
an adult individual, :  
Plaintiff : Type of Pleading:  
Vs. :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company, :  
Defendant : Filed on Behalf of:  
: DEFENDANT  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

FILED  
9/8/05 cm  
NOV 17 2005 

3cc A/H Dubois  
William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
: Vs. :  
: :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company, :  
Defendant :  
:

**DEFENDANT KTF TRANSPORT LLC**  
**RESPONSE TO PLAINTIFF'S MOTION TO COMPEL**  
**AND SANCTIONS**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its attorney, Jeffrey S. DuBois, Esquire, who files this Response to Plaintiff's Motion to Compel and Sanctions, and in support thereof avers the following:

1. The undersigned is quite surprised to Plaintiff's Motion to Compel in light of the fact the Discovery materials were not received by the undersigned until on or about the end of September.
2. Therefore, this would mean that, at the time of the filing of the Motion, the materials had been outstanding a grand total of less than one and one-half (1-1/2) months.
3. As is standard practice, not only in Clearfield, but obviously in the general practice area of Western Pennsylvania, Discovery materials are often answered in much more time than a month and one-half time period.

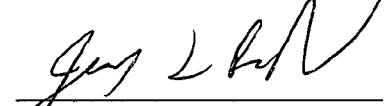
4. Further, counsel for Plaintiff's version of the facts is extremely distorted, as counsels have discussed this case numerous times, whether by telephone or personally.

5. Additionally, the Motion sets forth unsupported allegations, particularly the allegations of Defendant's conducts committing to perjury, when none has even been found, or ever implied, and in their case, Plaintiff's only received a Judgment of less than fifty (50%) percent of what Plaintiff was seeking.

6. In sum, Plaintiff's Motion is frivolous, premature, contains unprofessional allegations which are supported by no evidence, and should be dismissed.

WHEREFORE, Defendant KTF Transport, LLC, respectfully requests this Honorable Court to dismiss Plaintiff's Motion to Compel.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendant

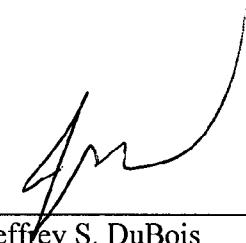
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a/ Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
: Vs. :  
: :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company, :  
Defendants :  
:

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 17<sup>th</sup> day of November, 2005, I served a true and correct copy of the within Defendant KTF Transport, LLC, Response to Plaintiff's Motion to Compel and Sanctions, by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;

PLAINTIFF, :  
v. : No. 04-445-CD

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT. :

Type of Pleading:

**PLAINTIFF'S NOTICE OF SERVICE**

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

FILED NOCC  
M 11/08/05  
NOV 17 2005 S

William A. Shaw  
Prothonotary/Clerk of Courts

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

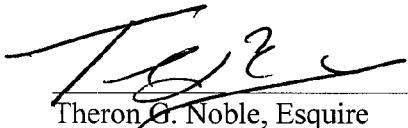
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
16th day of November, 2005, mail a true and correct copy of the  
ORDER issued upon Plaintiff's Motion to Compel, to the below listed individual, being  
all counsel of record, via United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a/ Apple Core,  
an adult individual, : No. 04-455-CD

Plaintiff : Type of Pleading:

Vs. :

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company, : Filed on Behalf of:

Defendants : DEFENDANTS

:Counsel of Record for This Party:

: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801  
: (814) 375-5598

FILED *rec*  
,01/01/05 Atty DeBois  
DEC 05 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
: Vs. :  
: :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company, :  
Defendants :

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 5<sup>th</sup> day of December, 2005, I served a true and correct copy of the within Defendant Response to Plaintiff's First Set of Discovery Materials in Aid of Execution, by hand delivery, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

: No. 04-445-CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

: Type of Pleading:

**PLAINTIFF'S NOTICE OF SERVICE**

: Filed By:  
Plaintiff  
: Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble  
: 301 East Pine Street  
Clearfield, PA 16830  
: (814)-375-2221  
PA I.D.#: 55942

FILED NOcc  
MJI:5980  
DEC 07 2005  
US

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )  
)

No. 04- 445 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
3rd day of December, 2005, mail a true and correct copy of the RULE  
TO SHOW CAUSE issued upon Plaintiff's Motion for Sanctions, to the below listed  
individual, being all counsel of record, via United States Mail, first class, postage pre-  
paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a APPLE CORE, an adult individual	:	
-vs-		No. 04-445-CD
KTF TRANSPORT, LLC, a duly formed and existing Pennsylvania Limited Liability Company	:	

## ORDER

NOW, this 14th day of December, 2005, in  
consideration of the Defendant's Motion for Sanctions, it  
is the ORDER of this Court that said Motion be and is  
hereby dismissed.

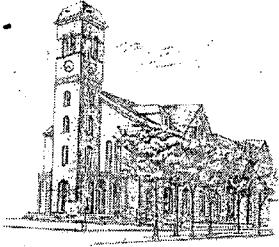
BY THE COURT,

Fischer Kremmer

President Judge

FILED 2005  
01/31/2005  
DEC 15 2005  
Attn: Noble  
DuBois

William A. Shaw  
Prothonotary/Clerk of Courts



## Clearfield County Office of the Prothonotary and Clerk of Courts

---

**William A. Shaw**  
Prothonotary/Clerk of Courts

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

---

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

DATE: 12/15/05

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

v.

No. 04- 445 -CD

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

Type of Pleading:

**MOTION TO COMPEL AND  
FOR SANCTIONS**

Filed By:

Plaintiff

Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

FILED NO  
M/T/3761  
JUN 12 2006  
GP

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual;

PLAINTIFF,

v.  
KTF TRANSPORT, LLC, a duly formed and  
existing Pennsylvania Limited Liability Company;

No. 04- 445 -CD

**RULE TO SHOW CAUSE**

Now, this 16<sup>th</sup> day of June, 2006, upon consideration of the attached PLAINTIFF'S MOTION TO COMPEL AND FOR SANCTIONS, a RULE is hereby issued upon the Defendant to SHOW CAUSE why the MOTION should not be granted. RULE RETURNABLE, for filing written response, is set for the 5<sup>th</sup> day of July, 2006 and argument on the MOTION set for the 18<sup>th</sup> day of July, 2006, at 9 : 30, A.M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

**NOTICE**

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION YOU SHOULD DO SO BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITION. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

Court Administrator  
Second & Market Streets  
Clearfield, PA 16830  
(814)-765-2641

**FILED**

JUN 16 2006  
Terry Noble

William A. Shaw  
Prothonotary/Clerk of Courts

(62)

By The Court

Judge...

DATE: 10/16/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) )  
v. ) ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )

**PLAINTIFF'S MOTION TO COMPEL AND FOR SANCTIONS**

AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his MOTION TO COMPEL, as follows:

1. This matter was commenced by the filing of a CIVIL COMPLAINT against defendants.
2. That shortly after proceedings began, settlement was reached with one defendant while litigation pursued against Defendant KTF Transport, LLC..
3. On August 16th trial was held on this matter and an award in the amount of \$5,562.00 was awarded to Plaintiff.
4. Following such award Plaintiff's counsel attempted on two occasions to call Defense counsel who did not respond to said phone calls, as was customary throughout this matter.
5. Based on the defendant's failure to respond, on September 28th, Plaintiff praeciped to enter judgment and propounded discovery materials in aid of execution on said defendant.
6. Plaintiff's counsel also requested defense counsel to contact him concerning the scheduling of depositions in aid of execution, for which, not surprisingly, no reply was received.
7. Through out this matter the defense has only amounted to performing dilatory tactics and committing perjury.
8. That Plaintiff propounded an initial set of discovery requests, which were not

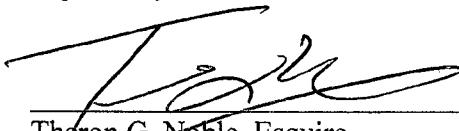
responded to until an ORDER of Court was issued.

9. That Plaintiff then propounded a second set of discovery materials, on February 2, 2006, to which no response has been received other than a letter from Defense counsel, dated March 10th, attached hereto as Exhibit "A", indicating that responses would be forthcoming.

10. To date, no such responses have been received.

**WHEREFORE, Plaintiff requests his MOTION TO COMPEL be immediately GRANTED and hearing be held on Plaintiff's request for sanctions.**

Respectfully Submitted,



---

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942



**JEFFREY S. DuBOIS**  
*Attorney at Law*

Phone: 814-375-5598  
Fax: 814-375-8710

190 West Park Avenue • Suite #5 • DuBois, PA 15801

E-Mail: jsd.law@verizon.net

March 9, 2006

Theron G. Noble, Esquire  
Ferraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830

RE: Finley vs. Apple Core

Dear Terry,

This is in response to your second discovery request. I have been tied up in court for the past three weeks, with numerous trials. I plan on getting the second set of Plaintiffs set of discovery materials to you within the next week or so.

If you have any questions, please contact me.

Sincerely,

Jeffrey S. DuBois

JSD: asm

Exhibit "A"

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

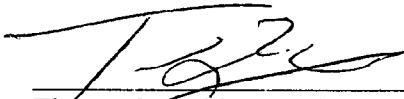
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) ) No. 04- 445 -CD  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
9th day of June, 2006, mail a true and correct copy of the Plaintiff's  
MOTION TO COMPEL AND FOR SANCTIONS, to the below listed individual, being  
all counsel of record, via United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
26th day of June, 2006, mail a true and correct copy of the RULE  
RETURNABLE issued upon Plaintiff's MOTION TO COMPEL AND FOR  
SANCTIONS, to the below listed individual, being all counsel of record, via United  
States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

FILED

JUN 28 2006

W. A. Shaw  
Prothonotary/Clerk of Courts

W. C. C

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

445

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-455-CD

Plaintiff : Type of Pleading:

VS. : CERTIFICATE OF SERVICE

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANTS

Defendants : Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire  
Supreme Court No. 62074  
190 West Park Avenue, Suite #5  
DuBois, PA 15801  
(814) 375-5598

FILED 2cc  
07/05/2006 Atty DeBois  
JUL 05 2006  
WAS  
William A. Shaw  
Prothonotary/Clerk of Courts

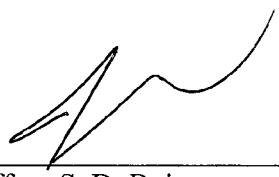
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
:  
Vs. :  
:  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 3<sup>rd</sup> day of July, 2006, I served a true and correct copy of the within Defendant KTF Transport, LLC, Reply to Plaintiff's Second Set of Discovery Materials in Aid of Execution, by hand delivery, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



\_\_\_\_\_  
Jeffrey S. DuBois

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-~~455~~<sup>445</sup> CD  
Plaintiff : Type of Pleading:  
Vs. : **DEFENDANT'S RESPONSE  
TO PLAINTIFF'S MOTION  
TO COMPEL**  
KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

FILED  
03:45 pm  
JUL 05 2008  
ACK Atty  
DuBois

William A. Shaw  
Prothonotary

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

KEVIN DISANTIS, t/d/b/a/ Apple Core, an adult individual,	:	No. 04-455-CD
Plaintiff	:	
VS.	:	
KTF TRANSPORT, LLC, a Pennsylvania Limited Liability Company; and SCOTT FLECK, t/d/b/a S&M LOG Transportation an adult individual,	:	
Defendants	:	

**DEFENDANT'S RESPONSE TO  
PLAINTIFF'S MOTION TO COMPEL**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its attorney, Jeffrey S. DuBois, Esquire, who files this Defendant's Response to Plaintiff's Motion to Compel and in support thereof avers the following:

1. The undersigned was served with Plaintiff's Second Set of Discovery Request in February of this year.
2. Because of counsel for Plaintiff's previous Court filings, the undersigned contacted, by correspondence, counsel for Plaintiff in March of this year informing him that he had not yet worked on the Discovery request and would not be able to for some time because of his Trial schedule.
3. The undersigned did not have anymore contact with counsel for Plaintiff until the Motion to Compel was filed by counsel in June of this year.

4. Based upon the filing of the Motion to Compel and the Court's Order, the Discovery request was completed and submitted to counsel for Plaintiff's office by hand delivery on July 5, 2006.

5. It is quite common, or more to the matter of fact the norm, for Discovery Requests to take a couple to several months to be completed and submitted to opposing counsel.

6. What is also standard in the industry, not only in this county, but in all surrounding counties, is if opposing counsel wishes a response to said Interrogatories, he/she can make a further inquiry to the attorney, or in the alternative, file a Motion to Compel.

7. What is not typical in practice, nor are there facts in this case to support the same, is to file for Sanctions when the only aggrieved upon action is the failure to file Discovery Requests when only a few months have elapsed.

8. In this particular case there is absolutely no grounds for Plaintiff to file for Sanctions, when the only thing in which he set forth in his motion is that a couple of months have elapsed since the serving of his Discovery Request.

9. While the undersigned acknowledges counsels right to file a Motion to Compel, to which the undersigned has fully complied, there is no basis for an additional filing for Sanctions.

10. In light of the fact that Defendant has complied with the Discovery Request, and that only a few months has elapsed since the serving of Discovery Request, Plaintiff's Motion for Sanctions should be dismissed.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiff's Motion for Sanctions.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendant

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
: Vs. :  
: :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 5<sup>th</sup> day of July, 2006, I served a true and correct copy of the within Defendant's Response to Plaintiff's Motion to Compel, by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois

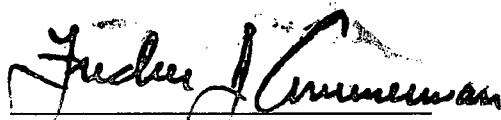
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a :  
ADULT CORE, an Adult Individual :  
VS. : NO. 04-445-CD  
KTF TRANSPORT, LLC, a duly :  
formed and existing Pennsylvania:  
Limited Liability Company :  
:

O R D E R

AND NOW, this 18th day of July, 2006, following argument on Motion to Compel and for Sanctions filed on behalf of Plaintiff above-named, it is the ORDER of this Court that said Motion be and is hereby denied. The Court notes that counsel shall, in the future, be held strictly accountable to all time limits set forth in the Rules of Civil Procedure.

BY THE COURT,



President Judge

FILED  
JUL 19 2006  
acc Atty's  
Noble  
DuBois

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

JUL 19 2006

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 7/19/06

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

: No. 04- 445 -CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

: Type of Pleading:

**NOTICE OF SERVICE**

: Filed By:

Plaintiff

: Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

FILED NOCC  
M 11:04 AM  
JUN 28 2004  
LM

William A. Shaw  
Prothonotary/Clerk of Courts

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

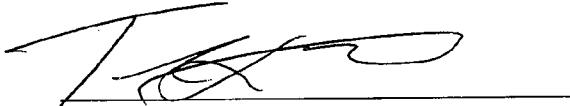
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) ) No. 04- 445 -CD  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
28th day of June, 2007, mail a true and correct copy of the Plaintiff's  
THIRD SET OF DISCOVERY MATERIALS IN AID OF EXECUTION, including an  
original and two copies, to the below listed individual, being all counsel of record, via  
United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-445-CD  
an adult individual, :  
Plaintiff : Type of Pleading:  
Vs. : CERTIFICATE OF SERVICE  
: Filed on Behalf of:  
KTF TRANSPORT, LLC, a Pennsylvania : DEFENDANTS KTF TRANSPORT  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, : Counsel of Record for This Party:  
Defendants : Jeffrey S. DuBois, Esquire  
: Supreme Court No. 60274  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801  
: (814) 375-5598

FILED *acc Atty DuBois*  
0/12/15 am  
JUL 20 2007  
*LS*  
William A. Shaw  
Prothonotary/Clerk of Courts

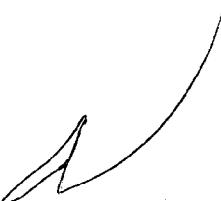
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

KEVIN DISANTIS, t/d/b/a Apple Core,	:	No. 04-445-CD
an adult individual,	:	
Plaintiff	:	
	:	
Vs.	:	
	:	
KTF TRANSPORT, LLC, a Pennsylvania	:	
Limited Liability Company; and SCOTT	:	
FLECK, t/d/b/a S&M LOG Transportation	:	
an adult individual,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 20<sup>th</sup> day of July, 2007, I served a true and correct copy of the within Response to Plaintiff's Third Set of Discover Materials in Aide of Execution by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois  
Attorney for Plaintiff

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF, :  
v. : No. 04- 445 -CD

KTF TRANSPORT, LLC, a Pennsylvania Limited :  
Liability Company;

DEFENDANT. :

Type of Pleading:

**MOTION TO COMPEL**

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

FILED No CC  
m/10/52 cm  
JUL 25 2007 CL  
Clerk of Courts

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
No. 04- 445 -CD

**RULE TO SHOW CAUSE**

Now, this 6 day of August, 2007, upon consideration of the attached Plaintiff's MOTION TO COMPEL, a RULE is hereby issued upon the Defendant to SHOW CAUSE why the MOTION should not be granted. RULE RETURNABLE, for filing written response, is set for the 30<sup>th</sup> day of August, 2007 and argument on the MOTION set for the 10<sup>th</sup> day of September, 2007, at 11:00, A.M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

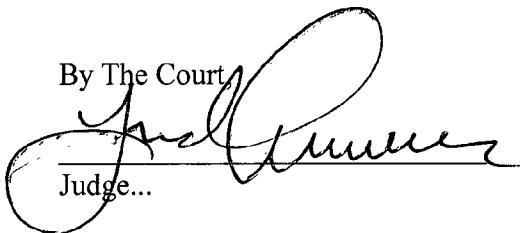
**NOTICE**

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION YOU SHOULD DO SO BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITION. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

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

Court Administrator  
Second & Market Streets  
Clearfield, PA 16830  
(814)-765-2641

By The Court

  
Judge...

FILED <sup>cc</sup>  
09/11/2007 Attn: Noble  
AUG 07 2007  


William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**AUG 07 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

**DATE: 8/7/07**

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
)

No. 04- 445 -CD

**PLAINTIFF'S MOTION TO COMPEL**

**AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his MOTION TO COMPEL, as follows:**

1. This matter was commenced by the filing of a CIVIL COMPLAINT against defendants.
2. That shortly after proceedings began, settlement was reached with one defendant while litigation pursued against Defendant KTF Transport, LLC..
3. That following trial an award in the amount of \$5,562.00 was entered in Plaintiff's favor.
4. That Plaintiff propounded a third of discovery materials in aid of execution mostly concerning insurance policies and proceeds concerning a suspicious fire which occurred at a business owned by the same persons, upon information and belief, as the persons who own defendant herein.
5. That defendant objected to the same as not being relevant given the lack of this Defendant's interest in the policies or proceeds. See Exhibit "A" attached hereto.

6. That as this Court is aware, discovery is broader in scope in that it encompasses all materials which are relevant or which might lead to relevant information.
7. In this situation, the information might be relevant in two regards, as follows: (i) the entity structure might not be as clear as defendant pretends and Plaintiff under these circumstances certainly has the right to determine for his own benefit whether KTF Transport, LLC held the insurance policies or received benefits under such policies; and (ii) whether any of the property which belonged to Defendant KTF Transport, LLC was housed at or on the premises destroyed by the suspicious fire and insurance proceeds flowed to another entity.
8. That the real parties in interest, Kevin and Tara Finley were experiencing financial problems at the time of the fire as evidenced by the failed business of KTF Transport, LLC as well as Mr. Finley's prosecution in Pennsylvania and Florida for bad check charges.

**WHEREFORE, Plaintiff requests his MOTION TO COMPEL be GRANTED and Defendant ORDERED to produce the requested responses and documents within 10 days after hearing.**

Respectfully Submitted,

---

Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-455-CD  
Plaintiff : Type of Pleading:  
Vs. :  
: **DEFENDANT'S RESPONSE**  
: **TO PLAINTIFF'S THIRD SET**  
: **OF DISCOVER MATERIALS**  
: **IN AIDE OF EXECUTION**  
KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC  
: Counsel of Record for This Party:  
: Jeffrey S. DuBois, Esquire  
: Supreme Court No. 62074  
: 190 West Park Avenue, Suite #5  
: DuBois, PA 15801

Exhibit "A"

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

**PLAINTIFF'S THIRD SET OF DISCOVERY**  
**MATERIALS IN AID OF EXECUTION**

### Definitions and Instructions

1. "Defendant" or "Defendants" refer to either, means that person including, its agents, employees, officers, directors, representatives and all other persons or entities having information or authorized to act on its behalf. The words "you" and "your" herein shall be deemed to include all such persons or entities;
2. "Plaintiff" means Kevin DiSantis;
3. "Document" as used herein is intended to embrace the broadest possible meaning of that term under the Pennsylvania Rules of Civil Procedure, and includes all forms of written or recorded information, including drafts thereof;
4. "Communication" as used herein means any oral or written utterance between two or more persons and includes, but not limited to, letters, conversations, telephone calls, personal visits, discussions, agreements, or any other verbal or non-verbal interaction between two or more persons;
5. "Identify" when used in connection with a person or entity means to provide that person's or entity's name, address and telephone number;
6. "Identify" when used in connection with a document means to provide a brief but accurate description of the contents of the document, to identify the author(s), to identify

the recipient(s) or intended recipient(s), to state the date of the document, and to state whether the document is currently in your possession, custody and/or control;

7. "Identify" when used in connection with a communication means to identify the persons or entities who participated, witnessed or were otherwise involved in such communication, to describe the manner or mode in which the communication took place (i.e., whether it was written, oral, in person, telephonic or otherwise), to identify any documents related to or constituting such communication, to state the date upon which the communication took place and the place where the communication occurred, and a summary of what was said and done by each person participating in the communication;

8. To the extent any interrogatory or document request herein is thought to be objectionable and to the extent that answers or production are withheld by virtue of such objection, fully state the basis for the objection and describe the nature of the document or information being withheld;

9. These interrogatories and document requests are continuing in nature. To the extent additional or different information or documents become available to you after your responses hereto, you have an obligation to seasonably supplement your responses to include such information and documents as well as to explain the reason(s) for which such information or document was not originally provided;

10. Your responses hereto as well as the production of documents is required to be provided within (30) days hereof;

11. In the event sufficient space has not been provided for your responses hereto, attach additional sheets of paper as are necessary to fully respond hereto, so identifying the Interrogatory being answered; and

12. Your replies hereto are required to be under oath or with a verified response.

**NOW COMES the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who propounds the following INTERROGATORIES and REQUEST FOR PRODUCTION OF DOCUMENTS (IN AID OF EXECUTION), pursuant to Pa.R.Civ.P. 4000, et.seq., and demands responses within thirty (30) days hereof:**

1. Identify the person who is responding to these discovery materials on behalf of the defendant, as well as that person's relationship to the defendant.

Answer

Tara Finley - member of KTF Transport, LLC

2. Identify all dates from August 1, 2007 through October 31, 2007, that Tara Finley is available for a deposition in aid of execution.

Answer

Tara Finley is not available for Depositions during the month of August as she has minor children to take care of during the day. Once school starts in the latter part of August/September, 2007, Tara Finley should be available upon reasonable notice to her and her counsel.

3. Identify all dates from August 1, 2007 through October 31, 2007, that Kevin Finley is available for a deposition in aid of execution.

Answer

Keven Finley works out of town and thus notice for any Deposition must be given well in advance so Keven Finley can make appropriate work arrangements.

4. State all progress which has occurred concerning the requests for production of documents from agencies previously referenced by defendants as having been requested to supply the requested documents.

Answer

Still in the process of attempting to retrieve any documents still needed.

7. State the status of any insurance claims made by or with assistance of Tara and/or Kevin Finley concerning a fire which occurred at a business known as Cozy Acres in 2007.

Answer

No insurance claims have been filed by the Finley's, nor have any insurance monies been received by the Finley's with respect to the fire at Cozy Acres in April of 2007. Defendants object pursuant to Pa.R.C.P. 4006 to the content requested in paragraph seven (7) of Plaintiff's Interrogatories, as said request relates to policies of companies other than Defendant KTF Transport, and thus are not relevant to the present cause of action, nor is it reasonable to lead to discoverable information.

8. State any and all arrests for criminal violations, and the status of the same, for Tara and Kevin Finley for the last five years, including the nature of the offense, the state and county in which said charge was processed and whether said person is still subject to the court's jurisdiction concerning said offense.

Answer

Tara Finley - none;

Keven Finley - (a) Bad check charge filed in Pennsylvania; the case was reduced to a Summary Offense.  
(b) Bad check charge filed in Florida; this case was dismissed.

## **REQUEST FOR PRODUCTION OF DOCUMENTS**

**Pursuant to Pa.R.Civ.P. 4000, et.seq., provide true and correct copies of the following documents within thirty (30) days:**

1. True and correct copies of any documents referenced in response to any interrogatory herein;
2. True and correct copies of any insurance policy, including all declaration pages, providing coverage for any time during 2007 for defendant, Tara and/or Kevin Finley, or any business in which Tara and/or Kevin Finley owned an interest;
3. True and correct copies of all documents supplied by or with assistance from Tara and/or Kevin Finley concerning a claim or claims for damage either caused or alleged to have been suffered as a result of the fire which occurred at Cozy Acres in 2007;
4. True and correct copies of all communications from any insurance company providing coverage, or thought to be providing coverage for the business known as Cozy Acres in 2007; and
5. True and correct copies of any payments received by either Tara and/or Kevin Finley, or any business in which they have an interest, resulting from any claim or claims presented to any insurance company for the fire which occurred in 2007 at Cozy Acres.

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

**REQUEST FOR PRODUCTION OF DOCUMENTS**

1. N/A
2. Defendants object pursuant to Pa.R.C.P. 4006 to the content requested in paragraph two (2) of Plaintiff's Request for Production of Documents, as said request relates to policies of companies other than Defendant KTF Transport, and thus are not relevant to the present cause of action, nor is it reasonable to lead to discoverable information. By way of further answer, no insurance policies existed for Defendant KTF Transport, LLC, for the calendar year 2007.
3. Defendants object pursuant to Pa.R.C.P. 4006 to the content requested in paragraph three (3) of Plaintiff's Request for Production of Documents, as said request relates to policies of companies other than Defendant KTF Transport, and thus are not relevant to the present cause of action, nor is it reasonable to lead to discoverable information. By way of further answer, no insurance policies existed for Defendant KTF Transport, LLC, for the calendar year 2007.
4. Defendants object pursuant to Pa.R.C.P. 4006 to the content requested in paragraph four (4) of Plaintiff's Request for Production of Documents, as said request relates to policies of companies other than Defendant KTF Transport, and thus are not relevant to the present cause of action, nor is it reasonable to lead to discoverable information. By way of further answer, no insurance policies existed for Defendant KTF Transport, LLC, for the calendar year 2007.
5. Defendants object pursuant to Pa.R.C.P. 4006 to the content requested in paragraph five (5) of Plaintiff's Request for Production of Documents, as said request relates to policies of companies other than Defendant KTF Transport, and thus are not relevant to the present cause of action, nor is it reasonable to lead to discoverable information. By way of further answer, no payments have been received by either Tara or Keven Finley.



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendants

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

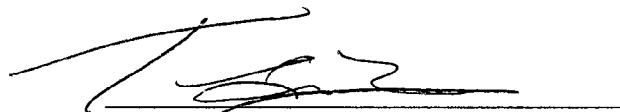
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
24th day of July, 2007, mail a true and correct copy of the Plaintiff's  
MOTION TO COMPEL, to the below listed individual, being all counsel of record, via  
United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

FILED  
E  
AUG 10 2007  
M 11:10 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
u.s. Court copies

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

Type of Pleading:

**NOTICE OF SERVICE**

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

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

)  
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
)  
PLAINTIFF, )  
)  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
)  
DEFENDANT. )  
)

No. 04- 445 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
9th day of August, 2007, mail a true and correct copy of the RULE  
RETURNABLE issued upon Plaintiff's MOTION TO COMPEL, to the below listed  
individual, being all counsel of record, via United States Mail, first class, postage pre-  
paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual, : No. 04-~~455~~<sup>445</sup>-CD

Plaintiff : Type of Pleading:

Vs. : **DEFENDANT'S RULE  
RETURNABLE IN RESPONSE  
TO PLAINTIFFS THIRD SET  
OF DISCOVERY MATERIALS**

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, : Filed on Behalf of:  
Defendants : DEFENDANT KTF TRANSPORT, LLC

Defendants : Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire  
Supreme Court No. 62074  
190 West Park Avenue, Suite #5  
DuBois, PA 15801

**FILED** 3CC  
01239601 Aug 29 2007 Atty DuBois  
AUG 29 2007  
GK  
William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :

Plaintiff :

:

Vs. :

:

:

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, :

Defendants :

**DEFENDANT'S RULE RETURNABLE  
IN RESPONSE TO PLAINTIFFS  
THIRD SET OF DISCOVERY MATERIALS**

AND NOW, comes the Defendant, KTF TRANSPORT, LLC, by and through its attorney, Jeffrey S. DuBois, Esquire, who files this Rule Returnable in Response to Plaintiffs Third Set of Discovery Materials and in support thereof avers the following:

1. Defendant filed Objections to some of the requests of Discovery in Aid of Execution filed by Plaintiff to the above captioned matter.
2. Specifically, Defendants filed objections on a question of Plaintiffs concerning information of insurance claims filed by Keven or Tara Finley concerning a fire which occurred in April of 2007 at the business of Cozy Acres Furniture.
3. Said fire dealt with a furniture company who was incorporated under a name different from Defendant, and was a separate business from Defendant, and therefore has no connection to the case at hand.

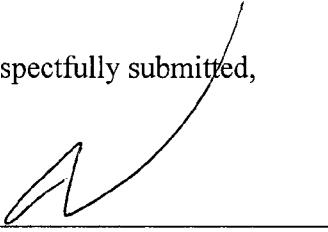
4. As such, under the Pennsylvania Rules of Civil Procedure, it is not relevant, nor is it likely to lead to relevant information, and therefore it is not discoverable, and it was proper for Defendant to object to the same.

5. Likewise, Plaintiff also asked in one of its questions whether or not there had been any arrests for criminal violations for either Keven or Tara Finley in the last five (5) years.

6. Defendant did answer the same, but also objected, as again, under the Pennsylvania Rules of Civil Procedure said information is in no way related to the case at hand, and therefore is not discoverable, and consequently it was improper for Plaintiff to request the same.

7. For the reasons set forth above, some of the questions set forth by Plaintiff were not proper Discovery questions, would not lead to discoverable information, dealt nothing with the case at hand, and therefore Defendant was proper in not answering the same.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendant

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

KEVIN DISANTIS, t/d/b/a Apple Core,	:	No. 04-455-CD
an adult individual,	:	
Plaintiff	:	
	:	
Vs.	:	
	:	
KTF TRANSPORT, LLC, a Pennsylvania	:	
Limited Liability Company; and SCOTT	:	
FLECK, t/d/b/a S&M LOG Transportation	:	
an adult individual,	:	
Defendants	:	

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 21 day of August, 2007, I served a true and correct copy of the within Rule Returnable in Response to Plaintiffs Third Set of Discovery Materials, by first class mail, postage prepaid, on the following:

Theron G. Noble, Esquire  
301 East Pine Street  
Clearfield, PA 16830



---

Jeffrey S. DuBois

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

KEVIN DISANTIS, \*  
Plaintiff \*  
vs. \* No. 04-445-CD  
KTF TRANSPORT, LLC, a duly formed \*  
and existing Pennsylvania Limited \*  
Liability Company, \*  
Defendant \*

ORDER

NOW, this 12<sup>th</sup> day of September, 2007 following argument on Plaintiff's Motion to Compel, it is the ORDER of this Court that as follows:

1. The Defendant will provide within twenty (20) days hereof true and correct copies of all insurance policies providing, or thought to provide, insurance coverage for the premises, or contents on the premises, known as Cozy Acres; and
2. The Defendant will provide within twenty (20) days hereof true and correct copies of all documents, submitted to any insurance carrier, setting forth assets which were damaged from a fire on the Cozy Acres premises, on or about April 11, 2007.

The Court holds all other matters in abeyance until either party moves for further court involvement.

BY THE COURT,

  
FREDRIC J. AMMERMAN  
President Judge

FILED 100 Attns:  
09/5/2007 Noble  
SEP 13 2007 Dubois  
610

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**SEP 13 2007**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 9/13/07

You are responsible for serving all appropriate parties.  
 The Prothonotary's office has provided service to the following parties:  
 Plaintiff(s)  Plaintiff(s) Attorney  Other  
 Defendant(s)  Defendant(s) Attorney  
 Special Instructions:

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

: No. 04-445-CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

: Type of Pleading:

: **NOTICE OF INTENT TO  
SERVE SUBPOENA**

: Filed By:

: Plaintiff

: Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

b FILED No. 445  
m 10:37 am  
JUN 29 2009

William A. Shaw  
Prothonotary/Clerk of Courts

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS**  
**AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Date: June 26, 2009

Plaintiff intends to serve a subpoena identical to that attached to this notice to Westfield Insurance Companies. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully Submitted,



\_\_\_\_\_  
T. G. Noble, Esquire  
Counsel for Plaintiff  
Ferraraccio & Noble  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No. 55942

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Kevin Disantis

\*

Apple Core

Plaintiff(s)

Vs.

\*

No. 2004-00445-CD

KTF Transport, LLC

\*

Scott Fleck

S & M Log Transportation

Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Westfield Insurance Companies

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

(i) all documents submitted by any person or entity on behalf of Cozy Acre s Furniture, LLC for loss of property (real or personal) for a fire at its premises on April 11, 2007.  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Theron G. Noble, Esquire

ADDRESS: 301 E. Pine Street  
Clearfield, PA 16830

TELEPHONE: (814)-375-2221

SUPREME COURT ID # 55942

ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Tuesday, June 09, 2009

Seal of the Court

Deputy



WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

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

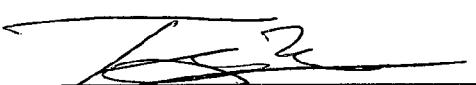
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
26th day of June 2009, mail a true and correct copy of the NOTICE OF  
INTENT TO SERVE SUBPOENA (along with a copy of the proposed subpoena), to the  
below listed individual, being all counsel of record, via United States Mail, first class,  
postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,

  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
 )  
 PLAINTIFF, ) ) No. 04- 445 -CD  
 v. )  
 KTF TRANSPORT, LLC, a duly formed and )  
 existing Pennsylvania Limited Liability Company; )  
 )  
 DEFENDANT. )

**CERTIFICATE PREREQUISITE TO SERVICE**  
**OF SUBPOENA PURSUANT TO RULE 4009.22**

Date: July 22, 2009

As a prerequisite to service of subpoena for documents and things pursuant to Rule 4009.22, Plaintiff certifies as follows:

- 1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to the party at least twenty (20) days prior to the date on which the subpoena was sought to be served (and resent more than twenty days ago when returned by US Postal Officials since Defense Counsel had changed mailing address to the address contained in the Certificate of Service attached hereto);
- 2) a copy of the notice of intent, including the proposed subpoena, are attached to this certificate, as Exhibit "A"; and
- 3) the subpoena directed to Westfield Insurance Companies, Esquire which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Respectfully Submitted,



Theron G. Noble, Esquire  
Counsel for Plaintiff  
Ferraraccio & Noble  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No. 55942

5  
FILED  
MTO:53201  
JUL 23 2009  
NO CC  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

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

**COPY**

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

: No. 04- 445 -CD

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

: Type of Pleading:

**NOTICE OF INTENT TO  
SERVE SUBPOENA**

: Filed By:

Plaintiff

: Counsel of Record:

: Theron G. Noble, Esquire  
Ferraraccio & Noble

: 301 East Pine Street  
Clearfield, PA 16830

: (814)-375-2221  
PA I.D.#: 55942

*Exhibit "A"*

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) ) No. 04- 445 -CD  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**NOTICE OF INTENT TO SERVE SUBPOENA TO PRODUCE DOCUMENTS**  
**AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Date: June 26, 2009

Plaintiff intends to serve a subpoena identical to that attached to this notice to Westfield Insurance Companies. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned any objection to the subpoena. If no objection is made, the subpoena may be served.

Respectfully Submitted,



Theron G. Noble, Esquire  
Counsel for Plaintiff  
Ferraraccio & Noble  
301 E. Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No. 55942

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Kevin Disantis

\*

Apple Core

Plaintiff(s)

Vs.

\*

No. 2004-00445-CD

KTF Transport, LLC

\*

Scott Fleck

S & M Log Transportation

Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Westfield Insurance Companies  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

(i) all documents submitted by any person or entity on behalf of Cozy Acres Furniture, LLC for loss of property (real or personal) for a fire at its premises on April 11, 2007.  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Theron G. Noble, Esquire

ADDRESS: 301 E. Pine Street  
Clearfield, PA 16830

TELEPHONE: (814)-375-2221

SUPREME COURT ID # 55942

ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Tuesday, June 09, 2009

Seal of the Court

Deputy

  
WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) No. 04- 445 -CD  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
26th day of June, 2009, mail a true and correct copy of the NOTICE OF  
INTENT TO SERVE SUBPOENA (along with a copy of the proposed subpoena), to the  
below listed individual, being all counsel of record, via United States Mail, first class,  
postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,

  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

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

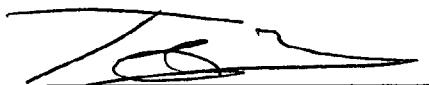
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
22nd day of July, 2009, mail a true and correct copy of the CERTIFICATE  
PREREQUISITE, to the below listed individual, being all counsel of record, via United  
States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
210 McCracken Run Rd.  
DuBois, PA 15801

Respectfully Submitted,



\_\_\_\_\_  
Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

Arb 8-16-05

**FERRARACCIO & NOBLE**

301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
**FAX: (814) 765-9377**

Mr. David Meholic, Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830

August 8, 2005

Re: Apple Core v. KTF Transport, LLC.;  
04-445-CD  
Plaintiff's Pre-Trial Statement

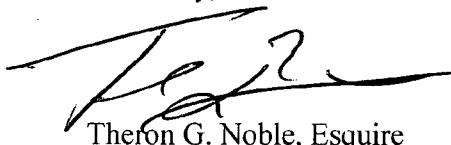
Dear Mr. Meholic:

Please find enclosed and file Plaintiff's PRE-TRIAL STATEMENT. Under cover of this letter, I have done as stated in the attached CERTIFICATES OF SERVICE as well as served the below identified arbitrators.

As always, thank you for your attention to this matter.

With regards, I am

Sincerely,



Theron G. Noble, Esquire

tn/TGN

cc: Mr. Kevin DiSantis w.encl.

Jeffrey S. DuBois, Esquire, w.encl

Richard A. Bell, Esquire w.encl.

Ronald L. Collins, Esquire w.encl.

Kimberly M. Kubista, Esquire w.encl..

RECEIVED

AUG 10 2005

COURT ADMINISTRATOR'S  
OFFICE

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

CA

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF, :  
v. : No. 04- 445 -CD

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT. :

RECEIVED  
MAY 10 2005  
COURT ADMINISTRATOR'S  
OFFICE

Type of Pleading:  
PLAINTIFF'S PRE-TRIAL  
STATEMENT

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. )  
KTF, TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

No. 04- 445 -CD

## **PLAINTIFF'S PRE-TRIAL (ARBITRATION) STATEMENT**

**AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who submits the following as Plaintiff's PRE-TRIAL STATEMENT, pursuant to Clearfield County Local Rule 1306(a):**

### Brief Statement of Case

Mr. DiSantis owns and operates an automotive parts business known as “Apple Core”. In May 2003, Mr. DiSantis contracted with Defendant KTF Transport, LLC, for transportation of parts he had sold to a client, Northeast Core and Component, Inc., located in Blakeslee, Pennsylvania. As part of this arrangement, Mr. DiSantis also contracted for a “back haul” of 108 air conditioning compressors that Apple Core purchased from Northeast Core and Component, Inc..

When Defendant's truck arrived back at Mr. DiSantis's warehouse, with the air conditioning compressors, the box in which they were transported was noted to be unsecured, damaged and opened. In fact, some of the compressors were laying loose inside the trailer. Mr. DiSantis immediately informed KTF's owner of the situation and was told to contact dismissed defendant S & M Log Transport, Inc., from whom Defendant KTF leased either the trailer or truck used in this transportation gig, claiming S & M Log Transport maintained insurance coverage for its lessee, which it did not.

90 of the air conditioning compressors were (and are) severely damaged. The per unit cost of the compressors were \$125. However, the entire lot has no value as there is no market for only 18 compressors, therefore Apple Core seeks \$13,500 as its damages under theories of breach of contract and negligence.

Citation to Applicable Cases or Statutes

This is a straightforward breach of contract/negligence action and no such citations are necessary.

List of Witnesses

- A. Plaintiff;
- B. Dustin Pentz;
- C. Tyler Cribbs; and
- D. Jerry Rizzo.

Statement of Damages

Damages will be established as stated through oral testimony. In addition to photographs of the damages parts, Plaintiff will introduce as an exhibit an invoice from Defendant showing an invoice for the "back haul", which Defendant denies it contracted to do. The same is attached hereto as Exhibit "A". Exhibit "B" is the purchase order for the damaged parts that Mr. DiSantis was attempting to fill in this transaction. Exhibit "C" are copies of photos showing the condition of the box upon arrival at Mr. DiSantis's warehouse and the bubblewrap used in attempt to protect the parts.

Respectfully Submitted,



\_\_\_\_\_  
T. G. Noble  
THERON G. NOBLE, ESQUIRE  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

FF Transport LLC.

72  
easure Lake  
iBois, PA 15801  
SA  
14)372-2266 FX:(814)372-0909

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

old  
o: **APPLE CORE**  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	05/22/03	05/22/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	05/22/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA	325.00	325.00
	1	1	RETURN TRIP TO FALLS CREEK	100.00	100.00

Exhibit "A"

Message

SubTotal

Sales Tax

Shipping

TOTAL

425.00

Claim# 571527466

108081

**PURCHASE ORDER**

814-375-1199

TO Apple, CO	SHIP TO Born Again Air, Inc. 3054 SE Loop 820				
ADDRESS 10 Lincoln Dr.	ADDRESS Fort Worth, TX 76140				
CITY, STATE, ZIP DuBois PA 15801	CITY, STATE, ZIP Office (817) 568-8888 Fax (817) 565-8811				
DATE 5/10/03	DATE REQUIRED 5/10/03	TERMS	ITEM SHIPPED	REQ. NO. OR DEPT.	PO#

QUANTITY	DESCRIPTION	PRICE	UNIT
1	108 Misc. New Compressors	125.00	13,500
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			

Exhibit "B"

IMPORTANT PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKAGING, ETC. PLEASE NOTIFY US IMMEDIATELY IF YOU ARE UNABLE TO COMPLETE ORDER BY DATE SPECIFIED.	PLEASE SEND INVOICE WITH ORIGINAL BILL OF LADING TO YOUR PURCHASING AGENT.
---	---

TC 8131

ORIGINAL



## Photo Mounting Sheet

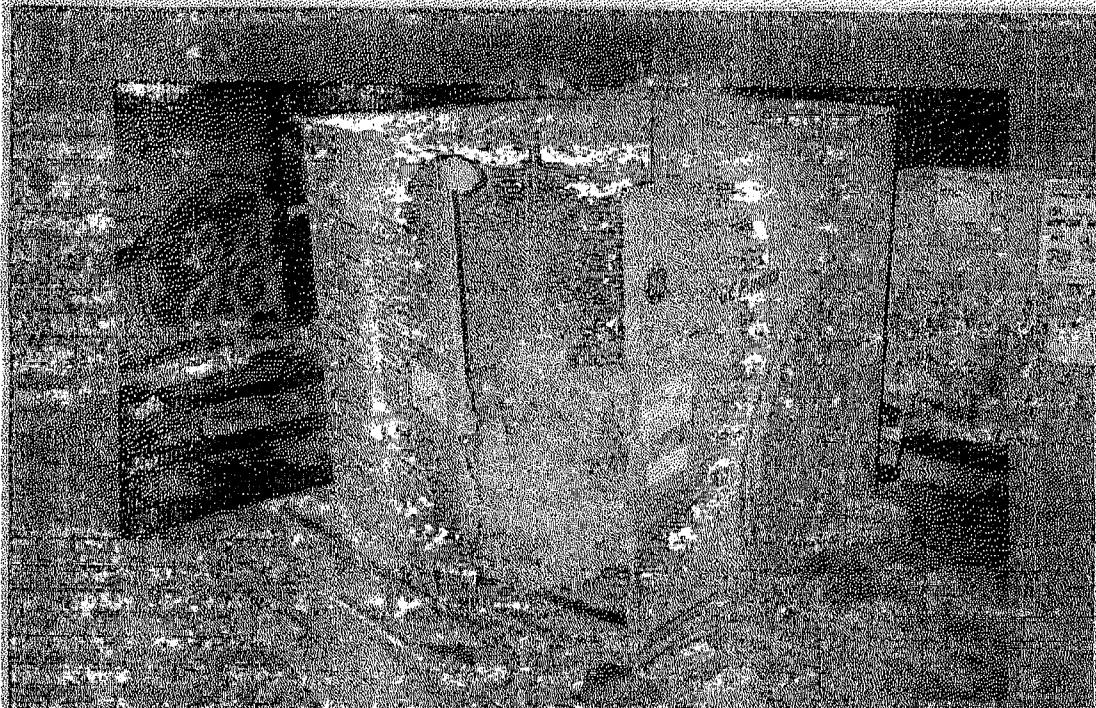
File Identification

272-12006

Taken By

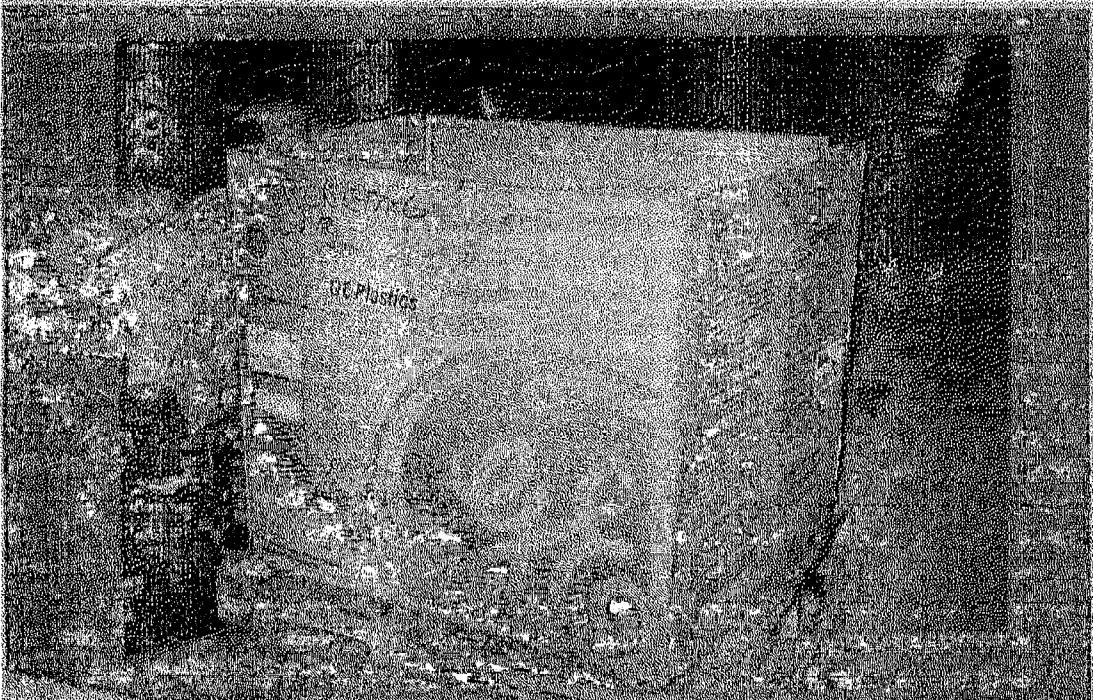
Ray McEachan

11/13/63  
DATE TAKEN



Overall view of the  
contents the material  
was shipped in.

Box was broken at  
time of delivery.



Front view of  
the shipping box.

Exhibit "C"

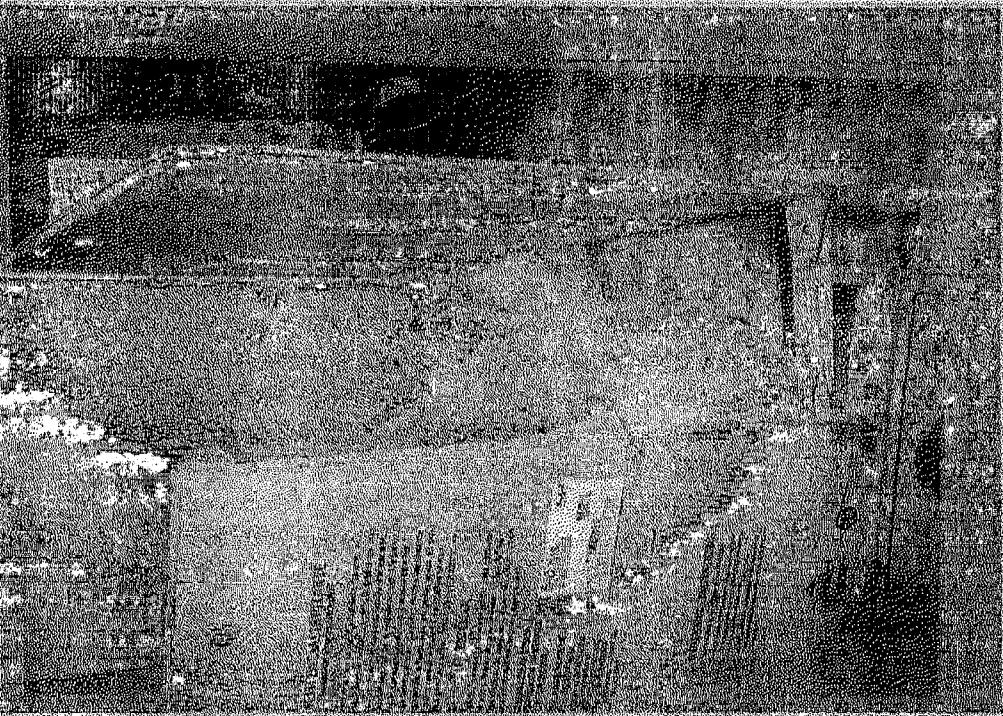
**GEARWORLD®**

**Photo Mounting Sheet**

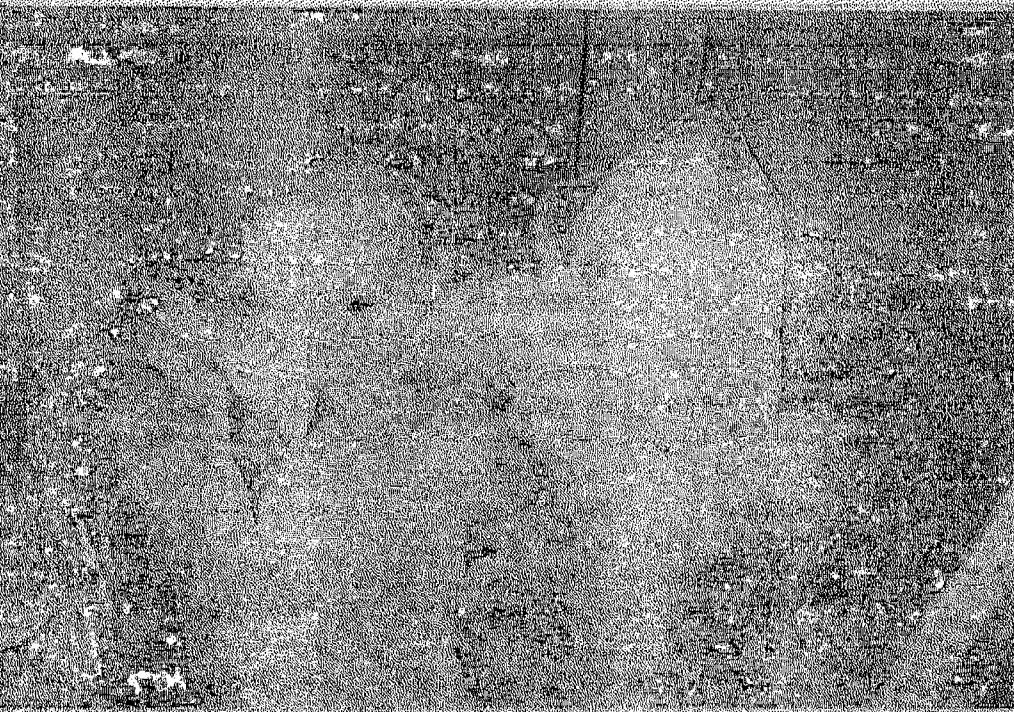
File Identification: 222-12006

Taken By: Ray Marnel

6/25/03  
DATE TAKEN



*Close-up of the  
broken corner on  
the box.*



*Close-up of the  
box has a hole in it.*

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

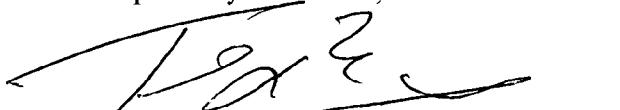
KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, ) ) No. 04- 445 -CD  
v. )  
KTF TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
8th day of AUGUST, 2005, mail a true and correct copy of  
Plaintiff's PRE-TRIAL STATEMENT to the below listed individual, being all counsel of  
record, via United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

AB 8-16-05

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

Plaintiff

Vs.

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual,

Defendants

No. 04-455-CD

Type of Pleading:

**PRE-TRIAL STATEMENT**

Filed on Behalf of:  
DEFENDANT - KTF TRANSPORT

Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire  
Supreme Court No. 62074  
190 West Park Avenue, Suite #5  
DuBois, PA 15801  
(814) 375-5598

RECEIVED  
AUG 09 2005  
COURT ADMINISTRATION  
OFFICE

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
:  
Vs. :  
:  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :  
:

**PRE-TRIAL STATEMENT**

**I. BRIEF STATEMENT OF THE CASE**

Defendant, KTF Transport, LLC, is in the business, among other things, providing truck and tractor trailer services for transportation purposes only.

On or about May 2003, Plaintiff contacted Defendant to engage Defendants services for the use of Defendants vehicle for the transportation of goods. The agreement was for the transportation of goods alone from DuBois, Pennsylvania, to Blakeslee, Pennsylvania. Additionally, the parties agreed on the amount of Three Hundred Twenty Five and 00/100 (\$325.00) Dollars for payment by Plaintiff to Defendant for the transportation of said goods.

This was the extent of the parties agreement and it was Plaintiffs responsibility for the loading and securing of the goods, as well as the removing of the goods once they got to their designated place. Once the goods were transported to Blakeslee, Pennsylvania, and removed at that particular site, thereafter, and unbeknownst to Defendant, Plaintiff

received additional goods at this particular site and had the driver transport these goods back to DuBois, Pennsylvania. This return trip of goods was never contemplated by the parties, nor ever agreed to by Defendant, nor was Defendant aware of the same.

Once the truck returned to DuBois, Pennsylvania, and the goods were taken to Plaintiffs place of business, Plaintiff signed a Bill of Lading setting forth that the goods received were in good and average condition. Again, as was the case the original destination place, Plaintiff, or Plaintiffs representatives or employees, were responsible for and removed all of the goods from the vehicle.

This suit pertains to Plaintiff attempting to sue Defendant for alleged damage to Plaintiffs goods.

Defendant denies any liability with respect to Plaintiffs claims, and Defendant is countersuing for the amount of money the parties contracted for and which was never paid by Plaintiff.

## **II. CITATION TO APPLICABLE CASE OR STATUTES**

General Contract Law

## **III. LIST OF WITNESSES**

1. Tara Finley – for Defendant

Defendant reserves the right to list additional witnesses with proper notice to counsel for Plaintiff and the Arbitrators.

#### **IV. BRIEF DESCRIPTION OF DAMAGES - EXHIBITS**

Defendant has filed a counterclaim against Plaintiff in the amount of Three Hundred Twenty Five and 00/100 (\$325.00) Dollars, plus costs.

##### **EXHIBITS:**

1. Bill of Lading
2. Invoices from Defendant to Plaintiff

Defendant reserves the right to add additional exhibits with proper notice to counsel for Plaintiff and the Arbitrators.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendants

# Invoice

PAGE 1

KTF Transport LLC.

1672

Treasure Lake

DuBois, PA 15801

USA

(814)372-2266 FX:(814)372-0909

Invoice No.  
00000131

Invoice Date  
05/16/03

TAXPAYER ID  
25-1883760

Sold

To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	05/16/03	05/16/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	05/16/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE PA	325.00	325.00

Message

SubTotal  
Sales Tax  
Shipping  
**TOTAL** 325.00

F Transport LLC.  
72  
Prairie Lake  
Bois, PA 15801  
IA  
(412)372-2266 FX:(814)372-0909

Invoice No.  
00000138

Invoice Date  
03/22/03

TAXPAYER ID  
25-1883760

old  
to: **APPLE CORE**  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	P.O.B.
	03/22/03	03/22/03		
Salesperson	Terms	Payment Due	Notes	
	DUE ON RECEIPT	03/22/03		
Item	Ordered	Shipped	Description	Price
	1	1	TRIP TO BLAKESLEE, PA RETURN TRIP TO FALLS CREEK	325.00 100.00
Exhibit "A"				

Message

SubTotal  
Sales Tax  
Shipping  
**TOTAL** 425.00

## Carrier

Agent's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of the receipt by the carrier of the property described in the Original Bill of Lading,

at N. 11th East C. & C. Corp. of from 134, 10510 - P

the property described below, in apparent good order, except as noted (contains and condition of contents of packages unknown) marked, consigned and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possess of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its own railroad, water line, highway route or routes, or within the territory of its highway operations, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each car or all or any part of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

(Mail or street address of consignee - For purposes of notification only.)

Consigned to App 1st CorpDestination F. 11. C. - H Street City State of \_\_\_\_\_ Zip Code \_\_\_\_\_ County of \_\_\_\_\_

Routing: \_\_\_\_\_ Delivering Carrier \_\_\_\_\_ Vehicle or Car Initial \_\_\_\_\_ No. \_\_\_\_\_

Collect On Delivery

\$ \_\_\_\_\_ and remit to: \_\_\_\_\_

C. O. D. charge to be paid by	Shipper
	Consignee

Subject to Section 7 of conditions  
this shipment is to be delivered to  
consignee without recourse on the  
signor, the consignor shall sign the  
lowing statements:

The carrier shall not make deliver  
this shipment without payment of fre  
and all other lawful charges.

(Signature of Consignor.)

If charges are to be prepaid, write  
stamp here, "TO BE PREPAID."Received \$ \_\_\_\_\_ to apply to  
prepayment of the charges on th  
property described hereon.

Agent or Cashier

Per \_\_\_\_\_  
(the signature here acknowledges only  
the account Prepaid.)

Charges Advanced: \$ \_\_\_\_\_

No. Packages	Description of Articles, Special Marks, and Exceptions	Weight (Sub. to Car.)	Class or Rate	Check Column
1	<u>Shirt Set of 15</u>	<u>100 lbs</u>	<u>50</u>	

If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's choice of weight." NOTE - Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby  
specifically stated by the shipper to be not exceeding

Shipper, Per S. J. perAgent, Per S. J. per

Permanent post-office address of shipper,

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :

Plaintiff :

Vs. :

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, :

Defendants :

**CERTIFICATE OF SERVICE**

I do hereby certify that on the 9<sup>th</sup> day of August, 2005, I served a true and correct copy of the within Pre Trial Statement by first class mail, postage prepaid, on the following:

Richard A. Bell, Esquire  
P.O. Box 670  
Clearfield, PA 16830

Ronald L. Collins, Esquire  
218 S. Second Street  
Clearfield, PA 16830

Kimberly M. Kubista, Esquire  
P.O. Box 1  
Clearfield, PA 16830

Theron G. Noble, Esquire  
301 E. Pine Street  
Clearfield, PA 16830

  
\_\_\_\_\_  
Jeffrey S. DuBois

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

X A

# Invoice

PAGE 1

Invoice No.  
00000131

TAXPAYER ID  
Invoice Date  
05/16/03  
25-1883760

Sold

To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	05/16/03	05/16/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	05/16/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE PA	325.00	325.00

Message

SubTotal

Sales Tax

Shipping

TOTAL 325.00

DEFENDANT'S  
EXHIBIT

A

## Carrier

Agent's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of the receipt by the carrier of the property described in the Original Bill of Lading.

at North East Corr Company from Blakeslee Rd  
 property described below, in apparent good order, packed as noted (contents and condition of contents of packages unknown) marked, consigned and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possess  
 of property under the contract) agrees to carry to the usual place of delivery at said destination; if on its own railroad, water line, highway route or routes, or within the territory of its highway operations, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each car  
 or car or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, includ  
 e conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

(Mail or street address of consignee—For purposes of notification only.)

Consigned to Apple CoreDestination Falls Creek Street City

State of \_\_\_\_\_ Zip Code \_\_\_\_\_ County of \_\_\_\_\_

Delivering Carrier \_\_\_\_\_ Vehicle \_\_\_\_\_ or Car Initial \_\_\_\_\_ No. \_\_\_\_\_

Routing \_\_\_\_\_

Collect On Delivery

and remit to:

Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

No. packages	Description of Articles, Special Marks, and Exceptions	Weight (Sub to Ours)	Class or Rate	Check Column
1	<i>Shel Dept</i>	<i>100 lbs</i>	<i>50</i>	

*Randy Evans Delivers 3-1-82*

C. O. D. charge

to be paid by

Shipper  
Consignee

Subject to Section 7 of conditions  
 this shipment is to be delivered to  
 consignee without recourse on the  
 consignor, the consignor shall sign the  
 following statements.

The carrier shall not make delivery  
 of this shipment without payment of fre  
 and all other lawful charges.

(Signature of Consignor)

If charges are to be prepaid, write  
 stamp here, "TO BE PREPAID."

Received \$ \_\_\_\_\_ to apply to  
 prepayment of the charges on the  
 property described hereon.

Agent or Cashier

Per \_\_\_\_\_  
 (the signature here acknowledges only  
 the amount Prepaid.)

Charges Advanced:

\$

If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's responsibility weight." NOTE—Where the rate is dependent  
 on value, shippers are required to state specifically in writing the agreed or declared value of the property.

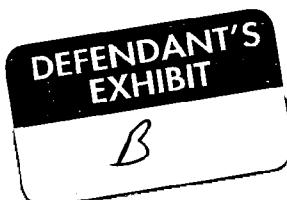
The agreed or declared value of the property is hereby  
 specifically stated by the shipper to be not exceeding

Permanent post-office address of shipper,

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

Shipper, Per *S. B.*Agent, Per *W. D.*

X B



F Transport LLC.  
72  
treasure Lake  
Bois, PA 15801  
IA  
(412)372-2266 FX:(814)372-0909

Invoice No.  
00000138

Invoice Date  
03/22/03

TAXPAYER ID  
25-1883760

DK  
o: **APPLE CORE**  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	03/22/03	03/22/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	03/22/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA	325.00	325.00
	1	1	RETURN TRIP TO FALLS CREEK	100.00	100.00

Exhibit "A"

Message

SubTotal

Sales Tax

Shipping

TOTAL

425.00

DEFENDANT'S  
EXHIBIT

C

## Carrier

Agent's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of the receipt by the carrier of the property described in the Original Bill of Lading.

at North East Co. - Company from Blakesley P  
 a property purchased below, in apparent good order, except as noted (contents and condition of contents of packages unknown) marked, consigned and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possess of the property under the contract) agrees to carry to the usual place of delivery at said destination, if on its own railroad, water line, highway route or routes, or within the territory of its highway operations, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each car or truck of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

(Mail or street address of consignee - For purposes of notification only.)

Consigned to Apple Co.Destination Falls Creek Street CityState of \_\_\_\_\_  
Delivering  
Carrier \_\_\_\_\_Zip Code \_\_\_\_\_ County of \_\_\_\_\_  
Vehicle  
or Car Initial \_\_\_\_\_ No. \_\_\_\_\_

Routing \_\_\_\_\_

Collect On Delivery

and remit to:

C. O. D. charge {  
to be paid by }  
Shipper  
Consignee

No. packages	Description of Articles, Special Marks, and Exceptions	Street	City	State	Weight (Sub. to Obs.)	Class or Rate	Check Column
1	<i>Shirt Dept.</i>				1000 lbs 50		

*Russell D. Smith 5-10-50*

If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier established weight." NOTE - Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding

per

Received \$ \_\_\_\_\_ to apply to prepayment of the charges on the property described hereon.

Agent or Cashier

Per \_\_\_\_\_  
(the signature here acknowledges only the account Prepaid.)

Charges Advanced:

\$

Permanent post-office address of shipper,

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

Shipper, Per

Agent, Per

F Transport LLC.  
72  
asure Lake  
Bois, PA 15801  
IA  
(412)372-2266 FX:(814)372-0909

Invoice No.  
00000138

Invoice Date  
03/22/03

TAXPAYER ID  
25-1883760

OK  
D: **APPLE CORE**  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	03/22/03	03/22/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	03/22/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA RETURN TRIP TO FALLS CREEK	325.00 100.00	325.00 100.00

Exhibit "A"

Message

SubTotal  
Sales Tax  
Shipping  
**TOTAL** 425.00

Claim # 571527466

108081

## PURCHASE ORDER

814-375-1199

TO Apple Core ADDRESS 10 Lincoln Dr.		SHIP TO Born Again Air, Inc. 3054 SE Loop 820 Fort Worth, TX 76140 Office (817) 568-8888 Fax (817) 568-8811			
CITY, STATE, ZIP DuBois PA 15801					
DATE	DATE REQUIRED	TERMS	HOW SHIPPED	REQ. NO. OR DEST.	FOR
5/10/03	5/10/03				
QUANTITY	DESCRIPTION			PRICE	UNIT
1	108 MISC. New Compressors			125.00	13,500
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					

### IMPORTANT

PURCHASE ORDER NUMBER MUST APPEAR  
ON ALL INVOICES - PACKAGING, ETC.  
PLEASE NOTIFY US IMMEDIATELY IF YOU ARE  
UNABLE TO COMPLETE ORDER BY DATE  
SPECIFIED

PLEASE SEND COPIES OF YOUR  
INVOICE WITH ORIGINAL BILL OF LADING  
PURCHASING AGENT

# Invoice

PAGE 1

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

Sold

To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.	
	05/22/03	05/22/03			
Salesperson	Terms	Payment Due	Notes		
	DUE ON RECEIPT	05/22/03			
Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA	325.00	325.00
			1 RETURN TRIP TO FALLS CREEK	100.00	100.00

Message

SubTotal  
Sales Tax  
Shipping  
TOTAL 425.00

Claim # 571527466

108081

# PURCHASE ORDER

814-375-1199

TO Apple Core ADDRESS 10 Lincoln Dr. CITY, STATE, ZIP DuBois PA 15801	SHIP TO Born-Again Air, Inc. 3054 SE Loop 820 Fort Worth, TX 76140 Office (817) 588-8889 Fax (817) 588-8811				
DATE 5/10/03	DATE REQUIRED 5/10/03	TERMS.	HOW SHIPPED	REQ. NO. OR DEPT.	FOR

QUANTITY	DESCRIPTION	PRICE	UNIT
1	108 Misc. New Compressors	125.00	13,500
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			

## IMPORTANT

PURCHASE ORDER NUMBER MUST APPEAR  
ON ALL INVOICES - PACKAGING, ETC.  
PLEASE NOTIFY US IMMEDIATELY IF YOU ARE  
UNABLE TO COMPLETE ORDER BY DATE  
SPECIFIED.

PLEASE SEND COPIES OF YOUR  
INVOICE WITH ORIGINAL BILL OF LADING  
TO PURCHASING AGENT

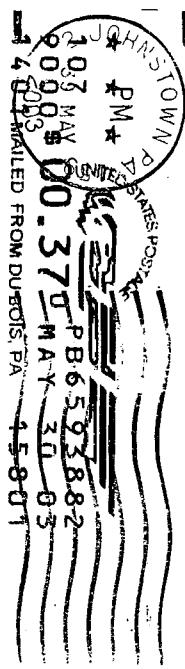
K.T.F. TRANSPORT

1672 TREASURE LAKE  
DU BOIS, PA 15801

Evening (1894)  
10 Lincoln St.  
Dubois Pa 15801

1982 / 3915

THE HISTORY OF THE CHINESE IN AMERICA



# Invoice

PAGE 1

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

Sold

To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.
	05/22/03	05/22/03		

Salesperson	Terms	Payment Due	Notes
	DUE ON RECEIPT	05/22/03	

Item	Ordered	Shipped	Description	Price	Amount
	1	1	1 TRIP TO BLAKESLEE, PA	325.00	325.00
			1 RETURN TRIP TO FALLS CREEK	100.00	100.00

Message

SubTotal	
Sales Tax	
Shipping	
<u>TOTAL</u>	425.00

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

X 2

# Invoice

PAGE 1

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

Sold  
To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered 05/22/03	Date Shipped 05/22/03	Ship Via	F.O.B.
-----------------------	--------------------------	--------------------------	----------	--------

Salesperson	Terms DUE ON RECEIPT	Payment Due 05/22/03	Notes
-------------	-------------------------	-------------------------	-------

Item	Ordered 1	Shipped 1	Description TRIP TO BLAKESLEE, PA RETURN TRIP TO FALLS CREEK	Price 325.00 100.00	Amount 325.00 100.00
------	--------------	--------------	--	---------------------------	----------------------------

Message

SubTotal	
Sales Tax	
Shipping	
<b>TOTAL</b>	425.00

Claim # 571 527 466

(X1)

108081

## PURCHASE ORDER

814-375-1199

TO ADDRESS CITY, STATE, ZIP	SHIP TO ADDRESS CITY, STATE, ZIP				
Hipple Corp 10 Lincoln Dr. DuBois PA 15801	Born Again Air, Inc. 3054 SE Loop 820 Fort Worth, TX 76140 Office (817) 568-8899 Fax (817) 568-8811				
DATE 5/10/03	DATE REQUIRED 5/10/03	TERMS	HOW SHIPPED	REQ. NO. OR DEBT.	FOR

QUANTITY	DESCRIPTION	PRICE	UNIT
1	108 Misc. New Compressors	125.00	13,500
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			

**IMPORTANT**  
PURCHASE ORDER NUMBER MUST APPEAR  
ON ALL INVOICES - PACKAGING, ETC.  
PLEASE NOTIFY US IMMEDIATELY IF YOU ARE  
UNABLE TO COMPLETE ORDER BY DATE  
SPECIFIED

PLEASE SEND  COPIES OF YOUR  
INVOICE WITH ORIGINAL BILL OF LADING  
PURCHASING AGENT

**FERRARACCIO & NOBLE**  
301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
**FAX: (814) 765-9377**

Mr. David Meholick, Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830

August 8, 2005

Re: Apple Core v. KTF Transport, LLC.;  
04-445-CD  
Plaintiff's Pre-Trial Statement

**COPY**

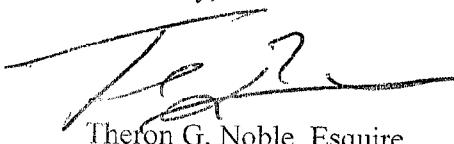
Dear Mr. Meholick:

Please find enclosed and file Plaintiff's PRE-TRIAL STATEMENT. Under cover of this letter, I have done as stated in the attached CERTIFICATES OF SERVICE as well as served the below identified arbitrators.

As always, thank you for your attention to this matter.

With regards, I am

Sincerely,



Theron G. Noble, Esquire

tn/TGN

cc: Mr. Kevin DiSantis w.encl.  
Jeffrey S. DuBois, Esquire, w.encl  
Richard A. Bell, Esquire w.encl.  
Ronald L. Collins, Esquire w.encl.  
Kimberly M. Kubista, Esquire w.encl..

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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual,

PLAINTIFF,

v.

KTF TRANSPORT, LLC, a Pennsylvania Limited  
Liability Company;

DEFENDANT.

No. 04-445-CD

**COPY**

Type of Pleading:

**PLAINTIFF'S PRE-TRIAL  
STATEMENT**

Filed By:  
Plaintiff  
Counsel of Record:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D.#: 55942

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

KEVIN DISANTIS, t/d/b/a Apple Core, )  
an adult individual; )  
PLAINTIFF, )  
v. ) No. 04- 445 -CD  
KTF, TRANSPORT, LLC, a duly formed and )  
existing Pennsylvania Limited Liability Company; )  
DEFENDANT. )

**PLAINTIFF'S PRE-TRIAL (ARBITRATION) STATEMENT**

**AND NOW, comes the Plaintiff, Kevin DiSantis, t/d/b/a Apple Core, by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who submits the following as Plaintiff's PRE-TRIAL STATEMENT, pursuant to Clearfield County Local Rule 1306(a):**

**Brief Statement of Case**

Mr. DiSantis owns and operates an automotive parts business known as "Apple Core". In May 2003, Mr. DiSantis contracted with Defendant KTF Transport, LLC, for transportation of parts he had sold to a client, Northeast Core and Component, Inc., located in Blakeslee, Pennsylvania. As part of this arrangement, Mr. DiSantis also contracted for a "back haul" of 108 air conditioning compressors that Apple Core purchased from Northeast Core and Component, Inc..

When Defendant's truck arrived back at Mr. DiSantis's warehouse, with the air conditioning compressors, the box in which they were transported was noted to be unsecured, damaged and opened. In fact, some of the compressors were laying loose inside the trailer. Mr. DiSantis immediately informed KTF's owner of the situation and was told to contact dismissed defendant S & M Log Transport, Inc., from whom Defendant KTF leased either the trailer or truck used in this transportation gig, claiming S & M Log Transport maintained insurance coverage for its lessee, which it did not.

90 of the air conditioning compressors were (and are) severely damaged. The per unit cost of the compressors were \$125. However, the entire lot has no value as there is no market for only 18 compressors, therefore Apple Core seeks \$13,500 as its damages under theories of breach of contract and negligence.

Citation to Applicable Cases or Statutes

This is a straightforward breach of contract/negligence action and no such citations are necessary.

List of Witnesses

- A. Plaintiff;
- B. Dustin Pentz;
- C. Tyler Cribbs; and
- D. Jerry Rizzo.

Statement of Damages

Damages will be established as stated through oral testimony. In addition to photographs of the damages parts, Plaintiff will introduce as an exhibit an invoice from Defendant showing an invoice for the "back haul", which Defendant denies it contracted to do. The same is attached hereto as Exhibit "A". Exhibit "B" is the purchase order for the damaged parts that Mr. DiSantis was attempting to fill in this transaction. Exhibit "C" are copies of photos showing the condition of the box upon arrival at Mr. DiSantis's warehouse and the bubblewrap used in attempt to protect the parts.

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942

F Transport LLC.

1/2

asure Lake  
Bois, PA 15801

A

4)372-2266 FX:(814)372-0909

Invoice No.  
00000158

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

Ship  
To:

APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

urchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.	
	05/22/03	05/22/03			
alesperson	Terms		Payment Due	Notes	
	DUE ON RECEIPT		05/22/03		
em	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE, PA	325.00	325.00
		1	RETURN TRIP TO FALLS CREEK	100.00	100.00

Exhibit "A"

Message

SubTotal  
Sales Tax  
Shipping  
**TOTAL** 425.00

Claim# 571527466

108081

**PURCHASE ORDER**

814-375-1199

TO		SHIP TO	
Apple Core 10 Lincoln Dr. Dubois PA 15801		Born Again Alt, Inc. 3054 SE Loop 820 Fort Worth, TX 76140 Office (817) 566-2888 Fax (817) 566-0811	
CITY, STATE, ZIP	ADDRESS	CITY, STATE, ZIP	ADDRESS
DATE	DATE REQUIRED	TERMS	HOW SHIPPED
5/10/03	5/10/03		
QUANTITY	DESCRIPTION	UNIT PRICE	UNIT
1	108 Misc. New Compressors	125.00	13,500
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
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Exhibit "B"

PURCHASE ORDER NUMBER MUST APPEAR  
ON ALL INVOICES, PACKAGING, ETC.  
PLEASE NOTIFY US IMMEDIATELY IF YOU ARE  
UNABLE TO COMPLETE ORDER BY DATE  
SPECIFIED.

PLEASE SEND COPY OF YOUR  
INVOICE WITH ORIGINAL BILL OF LADING.  
PURCHASING AGENT



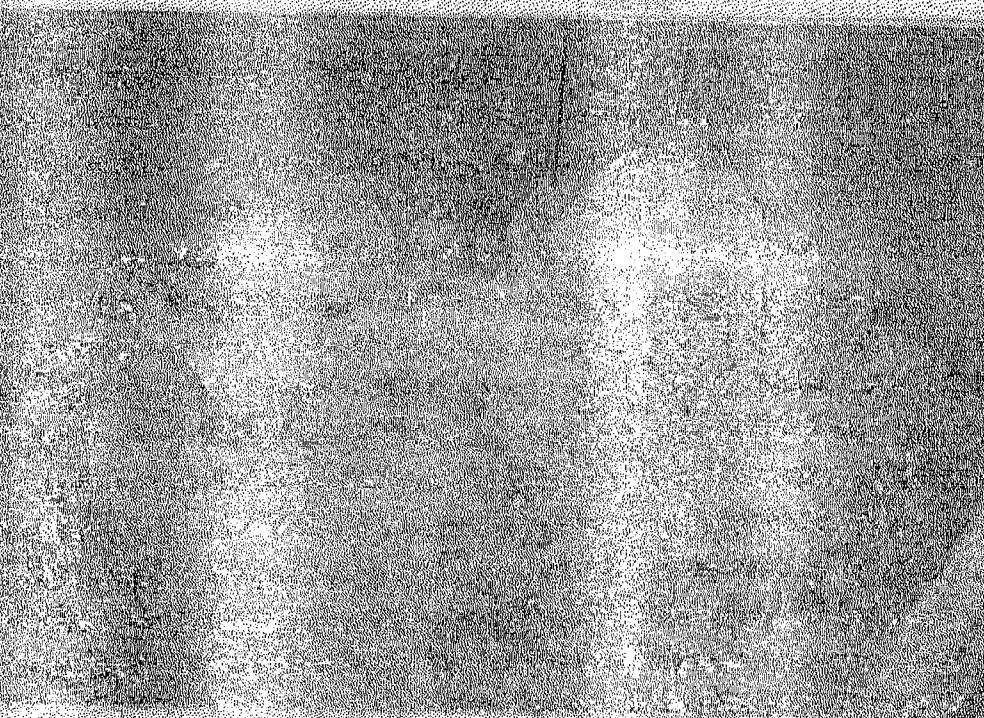
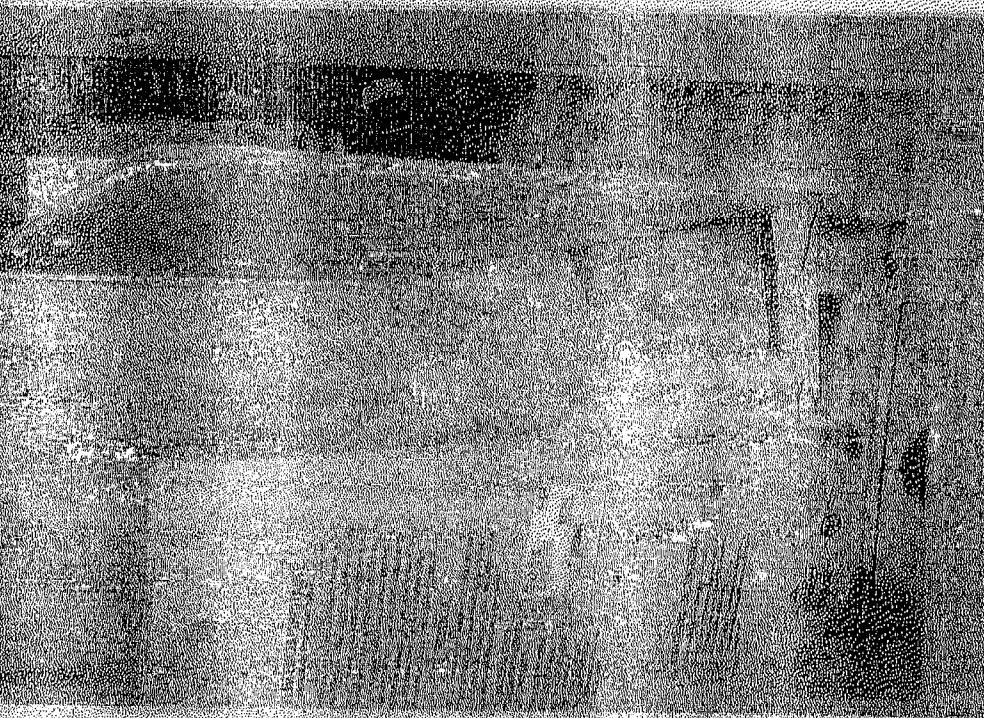
THE SOUTHERN CALIFORNIA JOURNAL OF LITERATURE AND CULTURE

## ANSWER

## File Identification

Table 13. *Estimated Number of Persons in the United States*

卷之三



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

KEVIN DISANTIS, t/d/b/a Apple Core,  
an adult individual; )  
 )  
 PLAINTIFF, )  
 )  
 v. )  
 KTF TRANSPORT, LLC, a duly formed and  
 existing Pennsylvania Limited Liability Company; )  
 )  
 DEFENDANT. )  
 )  
 No. 04- 445 -CD

**CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify that I did, this  
8th day of AUGUST, 2005, mail a true and correct copy of  
Plaintiff's PRE-TRIAL STATEMENT to the below listed individual, being all counsel of  
record, via United States Mail, first class, postage pre-paid, as follows:

Jeffrey S. DuBois, Esquire  
190 W. Park Ave., Suite #5  
DuBois, PA 15801

Respectfully Submitted,



Theron G. Noble, Esquire  
Attorney for Plaintiff  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(814)-375-2221  
PA I.D. No.: 55942



**JEFFREY S. DUBoIS**  
*Attorney at Law*

190 West Park Avenue • Suite #5 • DuBois, PA 15801

Phone: 814-375-5598  
Fax: 814-375-8710

E-Mail: jsd.law@verizon.net

August 9, 2005

Richard A. Bell, Esquire  
P.O. Box 670  
Clearfield, PA 16830

Ronald L. Collins, Esquire  
218 S. Second Street  
Clearfield, PA 16830

Kimberly M. Kubista, Esquire  
P.O. Box 1  
Clearfield, PA 16830

Theron G. Noble, Esquire  
301 E. Pine Street  
Clearfield, PA 16830

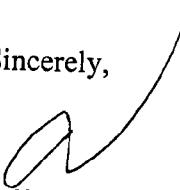
RE: DiSantis vs. KTF, et al  
No. 04-455-CD

Dear Arbitrators,

Enclosed please find a Pre-Trial Statement in regards to the above captioned matter.

If you have any questions, please feel free to contact me.

Sincerely,



Jeffrey S. DuBois

JSD:tlm

Enclosure

Cc: Tara Finley

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

KEVIN DISANTIS, t/d/b/a/ Apple Core,  
an adult individual,

: No. 04-455-CD

Plaintiff

: Type of Pleading:

Vs.

: **PRE-TRIAL STATEMENT**

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual,

: Filed on Behalf of:  
DEFENDANT – KTF TRANSPORT

Defendants

: Counsel of Record for This Party:

Jeffrey S. DuBois, Esquire  
Supreme Court No. 62074  
190 West Park Avenue, Suite #5  
DuBois, PA 15801  
(814) 375-5598

RECEIVED  
MAY 09 2005  
COURT ADMINISTRATOR'S  
OFFICE

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :  
Plaintiff :  
Vs. :  
KTF TRANSPORT, LLC, a Pennsylvania :  
Limited Liability Company; and SCOTT :  
FLECK, t/d/b/a S&M LOG Transportation :  
an adult individual, :  
Defendants :

**PRE-TRIAL STATEMENT**

**I. BRIEF STATEMENT OF THE CASE**

Defendant, KTF Transport, LLC, is in the business, among other things, providing truck and tractor trailer services for transportation purposes only.

On or about May 2003, Plaintiff contacted Defendant to engage Defendants services for the use of Defendants vehicle for the transportation of goods. The agreement was for the transportation of goods alone from DuBois, Pennsylvania, to Blakeslee, Pennsylvania. Additionally, the parties agreed on the amount of Three Hundred Twenty Five and 00/100 (\$325.00) Dollars for payment by Plaintiff to Defendant for the transportation of said goods.

This was the extent of the parties agreement and it was Plaintiffs responsibility for the loading and securing of the goods, as well as the removing of the goods once they got to their designated place. Once the goods were transported to Blakeslee, Pennsylvania, and removed at that particular site, thereafter, and unbeknownst to Defendant, Plaintiff

received additional goods at this particular site and had the driver transport these goods back to DuBois, Pennsylvania. This return trip of goods was never contemplated by the parties, nor ever agreed to by Defendant, nor was Defendant aware of the same.

Once the truck returned to DuBois, Pennsylvania, and the goods were taken to Plaintiffs place of business, Plaintiff signed a Bill of Lading setting forth that the goods received were in good and average condition. Again, as was the case the original destination place, Plaintiff, or Plaintiffs representatives or employees, were responsible for and removed all of the goods from the vehicle.

This suit pertains to Plaintiff attempting to sue Defendant for alleged damage to Plaintiffs goods.

Defendant denies any liability with respect to Plaintiffs claims, and Defendant is countersuing for the amount of money the parties contracted for and which was never paid by Plaintiff.

## **II. CITATION TO APPLICABLE CASE OR STATUTES**

General Contract Law

## **III. LIST OF WITNESSES**

1. Tara Finley – for Defendant

Defendant reserves the right to list additional witnesses with proper notice to counsel for Plaintiff and the Arbitrators.

**IV. BRIEF DESCRIPTION OF DAMAGES - EXHIBITS**

Defendant has filed a counterclaim against Plaintiff in the amount of Three Hundred Twenty Five and 00/100 (\$325.00) Dollars, plus costs.

**EXHIBITS:**

1. Bill of Lading
2. Invoices from Defendant to Plaintiff

Defendant reserves the right to add additional exhibits with proper notice to counsel for Plaintiff and the Arbitrators.

Respectfully submitted,



---

Jeffrey S. DuBois, Esquire  
Attorney for Defendants

KTF Transport LLC.  
1672  
Treasure Lake  
DuBois, PA 15801  
USA  
(814)372-2266 FX:(814)372-0909

# Invoice

PAGE 1

Invoice No.  
00000131

Invoice Date  
05/16/03

TAXPAYER ID  
25-1883760

Sold

To: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number	Date Ordered	Date Shipped	Ship Via	F.O.B.	
	05/16/03	05/16/03			
Salesperson	Terms		Payment Due	Notes	
	DUE ON RECEIPT		05/16/03		
Item	Ordered	Shipped	Description	Price	Amount
	1	1	TRIP TO BLAKESLEE PA	325.00	325.00

Message

SubTotal  
Sales Tax  
Shipping  
TOTAL 325.00

F Transport LLC.

72

asure Lake

Bois, PA 15801

IA

(4)372-2266 FX:(814)372-0909

Invoice No.  
00000138

Invoice Date  
05/22/03

TAXPAYER ID  
25-1883760

003

0: APPLE CORE  
66 TAYLOR AVE  
FALLS CREEK, PA 15840

Ship  
To:

Purchase Order Number		Date Ordered 05/22/03	Date Shipped 05/22/03	Ship Via	P.O.B.
Salesperson		Terms DUE ON RECEIPT		Payment Due 05/22/03	Notes
Item	Ordered	Shipped	Description TRIP TO BLACKLAKE, PA 1 RETURN TRIP TO FALLS CREEK	Price 325.00 100.00	Amount 325.00 100.00
Exhibit "A"					

SubTotal

Sales Tax

Shipping

TOTAL

425.00

Message

RECEIVED, subject to the classifications and tariffs in effect on the date of the receipt by the carrier of the property described in the Original Bill of Lading.

Carrier

Agent's No.

at W. The First Company, Inc. from Blakeslee, PA

The property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown) marked, consigned and destined as shown below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possess of or in control of the property under the contract) agrees to carry to be used place of delivery at said destination, it on its own railroad, water line, highway route or routes, or within the territory of its highway operations, otherwise to deliver to another carrier on the route to said destination, it is mutually agreed, as in each case of all or any of said property over all or any portion of said route to destination, and as to each party at any time intervening in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

Consigned to Apple Cider

(Mail or street address of consignee—For purposes of notification only.)

Destination Falls Creek

City

State of

Zip Code

County of

Routing:

Delivering

Vehicle

Carrier

or Car Initial

No.

Collect On Delivery

\$

and remit to:

No. Packages	Street	City	State	C. O. D. charge to be paid by	Shipper Consignee
	Description of Articles, Special Marks, and Exceptions <i>SALE</i>	1000 lbs	Class or Rate	Subject to Section 7 of conditions this shipment is to be delivered to consignee without recourse on the signor, the consignor shall sign the following statements: The carrier shall not make delivery of this shipment without payment of fee and all other lawful charges.	(Signature of Consignor) If charges are to be prepaid, write stamp here, "TO BE PREPAID."

If the shipment moves between two points by a carrier by water, this law requires that the bill of lading shall state whether it is "carrier of record" or "carrier by weight." NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby  
specifically stated by the shipper to be not exceeding

Permanent post-office address of shipper,

Shipper, Per

Agent, Per

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

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

KEVIN DISANTIS, t/d/b/a Apple Core, : No. 04-455-CD  
an adult individual, :

Plaintiff :

Vs. :

KTF TRANSPORT, LLC, a Pennsylvania  
Limited Liability Company; and SCOTT  
FLECK, t/d/b/a S&M LOG Transportation  
an adult individual, :

Defendants :

CERTIFICATE OF SERVICE

I do hereby certify that on the 9<sup>th</sup> day of August, 2005, I served a true and correct copy of the within Pre Trial Statement by first class mail, postage prepaid, on the following:

Richard A. Bell, Esquire  
P.O. Box 670  
Clearfield, PA 16830

Kimberly M. Kubista, Esquire  
P.O. Box 1  
Clearfield, PA 16830

Ronald L. Collins, Esquire  
218 S. Second Street  
Clearfield, PA 16830

Theron G. Noble, Esquire  
301 E. Pine Street  
Clearfield, PA 16830

  
\_\_\_\_\_  
Jeffrey S. DuBois