

05-128-CD  
Federated Capital vs. Kelly et al

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Federated Capital Corp. v. Joseph Kelly et al  
2005-128-CD

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

FEDERATED CAPITAL CORP.

Plaintiff

vs.

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

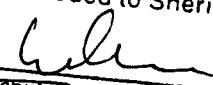
No. 05-128-CD

COMPLAINT IN CIVIL ACTION

FILED ON BEHALF OF  
Plaintiff

COUNSEL OF RECORD OF  
THIS PARTY:

William T. Molczan, Esquire  
PA I.D. #47437  
WELTMAN, WEINBERG & REIS CO., L.P.A.  
2718 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219  
(412) 434-7955  
WWR#03975265

SEP 6, 2005 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
  
Deputy Prothonotary

FILED

M 2:28 PM 1/27/05

JAN 27 2005

William A. Shaw  
Prothonotary

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

FEDERATED CAPITAL CORP.

Plaintiff

No.

vs.

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

**COMPLAINT IN CIVIL ACTION AND NOTICE TO DEFEND**

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

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

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE

LAWYER REFERRAL SERVICE  
Court Administrator  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, ext. 1300-1301

## COMPLAINT

1. Plaintiff is a corporation with offices at 30955 Northwestern Highway, Farmington Hills, MI 48333.
2. Defendant is an adult individual residing at 301 Meyers Circle, Clearfield, PA 16830.
3. On or about January 5, 2001, the parties entered into a written Closed-End Lease Agreement (hereinafter referred to as the "Agreement") for the lease of a Ultrak Color Camera and Ultrak Color Monitor, more particularly identified in the Agreement, a true and correct copy of which is attached hereto, marked as Exhibit "1" and made a part hereof.
4. By the terms of the Agreement, Defendant was to make 60 (Sixty) payments of \$225.00, commencing January 5, 2001, and to pay certain license fees due at the inception of the lease and during the lease term.
5. The terms of said Agreement provide for termination upon satisfaction by Defendant of all obligations provided thereunder and upon the return of the vehicle by Defendant to Plaintiff at the end of the lease term, which term would end 60 (Sixty) months after it commenced.
6. Plaintiff avers that Defendant defaulted under the terms of the Lease Agreement by failing to make payment to Plaintiff as promised.

7. Due to the Defendant's default under the Agreement, Plaintiff exercised its right to terminate the Lease.

8. After calculating the early termination charges due Plaintiff pursuant to the terms of the Lease, Plaintiff avers that a balance of \$13,175.95 as of January 5, 2005 is due from Defendant.

9. Plaintiff avers that the Agreement between the parties provides that Defendant will pay Plaintiff's attorneys' fees.

10. Plaintiff avers that such attorneys' fees will amount to \$1,500.00.

11. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and/or refused to pay the principal balance, interest, attorneys' fees or any part thereof to Plaintiff.

WHEREFORE, Plaintiff demands Judgment in its favor and against Defendant, Joseph Kelly D/B/A Kelly's Convenience Store, Inc., individually, in the amount of \$13,175.95 with continuing interest thereon at the legal rate 18% per annum from January 5, 2005 plus attorneys' fees of \$1,500.00 and costs.

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED SHALL BE USED FOR THAT PURPOSE.**

WELTMAN, WEINBERG & REIS, CO., L.P.A.

A handwritten signature in black ink, appearing to read 'William T. Molczan', is written over a horizontal line.

William T. Molczan, Esquire

PA I.D. #47437

WELTMAN, WEINBERG & REIS CO., L.P.A.

2718 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219

(412) 434-7955

WWR#03975265



# LEASE ACCEPTANCE CORPORATION

A Division of Federated Capital Corporation

30955 Northwestern Highway • P.O. Box 9066 • Farmington Hills, MI 48333-9066  
Phone (248) 737-1310 • FAX (248) 626-1544

Exhibit "1"

## Lease Agreement

Lease No.

361309

QUANTITY	SUPPLIER AND DESCRIPTION OF LEASED EQUIPMENT	SERIAL NO.
	<b>SUPPLIER:</b> SECURITY & SURVEILLANCE, INC. 8641 BAYPINE ROAD, SUITE 7, JACKSONVILLE, FL 32256	
	<b>DESCRIPTION:</b>	
1	ULTRAK COLOR MONITOR KO-144200PA	MD030101
1	ULTRAK COLOR CAMERA KC-2A	8060163
2	8X8 VHS VC-50	ACADIM1447, DACIF0191
EQUIPMENT LOCATION: (IF OTHER THAN BILLING ADDRESS OF LESSEE) CITY COUNTY STATE ZIP		

INITIAL RENTAL TERM	MONTHLY RENT	ACH DEBIT AUTHORIZATION (Check here) <input type="checkbox"/>	
	\$ 225 <sup>00</sup> FOR 60 MONTHS	ADVANCE PAYMENT CHECK FOR THIS AMOUNT MUST ACCOMPANY LEASE APPLICATION	
60 MONTHS	FOLLOWED BY \$ FOR MONTHS (PLUS TAX, IF APPLICABLE)	<input checked="" type="checkbox"/> 1ST one & LAST one PAYMENTS \$ 450.00 <input type="checkbox"/> SECURITY DEPOSIT 2250 <input checked="" type="checkbox"/> OTHER TAX 47250 2250 <b>TOTAL \$ 47250</b>	

THIS LEASE IS NON-CANCELABLE FOR THE INITIAL TERM.

LESSEE UNDERSTANDS AND AGREES THAT NEITHER SUPPLIER NOR ANY AGENT OF SUPPLIER IS AN AGENT OF LESSOR OR IS AUTHORIZED TO WAIVE OR ALTER ANY TERM OR CONDITION OF THIS LEASE.

### TERMS AND CONDITIONS OF LEASE

**1. ORDERING EQUIPMENT.** Lessee hereby requests Lessor to order the Equipment from the Supplier named above, to arrange for delivery to Lessee at Lessee's expense, to pay Supplier for the Equipment after its delivery to Lessee, and to lease the Equipment to Lessee.

**2. LEASE.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Equipment described above and on any attached schedule (herein with all replacement parts, repairs, additions and accessories called "Equipment") on the terms and conditions on the face and reverse side hereof and on any schedule hereto (each a "Schedule"). Each Schedule shall incorporate all of the terms of this Lease and each may be enforced as a separate Lease.

**3. DISCLAIMER OF WARRANTIES AND WAIVER OF DEFENSES.** LESSOR, NEITHER BEING THE MANUFACTURER, NOR THE SUPPLIER, NOR A DEALER IN THE EQUIPMENT MAKES NO WARRANTY, EXPRESS OR IMPLIED, TO ANYONE AS TO THE FITNESS, MERCHANTABILITY, DESIGN, CONDITION, CAPACITY, PERFORMANCE OR ANY OTHER ASPECT OF THE EQUIPMENT OR ITS MATERIAL OR WORKMANSHIP AND DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR USE OF PURPOSE. LESSOR FURTHER DISCLAIMS ANY LIABILITY FOR LOSS, DAMAGE OR INJURY TO LESSEE OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE EQUIPMENT WHETHER ARISING FROM THE APPLICATION OF THE LAWS OF STRICT LIABILITY OR OTHERWISE. AS TO LESSOR, LESSEE LEASES THE EQUIPMENT "AS IS". LESSEE HAS SELECTED THE SUPPLIER OF THE EQUIPMENT AND ACKNOWLEDGES THAT LESSOR HAS NOT RECOMMENDED THE SUPPLIER. LESSOR SHALL HAVE NO OBLIGATION TO INSTALL, MAINTAIN, ERECT, TEST, ADJUST OR SERVICE THE EQUIPMENT, ALL OF WHICH LESSEE SHALL PERFORM, OR CAUSE TO BE PERFORMED BY QUALIFIED THIRD PARTIES. IF THE EQUIPMENT IS UNSATISFACTORY FOR ANY REASON, LESSEE SHALL MAKE CLAIM ON ACCOUNT THEREOF SOLELY AGAINST THE SUPPLIER OR MANUFACTURER AND SHALL NEVERTHELESS PAY LESSOR ALL RENT PAYABLE UNDER THE LEASE. LESSEE ACKNOWLEDGES THAT DISSATISFACTION WITH THE EQUIPMENT OR LOSS OF THE EQUIPMENT WILL NOT RELIEVE LESSEE OF ANY OBLIGATION UNDER THIS LEASE. REGARDLESS OF CAUSE, LESSEE WILL NOT ASSERT ANY CLAIM WHATSOEVER AGAINST LESSOR FOR LOSS OF ANTICIPATORY PROFITS OR ANY OTHER INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES, NOR SHALL LESSOR BE RESPONSIBLE FOR ANY DAMAGES OR COSTS WHICH MAY BE ASSESSED AGAINST LESSEE IN ANY ACTION FOR INFRINGEMENT OF ANY UNITED STATES LETTERS PATENT. LESSOR MAKES NO WARRANTY AS TO THE TREATMENT OF THIS LEASE FOR TAX OR ACCOUNTING PURPOSES.

**4. TERM AND RENT; DEPOSIT.** The term of this Lease or any Schedule shall commence as of the date that any of the Equipment is delivered to Lessee or Lessee's Agent ("Commencement Date"). The term shall thereafter continue until all obligations of Lessee under this Lease or any Schedule shall have been fully performed. Advance rents shall not be refundable if the Lease term for any reason does not commence or if this Lease or any Schedule is duly terminated by Lessor. The installments of rent shall be payable monthly in advance as indicated above or on any Schedule, the first such payment being due on the Commencement Date, or such later date as Lessor designates in writing (the "First Payment Date"), and subsequent payments being due on the same day of each successive month thereafter until the balance of rent and any additional rent or expenses chargeable to Lessee under this Lease or any Schedule shall have been paid in full. In the event the First Payment Date is later than the Commencement Date (the "Interim Period"), Lessee shall pay Lessor, together with its next payment of rent, interim rent equal to 1/30th of the monthly rent payment for each day of the Interim Period. Lessee's obligation to pay such rents shall be absolute and unconditional and are not subject to abatement, set-off, defense or counterclaim for any reason whatsoever. Lessee shall also pay on the First Payment Date a Lease or Schedule initiation fee of one half of one percent (.5%) of the aggregate rent reserved in this Lease or any Schedule but not less than \$50.00. All payments hereunder shall be made to Lessor at its address set forth herein or such other place as Lessor in writing directs. If Lessee requests automatic collection processing ("ACH"), Lessee shall check the appropriate box above which authorizes Lessor to debit Lessee's bank account for the required monthly rental payments and other charges due under this Lease or any Schedule and Lessee agrees to execute such documents as required by Lessee or Lessee's bank to effectuate the foregoing. Any Security Deposit reflected above or on any Schedule shall be held by Lessor to secure the payment and performance of Lessee's obligations hereunder or thereunder and may not be used for the payment of any rent or other monies due Lessor. Any unapplied portion of the Security Deposit will be refunded to Lessee without interest at the expiration of this Lease or related Schedule.

### KELLY'S CONVENIENCE STORE, INC.

LESSEE (COMPLETE LEGAL NAME)

RT 1 BOX 1350

BILLING ADDRESS

RIDGELAND

BEAUFORT

SC

29936

CITY

COUNTY

STATE

ZIP

(843) 987-5722

1/05/01

BREA CODE PHONE

DATE

SIGNATURE

TITLE

SIGNATURE

TITLE

### PERSONAL GUARANTY

To induce Lessor to enter into the within Lease, the undersigned, each a "Guarantor", unconditionally guarantees to Lessor the prompt payment when due of all of Lessee's obligations to Lessor under the Lease. Lessor shall not be required to proceed against Lessee or the Equipment or enforce any other remedy before proceeding against Guarantor. Guarantor agrees to pay all attorneys' fees and other expenses incurred by Lessor by reason of default by Lessee. Guarantor waives notice of acceptance hereof and of all other notices or demands of any kind to which Guarantor may be entitled. Guarantor consents to any extensions of time or modification of the amount of payment and the release and/or compromise of any obligations of Lessee or any other obligors and guarantors without in any way releasing Guarantor from Guarantor's obligations hereunder. This is a continuing guaranty and shall not be discharged or affected by death of Guarantor or Lessee, shall bind the heirs, administrators, representatives, successors and assigns of Guarantor and may be enforced by or for the benefit of any assignee or successor of Lessor. Guarantor hereby consents to the jurisdiction of any state or federal court located in the State of Michigan with respect to any action arising out of this Guaranty. Service of process in any such action shall be deemed sufficient if made by certified mail, return receipt requested, to the last known address of Guarantor.

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### CERTIFICATE OF ACCEPTANCE OF LEASED EQUIPMENT

Undersigned hereby certifies that all of the Equipment referred to in the Lease has been delivered to and received by Lessee, that all installation or other work necessary to the use thereof has been completed, that the Equipment has been examined by Lessee and is in good operating order and condition and is in all respects satisfactory to Lessee, and that the Equipment is accepted by Lessee for all purposes of the Lease.

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ACCEPTED BY LEASE ACCEPTANCE CORPORATION

A Division of Federated Capital Corporation, LESSOR AT FARMINGTON HILLS, MI

BY

DATE

DATE

DATE

DATE

Mark E. Fisher VP JAN 09 2001

**5. ASSIGNMENT; QUIET ENJOYMENT.** Lessor may, at Lessee's consent, assign or transfer this Lease, any Schedule or any Equipment, any rent, or any other sums due or to become due hereunder or thereunder and in such event, such assignee or transferee shall have all of the rights, powers, privileges and remedies of Lessor hereunder. Lessee agrees that no assignee of Lessor shall be bound to perform any duty, covenant, condition or warranty attributable to Lessor. In the event Lessor assigns its interest in this Lease or any Schedule, Lessee agrees not to assert against such assignee any defense, setoff, recoupment, claim or counterclaim which Lessee may have as against Lessor, whether arising under this Lease or otherwise. No such assignment shall increase Lessee's obligations hereunder or under any Schedule. Notwithstanding any assignment by Lessor, providing Lessee is not in default hereunder, Lessee shall quietly use and enjoy the Equipment subject to the terms hereof. **Lessee shall not assign this Lease or any interest hereunder and shall not enter into any sublease with respect to the Equipment covered hereby without Lessor's prior written consent.**

**6. LESSOR TERMINATION BEFORE EQUIPMENT ACCEPTANCE.** If within 45 days from the date Lessor orders the Equipment, the Equipment has not been delivered, installed and accepted by Lessee (in form satisfactory to Lessor) for purposes of this Lease or any Schedule, Lessor may terminate this Lease or any Schedule and its obligations to Lessee.

**7. TITLE; PERSONAL PROPERTY.** The Equipment is, and shall at all times remain, the property of Lessor, and Lessee shall have no right, title or interest therein and no right to purchase or otherwise acquire title to or ownership of any of the Equipment. Lessee hereby authorizes Lessor to insert in this Lease or correct the serial numbers, or other identification data of the Equipment or omitted factual matters when determined by Lessor. Lessee shall, at its expense, protect and defend Lessor's title against all persons claiming against or through Lessee, at all times keeping the Equipment free from any legal process or encumbrance whatsoever including but not limited to liens, attachments, levies and executions, and shall give Lessor immediate written notice thereof and shall indemnify Lessor from any loss caused thereby. If this Lease is determined to be a security agreement, Lessee hereby grants Lessor a priority security interest in the Equipment. Lessee shall execute or obtain from third parties and deliver to Lessor, upon Lessor's request, such further instruments and assurances including Uniform Commercial Code financing statements, as Lessor deems necessary or advisable for the confirmation or perfection of Lessor's rights hereunder. Lessee authorizes Lessor to file such financing statements signed only by Lessor where permitted by law and appoints Lessor as Lessee's attorney-in-fact to execute such financing statements on Lessee's behalf and to do all acts or things which Lessor may deem necessary to protect Lessor's title and interest hereunder. The Equipment is, and shall at all times be and remain, personal property notwithstanding that the Equipment or any part thereof may now be or hereafter become in any manner affixed or attached to real property or any improvements thereon.

**8. CARE, USE AND LOCATION.** Lessee, at its own cost and expense, shall maintain and keep the Equipment in good repair, condition and working order, shall use the Equipment lawfully and shall not alter the Equipment without Lessor's prior written consent. If the manufacturer or the Supplier of the Equipment has provided Lessee with a standard maintenance schedule, such schedule will constitute minimum maintenance compliance and Lessee, upon request, will supply Lessor with evidence of such compliance. The Equipment shall not be removed from the Equipment location shown on the face of this Lease or any Schedule, without Lessor's written consent. Lessor shall have the right to inspect the Equipment at any reasonable time.

**9. REDELIVERY.** Upon expiration or earlier termination of this Lease or any Schedule, Lessee shall return the Equipment, freight prepaid, to Lessor in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof only excepted, in a manner and to a location reasonably designated by Lessor. If upon such expiration or termination Lessee does not immediately return the Equipment to Lessor, the Equipment shall continue to be held and leased hereunder, and this Lease or such Schedule shall thereupon be extended indefinitely for additional 120 day renewal terms at the same monthly rent, subject to the right of either Lessee or Lessor to terminate this Lease or Schedule upon not less than thirty (30) days' written notice prior to the end of any renewal term, whereupon Lessee shall deliver the Equipment to Lessor at the end of the renewal term as set forth in this paragraph.

**10. RISK OF LOSS.** Lessee shall bear all risks of loss or damage to the Equipment from any cause and the occurrence of such loss or damage shall not relieve Lessee of any obligation hereunder. In the event of loss or damage, Lessee, at Lessor's option shall: (a) place the damaged Equipment in good repair, condition and working order or (b) replace lost or damaged Equipment with like equipment in good repair, condition and working order with documentation creating clear title thereto in Lessor or (c) pay Lessor the present value of the unpaid balance of the aggregate rent reserved under this Lease or any Schedule, plus the value of Lessor's residual interest in the Equipment discounted to the date of such loss at six percent (6 %) per annum plus interest thereon at eighteen percent (18 %) per annum (but not more than the maximum rate permitted by law) until paid. Upon Lessor's receipt of such payment, Lessee and/or Lessee's insurer shall be entitled to Lessor's interest in the affected Equipment for salvage purposes, in its then condition and location, as is, without warranty, express or implied.

**11. INSURANCE.** Lessee shall keep the Equipment insured against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof, and shall carry public liability and property damage insurance covering the Equipment and its use. All such insurance shall be in form and amount and with companies approved by Lessor and name Lessor and its assignee as loss payee, as its interest may appear with respect to property damage coverage and as additional insured with respect to public liability coverage. Lessee shall pay the premiums therefor and deliver certificates of coverage thereunder to Lessor, with an endorsement to the policy or policies or by independent instrument, that provide Lessor a right to thirty (30) days' written notice before the policy can be altered or cancelled and the right to payment of premium without obligation. Should Lessee fail to provide such insurance coverage, Lessor may obtain coverage for part or all of the remaining term or such period beyond the term as is required by the insurance company issuing such coverage protecting the interest of Lessor and Lessee or the interest of Lessor only and Lessee shall pay the cost thereof when demanded by Lessor. The proceeds of such insurance, at the option of Lessor, shall be applied toward (i) the replacement, restoration or repair of the Equipment or (ii) payment of the obligations of Lessee. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for loss or damage under any said insurance policies.

**12. NET LEASE; TAXES, EXPENSES AND FEES.** Lessee intends the rent payments hereunder to be net to Lessor, and Lessee shall pay all sales, use, personal property, excise, stamp, documentary and ad valorem taxes, license, filing and registration fees, assessments, fines, penalties and similar charges imposed on the ownership, possession or use of the Equipment during the term of this Lease or any Schedule; shall pay all taxes (except Lessor's federal or state net income taxes) imposed on Lessor or Lessee with respect to the rent payments hereunder, and shall reimburse Lessor upon demand for any taxes paid by or advanced by Lessor. Lessee shall file for and pay all personal property taxes assessed with respect to the Equipment during the term of this Lease or any Schedule and shall provide Lessor with proof of payment thereof. Lessee shall pay a title

transfer, documents. Upon, as by Lessee, Lessor shall provide a lease termination value one time during the term of this Lease without cost and thereafter Lessor will charge Lessee \$25.00 for each additional request. Notwithstanding the foregoing, this Lease is non-cancelable and no termination shall be permitted without Lessor's written consent.

**13. INDEMNITY.** Lessee shall indemnify, hold Lessor harmless from, and defend Lessor against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities including its attorneys' fees, arising out of, connected with, or resulting from the Equipment, the Lease or any Schedule, including without limitation, the manufacture, selection, delivery, possession, use, operation or return of the Equipment. This provision shall survive the expiration or earlier termination of this Lease and any Schedule.

**14. DEFAULT AND REMEDIES.** If Lessee (a) fails to pay any rent or other payment hereunder or on any Schedule or under any other lease or agreement with Lessor when due or (b) fails to perform any of the other terms or conditions of this Lease or any Schedule which is not cured within ten (10) days after written notice or (c) becomes insolvent, files or has filed against it a petition in bankruptcy, makes an assignment for the benefit of creditors or (d) sells or has a receiver appointed for all or a substantial part of its assets, then Lessor may exercise any one or more of the following remedies:

(a) To declare the entire unpaid balance of rent for the unexpired term of this Lease and any Schedule immediately due and payable and also accelerate the balances due under any other leases or schedules between Lessor and Lessee without demand or notice and to sue for and recover all rents and other monies due and to become due under this Lease or any Schedule, plus the value of Lessor's anticipated residual interest in the Equipment, discounted to the date of default at six percent (6%) per annum.

(b) To charge Lessee interest on all monies due Lessor at a rate of eighteen percent (18 %) per annum from the date of default until paid but in no event more than the maximum rate permitted by law.

(c) To require Lessee to assemble all of the Equipment at Lessee's expense, at a reasonable location designated by Lessor.

(d) To remove any physical obstructions for removal of the Equipment from the place where the Equipment is located and take possession of any or all items of Equipment, without demand or notice, wherever same may be located, disconnecting and separating all such Equipment from any other property with or without any court order or pre-litigation hearing or other process of law, it being understood the facility of repossession in the event of default is a basis for the financial accommodations reflected by this Lease. Lessee hereby waives any and all damages occasioned by such re-taking. Lessor may, at its option, use, ship, store, repair, sell or lease all Equipment so removed or otherwise dispose of any such Equipment at Lessee's premises at reasonable business hours without being required to remove the Equipment. In the event Lessor disposes of the Equipment, Lessor shall give Lessee credit for any sums received by Lessor from the sale or rental of the Equipment after deduction of the expenses of sale or rental.

(e) To pay to Lessor (i) all expenses incurred by Lessor in connection with the enforcement of any of Lessor's remedies, including all expenses of repossession, storing, shipping, repairing and selling the Equipment and (ii) Lessor's reasonable attorneys' fees.

Lessor and Lessee acknowledge the difficulty in establishing a value for the unexpired Lease term and owing to such difficulty agree that the provisions of this paragraph represent an agreed measure of damages and are not to be deemed a forfeiture or penalty.

Whenever any payment is not made by Lessee when due hereunder, Lessee agrees to pay to Lessor, not later than one month thereafter, an amount equal to the greater of (i) fifteen cents per one dollar of each such delayed payment or (ii) \$15.00, but only to the extent permitted by law, as an administrative fee to offset Lessor's collection expense. Such amount shall be payable in addition to all amounts payable by Lessee as a result of Lessor's exercise of any one of the remedies herein provided. Lessee shall also pay Lessor (1) a fee equal to the greater of \$25.00 or the actual bank charges to Lessor for each check of Lessee that is returned unpaid for any reason or for unpaid ACH debits and (2) \$25.00 for each collection call made to Lessee.

All remedies of Lessor hereunder are cumulative, are in addition to any other remedies provided for by law, and may, to the extent permitted by law, be exercised concurrently or separately. The exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. No failure on the part of Lessor to exercise and no delay in exercising any right or remedy shall operate as a waiver thereof or modify the terms of this Lease or any Schedule. A waiver of default shall not be a waiver of any other or subsequent default. Lessor's recovery hereunder shall in no event exceed the maximum recovery permitted by law.

**15. PERFORMANCE BY LESSOR OF LESSEE'S OBLIGATIONS.** In the event Lessee fails to comply with any provision of this Lease or any Schedule, including in particular the insurance requirements of paragraph 11 hereof, Lessor shall have the right, but shall not be obligated, to effect such compliance on behalf of Lessee upon ten (10) days' prior written notice to Lessee. In such event, all monies expended by and all expenses of Lessor in effecting such compliance shall be deemed to be additional rent and shall be paid by Lessee to Lessor at the time of the next monthly payment of rent.

**16. GOVERNING LAW, JURISDICTION AND CONSENT TO SERVICE OF PROCESS.** THIS LEASE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MICHIGAN. LESSEE CONSENTS TO THE PERSONAL JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN THE STATE OF MICHIGAN WITH RESPECT TO ANY ACTION ARISING OUT OF THE LEASE OR ANY SCHEDULE. LESSEE AGREES SERVICE OF PROCESS IN ANY SUCH ACTION SHALL BE SUFFICIENT IF MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS OF LESSEE SET FORTH HEREIN. TO THE EXTENT PERMITTED BY LAW, LESSEE WAIVES TRIAL BY JURY IN ANY ACTION ARISING OUT OF THIS LEASE OR ANY SCHEDULE.

**17. LESSEE'S COVENANTS AND REPRESENTATIONS.** Lessee shall provide Lessor with such interim or annual financial statements as Lessor reasonably requests. Lessee represents and warrants that all financial and other information furnished to Lessor was, at the time of delivery to Lessor, true and correct.

**18. GENERAL.** This Lease shall inure to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of the parties hereto. Time is of the essence with respect to the performance of the terms of this Lease. This Lease or any Schedule contains the entire agreement between Lessor and Lessee and no modification of this Lease or any Schedule shall be effective unless in writing and executed by an executive officer of Lessor. If more than one Lessee is named in the Lease or any Schedule, the liability of each shall be joint and several. In the event any provision of this Lease shall be unenforceable, then such provision shall be deemed deleted, however, no other provision hereof shall be affected thereby.

**19. FINANCE LEASE STATUS.** Lessor and Lessee agree that if Article 2A of the Uniform Commercial Code governs the terms of this Lease, then this Lease will be deemed a "Finance Lease". By executing this Lease, Lessee acknowledges that (a) Lessor has advised Lessee (i) of the identity of the Supplier, (ii) that Lessee may have rights under the "Supply Contract", as defined in the Code, pursuant to which Lessor is purchasing the Equipment, and (iii) that Lessee may contact the Supplier for a description of any such rights. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, LESSEE WAIVES ANY AND ALL RIGHTS AND REMEDIES CONFIRMED UPON A LESSEE BY THE CODE INCLUDING SECTIONS 2A-509 THROUGH 2A-522, MCL AND 205R-2072 (P.A. 1992).**



VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is Joan Fless  
(NAME)

VP of Port Svcs. of Federated Capital, plaintiff herein, that  
(TITLE) (COMPANY)

he/she is duly authorized to make this verification, and that the facts set forth in the foregoing Complaint are true and correct to the best of his/her knowledge, information and belief.

Joan Fless VP of Port Svcs  
(SIGNATURE)

Rita Sagmani  
Notary Public, Oakland County, MI  
Acting in Oakland Co, MI  
My Commission Expires on 8-9-2011

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

Service # 1 of 1 Services

Sheriff Docket # **100179**

FEDERATED CAPITAL CORP.

Case # 05-128-CD

vs.

JOSEPH KELLY d/b/a KELLY'S CONVENIENCE STORE, INC.

## SHERIFF RETURNS

NOW March 05, 2005 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURNED THE WITHIN COMPLAINT "NOT FOUND" AS TO JOSEPH KELLY D/B/A KELLY'S CONVENIENCE STORE, INC., DEFENDANT. 301 MEYERS CIRCLE, CLEARFIELD, PA "EMPTY".

SERVED BY: /

**FILED** (6K)  
01:10:55 PM  
MAR 07 2005

William A. Shaw  
Prothonotary/Clerk of Courts

## Return Costs

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	WELTMAN	8195770	10.00
SHERIFF HAWKINS	WELTMAN	8195769	16.00

Sworn to Before me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

\_\_\_\_\_

So Answers,

  
Chester A. Hawkins  
Sheriff

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

FEDERATED CAPITAL CORP.

Plaintiff

vs.

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

No. 05-128-CD

COMPLAINT IN CIVIL ACTION

FILED ON BEHALF OF  
Plaintiff


COUNSEL OF RECORD OF  
THIS PARTY:

William T. Molczan, Esquire  
PA I.D. #47437  
WELTMAN, WEINBERG & REIS CO., L.P.A.  
2718 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219  
(412) 434-7955  
WWR#03975265

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

JAN 27 2005

Attest.

  
Prothonotary/  
Clerk of Courts

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

FEDERATED CAPITAL CORP.

Plaintiff

No.

vs.

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

**COMPLAINT IN CIVIL ACTION AND NOTICE TO DEFEND**

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

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

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE

LAWYER REFERRAL SERVICE  
Court Administrator  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, ext. 1300-1301

## COMPLAINT

1. Plaintiff is a corporation with offices at 30955 Northwestern Highway, Farmington Hills, MI 48333.
2. Defendant is an adult individual residing at 301 Meyers Circle, Clearfield, PA 16830.
3. On or about January 5, 2001, the parties entered into a written Closed-End Lease Agreement (hereinafter referred to as the "Agreement") for the lease of a Ultrak Color Camera and Ultrak Color Monitor, more particularly identified in the Agreement, a true and correct copy of which is attached hereto, marked as Exhibit "1" and made a part hereof.
4. By the terms of the Agreement, Defendant was to make 60 (Sixty) payments of \$225.00, commencing January 5, 2001, and to pay certain license fees due at the inception of the lease and during the lease term.
5. The terms of said Agreement provide for termination upon satisfaction by Defendant of all obligations provided thereunder and upon the return of the vehicle by Defendant to Plaintiff at the end of the lease term, which term would end 60 (Sixty) months after it commenced.
6. Plaintiff avers that Defendant defaulted under the terms of the Lease Agreement by failing to make payment to Plaintiff as promised.

7. Due to the Defendant's default under the Agreement, Plaintiff exercised its right to terminate the Lease.

8. After calculating the early termination charges due Plaintiff pursuant to the terms of the Lease, Plaintiff avers that a balance of \$13,175.95 as of January 5, 2005 is due from Defendant.

9. Plaintiff avers that the Agreement between the parties provides that Defendant will pay Plaintiff's attorneys' fees.

10. Plaintiff avers that such attorneys' fees will amount to \$1,500.00.

11. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and/or refused to pay the principal balance, interest, attorneys' fees or any part thereof to Plaintiff.

WHEREFORE, Plaintiff demands Judgment in its favor and against Defendant, Joseph Kelly D/B/A Kelly's Convenience Store, Inc., individually, in the amount of \$13,175.95 with continuing interest thereon at the legal rate 18% per annum from January 5, 2005 plus attorneys' fees of \$1,500.00 and costs.

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED SHALL BE USED FOR THAT PURPOSE.**

WELTMAN, WEINBERG & REIS, CO., L.P.A.



William T. Molczan, Esquire

PA I.D. #47437

WELTMAN, WEINBERG & REIS CO., L.P.A.

2718 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219

(412) 434-7955

WWR#03975265



# LEASE ACCEPTANCE CORPORATION

A Division of Federated Capital Corporation

30953 Northwestern Highway • P.O. Box 9066 • Farmington Hills, MI 48333-9066  
Phone (248) 737-1310 • FAX (248) 626-1544

Exhibit "1"

## Lease Agreement

Lease No. 361309

QUANTITY	SUPPLIER AND DESCRIPTION OF LEASED EQUIPMENT	SERIAL NO.
	<b>SUPPLIER:</b> <b>SECURITY &amp; SURVEILLANCE, INC. 8641 BAYPINE ROAD, SUITE 7, JACKSONVILLE, FL 32256</b>	
	<b>DESCRIPTION:</b>	
1	ULIRAK COLOR MONITOR KO-1442CPA	M0030101
1	ULIRAK COLOR CAMERA KC-2A	8060163
2	8XB VTS VC-50	ACADIM1447, DACLEF0191
EQUIPMENT LOCATION: (IF OTHER THAN BILLING ADDRESS OF LESSEE) CITY COUNTY STATE ZIP		

INITIAL RENTAL TERM  <u>60</u> MONTHS	MONTHLY RENT \$ <u>225.00</u> FOR <u>60</u> MONTHS	ACH DEBIT AUTHORIZATION (Check here) <input type="checkbox"/>  ADVANCE PAYMENT CHECK FOR THIS AMOUNT MUST ACCOMPANY LEASE APPLICATION <input checked="" type="checkbox"/> 1ST <u>one</u> & LAST <u>one</u> PAYMENTS \$ <u>450.00</u> <input type="checkbox"/> SECURITY DEPOSIT <u>22.50</u> <input checked="" type="checkbox"/> OTHER <u>TAX</u> <u>472.50</u> <u>22.50</u> <b>TOTAL \$ <u>472.50</u></b>
	FOLLOWED BY \$ _____ FOR _____ MONTHS (PLUS TAX, IF APPLICABLE)	

THIS LEASE IS NON-CANCELABLE FOR THE INITIAL TERM.  
LESSEE UNDERSTANDS AND AGREES THAT NEITHER SUPPLIER NOR ANY AGENT OF SUPPLIER IS AN AGENT OF LESSOR OR IS AUTHORIZED TO WAIVE OR ALTER ANY TERM OR CONDITION OF THIS LEASE.

### TERMS AND CONDITIONS OF LEASE

**1. ORDERING EQUIPMENT.** Lessee hereby requests Lessor to order the Equipment from the Supplier named above, to arrange for delivery to Lessee at Lessee's expense, to pay Supplier for the Equipment after its delivery to Lessee, and to lease the Equipment to Lessee.

**2. LEASE.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Equipment described above and on any attached schedule (herein with all replacement parts, repairs, additions and accessories called "Equipment") on the terms and conditions on the face and reverse side hereof and on any schedule hereto (each a "Schedule"). Each Schedule shall incorporate all of the terms of this Lease and each may be enforced as a separate Lease.

**3. DISCLAIMER OF WARRANTIES AND WAIVER OF DEFENSES.** LESSOR, NEITHER BEING THE MANUFACTURER, NOR THE SUPPLIER, NOR A DEALER IN THE EQUIPMENT MAKES NO WARRANTY, EXPRESS OR IMPLIED, TO ANYONE AS TO THE FITNESS, MERCHANTABILITY, DESIGN, CONDITION, CAPACITY, PERFORMANCE OR ANY OTHER ASPECT OF THE EQUIPMENT OR ITS MATERIAL OR WORKMANSHIP AND DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR USE OF PURPOSE. LESSOR FURTHER DISCLAIMS ANY LIABILITY FOR LOSS, DAMAGE OR INJURY TO LESSEE OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE EQUIPMENT WHETHER ARISING FROM THE APPLICATION OF THE LAWS OF STRICT LIABILITY OR OTHERWISE. AS TO LESSOR, LESSEE LEASES THE EQUIPMENT "AS IS". LESSEE HAS SELECTED THE SUPPLIER OF THE EQUIPMENT AND ACKNOWLEDGES THAT LESSOR HAS NOT RECOMMENDED THE SUPPLIER. LESSOR SHALL HAVE NO OBLIGATION TO INSTALL, MAINTAIN, ERECT, TEST, ADJUST OR SERVICE THE EQUIPMENT, ALL OF WHICH LESSEE SHALL PERFORM, OR CAUSE TO BE PERFORMED BY QUALIFIED THIRD PARTIES. IF THE EQUIPMENT IS UNSATISFACTORY FOR ANY REASON, LESSEE SHALL MAKE CLAIM ON ACCOUNT THEREOF SOLELY AGAINST THE SUPPLIER OR MANUFACTURER AND SHALL NEVERTHELESS PAY LESSOR ALL RENT PAYABLE UNDER THE LEASE. LESSEE ACKNOWLEDGES THAT DISSATISFACTION WITH THE EQUIPMENT OR LOSS OF THE EQUIPMENT WILL NOT RELIEVE LESSEE OF ANY OBLIGATION UNDER THIS LEASE. REGARDLESS OF CAUSE, LESSEE WILL NOT ASSERT ANY CLAIM WHATSOEVER AGAINST LESSOR FOR LOSS OF ANTICIPATORY PROFITS OR ANY OTHER INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, NOR SHALL LESSOR BE RESPONSIBLE FOR ANY DAMAGES OR COSTS WHICH MAY BE ASSESSED AGAINST LESSEE IN ANY ACTION FOR INFRINGEMENT OF ANY UNITED STATES LETTERS PATENT. LESSOR MAKES NO WARRANTY AS TO THE TREATMENT OF THIS LEASE FOR TAX OR ACCOUNTING PURPOSES.

**4. TERM AND RENT; DEPOSIT.** The term of this Lease or any Schedule shall commence as of the date that any of the Equipment is delivered to Lessee or Lessee's Agent ("Commencement Date"). The term shall thereafter continue until all obligations of Lessee under this Lease or any Schedule shall have been fully performed. Advance rents shall not be refundable if the Lease term for any reason does not commence or if this Lease or any Schedule is duly terminated by Lessor. The installments of rent shall be payable monthly in advance as indicated above or on any Schedule, the first such payment being due on the Commencement Date, or such later date as Lessor designates in writing (the "First Payment Date"), and subsequent payments being due on the same day of each successive month thereafter until the balance of rent and any additional rent or expenses chargeable to Lessee under this Lease or any Schedule shall have been paid in full. In the event the First Payment Date is later than the Commencement Date (the "Interim Period"), Lessee shall pay Lessor, together with its next payment of rent, interim rent equal to 1/30th of the monthly rent payment for each day of the Interim Period. Lessee's obligation to pay such rents shall be absolute and unconditional and are not subject to abatement, set-off, defense or counterclaim for any reason whatsoever. Lessee shall also pay on the First Payment Date a Lease or Schedule initiation fee of one half of one percent (.5%) of the aggregate rent reserved in this Lease or any Schedule but not less than \$50.00. All payments hereunder shall be made to Lessor at its address set forth herein or such other place as Lessor in writing directs. If Lessee requests automatic collection processing ("ACH"), Lessee shall check the appropriate box above which authorizes Lessor to debit Lessee's bank account for the required monthly rental payments and other charges due under this Lease or any Schedule and Lessee agrees to execute such documents as required by Lessee or Lessee's bank to effectuate the foregoing. Any Security Deposit reflected above or on any Schedule shall be held by Lessor to secure the payment and performance of Lessee's obligations hereunder or thereunder and may not be used for the payment of any rent or other monies due Lessor. Any unapplied portion of the Security Deposit will be refunded to Lessee without interest at the expiration of this Lease or related Schedule.

### KELLY'S CONVENIENCE STORE, INC.

LESSEE (COMPLETE LEGAL NAME)

RT 1 BOX 1350

BILLING ADDRESS

RIDGLAND

BEAUFORT

SC

29936

CITY

COUNTY

STATE

ZIP

( 843 ) 987-5722

1/05/01

AREA CODE / PHONE

DATE

SIGNATURE

TITLE

### PERSONAL GUARANTY

To induce Lessor to enter into the within Lease, the undersigned, each a "Guarantor", unconditionally guarantees to Lessor the prompt payment when due of all of Lessee's obligations to Lessor under the Lease. Lessor shall not be required to proceed against Lessee or the Equipment or enforce any other remedy before proceeding against Guarantor. Guarantor agrees to pay all attorneys' fees and other expenses incurred by Lessor by reason of default by Lessee. Guarantor waives notice of acceptance hereof and of all other notices or demands of any kind to which Guarantor may be entitled. Guarantor consents to any extensions of time or modification of the amount of payment and the release and/or compromise of any obligations of Lessee or any other obligors and guarantors without in any way releasing Guarantor from Guarantor's obligations hereunder. This is a continuing guaranty and shall not be discharged or affected by death of Guarantor or Lessee, shall bind the heirs, administrators, representatives, successors and assigns of Guarantor and may be enforced by or for the benefit of any assignee or successor of Lessor. Guarantor hereby consents to the jurisdiction of any state or federal court located in the State of Michigan with respect to any action arising out of this Guaranty. Service of process in any such action shall be deemed sufficient if made by certified mail, return receipt requested, to the last known address of Guarantor.

[Signature] AN INDIVIDUAL  
GUARANTOR'S SIGNATURE

JOSEPH KELLY

PRINTED NAME

[Signature] AN INDIVIDUAL  
GUARANTOR'S SIGNATURE

PRINTED NAME

[Signature] AN INDIVIDUAL  
GUARANTOR'S SIGNATURE

PRINTED NAME

### CERTIFICATE OF ACCEPTANCE OF LEASED EQUIPMENT

Undersigned hereby certifies that all of the Equipment referred to in the Lease has been delivered to and received by Lessee, that all installation or other work necessary to the use thereof has been completed, that the Equipment has been examined by Lessee and is in good operating order and condition and is in all respects satisfactory to Lessee, and that the Equipment is accepted by Lessee for all purposes of the Lease.

[Signature] 01/05/01  
AUTHORIZED SIGNATURE DATE

ACCEPTED BY LEASE ACCEPTANCE CORPORATION

A Division of Federated Capital Corporation, LESSOR AT FARMINGTON HILLS, MI

[Signature] JAN 09 2001  
BY DATE



5. **ASSIGNMENT; QUIET ENJOYMENT.** Lessor may, at Lessee's consent, assign or transfer this Lease, any Schedule or any Equipment, any rent, or any other sums due or to become due hereunder or thereunder and in such event, such assignee or transferee shall have all of the rights, powers, privileges and remedies of Lessor hereunder. Lessee agrees that no assignee of Lessor shall be bound to perform any duty, covenant, condition or warranty attributable to Lessor. In the event Lessor assigns its interest in this Lease or any Schedule, Lessee agrees not to assert against such assignee any defense, setoff, recoupment, claim or counterclaim which Lessee may have as against Lessor, whether arising under this Lease or otherwise. No such assignment shall increase Lessee's obligations hereunder or under any Schedule. Notwithstanding any assignment by Lessor, providing Lessee is not in default hereunder, Lessee shall quietly use and enjoy the Equipment subject to the terms hereof. **Lessee shall not assign this Lease or any interest hereunder and shall not enter into any sublease with respect to the Equipment covered hereby without Lessor's prior written consent.**

6. **LESSOR TERMINATION BEFORE EQUIPMENT ACCEPTANCE.** If within 45 days from the date Lessor orders the Equipment, the Equipment has not been delivered, installed and accepted by Lessee (in form satisfactory to Lessor) for purposes of this Lease or any Schedule, Lessor may terminate this Lease or any Schedule and its obligations to Lessee.

7. **TITLE; PERSONAL PROPERTY.** The Equipment is, and shall at all times remain, the property of Lessor, and Lessee shall have no right, title or interest therein and no right to purchase or otherwise acquire title to or ownership of any of the Equipment. Lessee hereby authorizes Lessor to insert in this Lease or correct the serial numbers, or other identification data of the Equipment or omitted factual matters when determined by Lessor. Lessee shall, at its expense, protect and defend Lessor's title against all persons claiming against or through Lessee, at all times keeping the Equipment free from any legal process or encumbrance whatsoever including but not limited to liens, attachments, levies and executions, and shall give Lessor immediate written notice thereof and shall indemnify Lessor from any loss caused thereby. If this Lease is determined to be a security agreement, Lessee hereby grants Lessor a priority security interest in the Equipment. Lessee shall execute or obtain from third parties and deliver to Lessor, upon Lessor's request, such further instruments and assurances including Uniform Commercial Code financing statements, as Lessor deems necessary or advisable for the confirmation or perfection of Lessor's rights hereunder. Lessee authorizes Lessor to file such financing statements signed only by Lessor where permitted by law and appoints Lessor as Lessee's attorney-in-fact to execute such financing statements on Lessee's behalf and to do all acts or things which Lessor may deem necessary to protect Lessor's title and interest hereunder. The Equipment is, and shall at all times be and remain, personal property notwithstanding that the Equipment or any part thereof may now be or hereafter become in any manner affixed or attached to real property or any improvements thereon.

8. **CARE, USE AND LOCATION.** Lessee, at its own cost and expense, shall maintain and keep the Equipment in good repair, condition and working order, shall use the Equipment lawfully and shall not alter the Equipment without Lessor's prior written consent. If the manufacturer or the Supplier of the Equipment has provided Lessee with a standard maintenance schedule, such schedule will constitute minimum maintenance compliance and Lessee, upon request, will supply Lessor with evidence of such compliance. The Equipment shall not be removed from the Equipment location shown on the face of this Lease or any Schedule, without Lessor's written consent. Lessor shall have the right to inspect the Equipment at any reasonable time.

9. **REDELIVERY.** Upon expiration or earlier termination of this Lease or any Schedule, Lessee shall return the Equipment, freight prepaid, to Lessor in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof only excepted, in a manner and to a location reasonably designated by Lessor. If upon such expiration or termination Lessee does not immediately return the Equipment to Lessor, the Equipment shall continue to be held and leased hereunder, and this Lease or such Schedule shall thereupon be extended indefinitely for additional 120 day renewal terms at the same monthly rent, subject to the right of either Lessee or Lessor to terminate this Lease or Schedule upon not less than thirty (30) days' written notice prior to the end of any renewal term, whereupon Lessee shall deliver the Equipment to Lessor at the end of the renewal term as set forth in this paragraph.

10. **RISK OF LOSS.** Lessee shall bear all risks of loss or damage to the Equipment from any cause and the occurrence of such loss or damage shall not relieve Lessee of any obligation hereunder. In the event of loss or damage, Lessee, at Lessor's option shall: (a) place the damaged Equipment in good repair, condition and working order or (b) replace lost or damaged Equipment with like equipment in good repair, condition and working order with documentation creating clear title thereto in Lessor or (c) pay Lessor the present value of the unpaid balance of the aggregate rent reserved under this Lease or any Schedule, plus the value of Lessor's residual interest in the Equipment discounted to the date of such loss at six percent (6 %) per annum plus interest thereon at eighteen percent (18 %) per annum (but not more than the maximum rate permitted by law) until paid. Upon Lessor's receipt of such payment, Lessee and/or Lessee's insurer shall be entitled to Lessor's interest in the affected Equipment for salvage purposes, in its then condition and location, as is, without warranty, express or implied.

11. **INSURANCE.** Lessee shall keep the Equipment insured against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof, and shall carry public liability and property damage insurance covering the Equipment and its use. All such insurance shall be in form and amount and with companies approved by Lessor and name Lessor and its assignee as loss payee, as its interest may appear with respect to property damage coverage and as additional insured with respect to public liability coverage. Lessee shall pay the premiums therefor and deliver certificates of coverage thereunder to Lessor, with an endorsement to the policy or policies or by independent instrument, that provide Lessor a right to thirty (30) days' written notice before the policy can be altered or cancelled and the right to payment of premium without obligation. Should Lessee fail to provide such insurance coverage, Lessor may obtain coverage for part or all of the remaining term or such period beyond the term as is required by the insurance company issuing such coverage protecting the interest of Lessor and Lessee or the interest of Lessor only and Lessee shall pay the cost thereof when demanded by Lessor. The proceeds of such insurance, at the option of Lessor, shall be applied toward (i) the replacement, restoration or repair of the Equipment or (ii) payment of the obligations of Lessee. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts for loss or damage under any said insurance policies.

12. **NET LEASE; TAXES, EXPENSES AND FEES.** Lessee intends the rent payments hereunder to be net to Lessor, and Lessee shall pay all sales, use, personal property, excise, stamp, documentary and ad valorem taxes, license, filing and registration fees, assessments, fines, penalties and similar charges imposed on the ownership, possession or use of the Equipment during the term of this Lease or any Schedule; shall pay all taxes (except Lessor's federal or state net income taxes) imposed on Lessor or Lessee with respect to the rent payments hereunder, and shall reimburse Lessor upon demand for any taxes paid by or advanced by Lessor. Lessee shall file for and pay all personal property taxes assessed with respect to the Equipment during the term of this Lease or any Schedule and shall provide Lessor with proof of payment thereof. Lessee shall pay a title

transfer document(s). Upon, at Lessee's request by Lessee, Lessor shall provide a lease termination value one time during the term of this Lease without cost and thereafter Lessor will charge Lessee \$25.00 for each additional request. Notwithstanding the foregoing, this Lease is non-cancelable and no termination shall be permitted without Lessor's written consent.

13. **INDEMNITY.** Lessee shall indemnify, hold Lessor harmless from, and defend Lessor against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities including its attorneys' fees, arising out of, connected with, or resulting from the Equipment, the Lease or any Schedule, including without limitation, the manufacture, selection, delivery, possession, use, operation or return of the Equipment. This provision shall survive the expiration or earlier termination of this Lease and any Schedule.

14. **DEFAULT AND REMEDIES.** If Lessee (a) fails to pay any rent or other payment hereunder or on any Schedule or under any other lease or agreement with Lessor when due or (b) fails to perform any of the other terms or conditions of this Lease or any Schedule which is not cured within ten (10) days after written notice or (c) becomes insolvent, files or has filed against it a petition in bankruptcy, makes an assignment for the benefit of creditors or (d) sells or has a receiver appointed for all or a substantial part of its assets, then Lessor may exercise any one or more of the following remedies:

(a) To declare the entire unpaid balance of rent for the unexpired term of this Lease and any Schedule immediately due and payable and also accelerate the balances due under any other leases or schedules between Lessor and Lessee without demand or notice and to sue for and recover all rents and other monies due and to become due under this Lease or any Schedule, plus the value of Lessor's anticipated residual interest in the Equipment, discounted to the date of default at six percent (6 %) per annum.

(b) To charge Lessee interest on all monies due Lessor at a rate of eighteen percent (18 %) per annum from the date of default until paid but in no event more than the maximum rate permitted by law.

(c) To require Lessee to assemble all of the Equipment at Lessee's expense, at a reasonable location designated by Lessor.

(d) To remove any physical obstructions for removal of the Equipment from the place where the Equipment is located and take possession of any or all items of Equipment, without demand or notice, wherever same may be located, disconnecting and separating all such Equipment from any other property with or without any court order or pre-taking hearing or other process of law, it being understood the facility of repossession in the event of default is a basis for the financial accommodations reflected by this Lease. Lessee hereby waives any and all damages occasioned by such re-taking. Lessor may, at its option, use, ship, store, repair, sell or lease all Equipment so removed or otherwise dispose of any such Equipment at Lessee's premises at reasonable business hours without being required to remove the Equipment. In the event Lessor disposes of the Equipment, Lessor shall give Lessee credit for any sums received by Lessor from the sale or rental of the Equipment after deduction of the expenses of sale or rental.

(e) To pay to Lessor (i) all expenses incurred by Lessor in connection with the enforcement of any of Lessor's remedies, including all expenses of repossession, storing, shipping, repairing and selling the Equipment and (ii) Lessor's reasonable attorneys' fees. Lessor and Lessee acknowledge the difficulty in establishing a value for the unexpired Lease term and owing to such difficulty agree that the provisions of this paragraph represent an agreed measure of damages and are not to be deemed a forfeiture or penalty.

Whenever any payment is not made by Lessee when due hereunder, Lessee agrees to pay to Lessor, not later than one month thereafter, an amount equal to the greater of (i) fifteen cents per one dollar of each such delayed payment or (ii) \$15.00, but only to the extent permitted by law, as an administrative fee to offset Lessor's collection expense. Such amount shall be payable in addition to all amounts payable by Lessee as a result of Lessor's exercise of any one of the remedies herein provided. Lessee shall also pay Lessor (1) a fee equal to the greater of \$25.00 or the actual bank charges to Lessor for each check of Lessee that is returned unpaid for any reason or for unpaid ACH debits and (2) \$25.00 for each collection call made to Lessee.

All remedies of Lessor hereunder are cumulative, are in addition to any other remedies provided for by law, and may, to the extent permitted by law, be exercised concurrently or separately. The exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. No failure on the part of Lessor to exercise and no delay in exercising any right or remedy shall operate as a waiver thereof or modify the terms of this Lease or any Schedule. A waiver of default shall not be a waiver of any other or subsequent default. Lessor's recovery hereunder shall in no event exceed the maximum recovery permitted by law.

15. **PERFORMANCE BY LESSOR OF LESSEE'S OBLIGATIONS.** In the event Lessee fails to comply with any provision of this Lease or any Schedule, including in particular the insurance requirements of paragraph 11 hereof, Lessor shall have the right, but shall not be obligated, to effect such compliance on behalf of Lessee upon ten (10) days' prior written notice to Lessee. In such event, all monies expended by and all expenses of Lessor in effecting such compliance shall be deemed to be additional rent and shall be paid by Lessee to Lessor at the time of the next monthly payment of rent.

16. **GOVERNING LAW, JURISDICTION AND CONSENT TO SERVICE OF PROCESS.** THIS LEASE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MICHIGAN. LESSEE CONSENTS TO THE PERSONAL JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN THE STATE OF MICHIGAN WITH RESPECT TO ANY ACTION ARISING OUT OF THE LEASE OR ANY SCHEDULE. LESSEE AGREES SERVICE OF PROCESS IN ANY SUCH ACTION SHALL BE SUFFICIENT IF MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS OF LESSEE SET FORTH HEREIN. TO THE EXTENT PERMITTED BY LAW, LESSEE WAIVES TRIAL BY JURY IN ANY ACTION ARISING OUT OF THIS LEASE OR ANY SCHEDULE.

17. **LESSEE'S COVENANTS AND REPRESENTATIONS.** Lessee shall provide Lessor with such interim or annual financial statements as Lessor reasonably requests. Lessee represents and warrants that all financial and other information furnished to Lessor was, at the time of delivery to Lessor, true and correct.

18. **GENERAL.** This Lease shall inure to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of the parties hereto. Time is of the essence with respect to the performance of the terms of this Lease. This Lease or any Schedule contains the entire agreement between Lessor and Lessee and no modification of this Lease or any Schedule shall be effective unless in writing and executed by an executive officer of Lessor. If more than one Lessee is named in the Lease or any Schedule, the liability of each shall be joint and several. In the event any provision of this Lease shall be unenforceable, then such provision shall be deemed deleted, however, no other provision hereof shall be affected thereby.

19. **FINANCE LEASE STATUS.** Lessor and Lessee agree that if Article 2A of the Uniform Commercial Code governs the terms of this Lease, then this Lease will be deemed a "Finance Lease". By executing this Lease, Lessee acknowledges that (a) Lessor has advised Lessee (i) of the identity of the Supplier, (ii) that Lessee may have rights under the "Supply Contract", as defined in the Code, pursuant to which Lessor is purchasing the Equipment, and (iii) that Lessee may contact the Supplier for a description of any such rights. TO THE EXTENT PERMITTED BY APPLICABLE LAW, LESSEE WAIVES ANY AND ALL RIGHTS AND REMEDIES CONFIRMED UPON A LESSEE BY THE CODE AND UNIFORM SECTIONS 2A-509 THROUGH 2A-601 AND 2A-602, 2A-603, 2A-604, 2A-605, 2A-606, 2A-607, 2A-608, 2A-609, 2A-610, 2A-611, 2A-612, 2A-613, 2A-614, 2A-615, 2A-616, 2A-617, 2A-618, 2A-619, 2A-620, 2A-621, 2A-622, 2A-623, 2A-624, 2A-625, 2A-626, 2A-627, 2A-628, 2A-629, 2A-630, 2A-631, 2A-632, 2A-633, 2A-634, 2A-635, 2A-636, 2A-637, 2A-638, 2A-639, 2A-640, 2A-641, 2A-642, 2A-643, 2A-644, 2A-645, 2A-646, 2A-647, 2A-648, 2A-649, 2A-650, 2A-651, 2A-652, 2A-653, 2A-654, 2A-655, 2A-656, 2A-657, 2A-658, 2A-659, 2A-660, 2A-661, 2A-662, 2A-663, 2A-664, 2A-665, 2A-666, 2A-667, 2A-668, 2A-669, 2A-670, 2A-671, 2A-672, 2A-673, 2A-674, 2A-675, 2A-676, 2A-677, 2A-678, 2A-679, 2A-680, 2A-681, 2A-682, 2A-683, 2A-684, 2A-685, 2A-686, 2A-687, 2A-688, 2A-689, 2A-690, 2A-691, 2A-692, 2A-693, 2A-694, 2A-695, 2A-696, 2A-697, 2A-698, 2A-699, 2A-700, 2A-701, 2A-702, 2A-703, 2A-704, 2A-705, 2A-706, 2A-707, 2A-708, 2A-709, 2A-710, 2A-711, 2A-712, 2A-713, 2A-714, 2A-715, 2A-716, 2A-717, 2A-718, 2A-719, 2A-720, 2A-721, 2A-722, 2A-723, 2A-724, 2A-725, 2A-726, 2A-727, 2A-728, 2A-729, 2A-730, 2A-731, 2A-732, 2A-733, 2A-734, 2A-735, 2A-736, 2A-737, 2A-738, 2A-739, 2A-740, 2A-741, 2A-742, 2A-743, 2A-744, 2A-745, 2A-746, 2A-747, 2A-748, 2A-749, 2A-750, 2A-751, 2A-752, 2A-753, 2A-754, 2A-755, 2A-756, 2A-757, 2A-758, 2A-759, 2A-760, 2A-761, 2A-762, 2A-763, 2A-764, 2A-765, 2A-766, 2A-767, 2A-768, 2A-769, 2A-770, 2A-771, 2A-772, 2A-773, 2A-774, 2A-775, 2A-776, 2A-777, 2A-778, 2A-779, 2A-780, 2A-781, 2A-782, 2A-783, 2A-784, 2A-785, 2A-786, 2A-787, 2A-788, 2A-789, 2A-790, 2A-791, 2A-792, 2A-793, 2A-794, 2A-795, 2A-796, 2A-797, 2A-798, 2A-799, 2A-800, 2A-801, 2A-802, 2A-803, 2A-804, 2A-805, 2A-806, 2A-807, 2A-808, 2A-809, 2A-810, 2A-811, 2A-812, 2A-813, 2A-814, 2A-815, 2A-816, 2A-817, 2A-818, 2A-819, 2A-820, 2A-821, 2A-822, 2A-823, 2A-824, 2A-825, 2A-826, 2A-827, 2A-828, 2A-829, 2A-830, 2A-831, 2A-832, 2A-833, 2A-834, 2A-835, 2A-836, 2A-837, 2A-838, 2A-839, 2A-840, 2A-841, 2A-842, 2A-843, 2A-844, 2A-845, 2A-846, 2A-847, 2A-848, 2A-849, 2A-850, 2A-851, 2A-852, 2A-853, 2A-854, 2A-855, 2A-856, 2A-857, 2A-858, 2A-859, 2A-860, 2A-861, 2A-862, 2A-863, 2A-864, 2A-865, 2A-866, 2A-867, 2A-868, 2A-869, 2A-870, 2A-871, 2A-872, 2A-873, 2A-874, 2A-875, 2A-876, 2A-877, 2A-878, 2A-879, 2A-880, 2A-881, 2A-882, 2A-883, 2A-884, 2A-885, 2A-886, 2A-887, 2A-888, 2A-889, 2A-890, 2A-891, 2A-892, 2A-893, 2A-894, 2A-895, 2A-896, 2A-897, 2A-898, 2A-899, 2A-900, 2A-901, 2A-902, 2A-903, 2A-904, 2A-905, 2A-906, 2A-907, 2A-908, 2A-909, 2A-910, 2A-911, 2A-912, 2A-913, 2A-914, 2A-915, 2A-916, 2A-917, 2A-918, 2A-919, 2A-920, 2A-921, 2A-922, 2A-923, 2A-924, 2A-925, 2A-926, 2A-927, 2A-928, 2A-929, 2A-930, 2A-931, 2A-932, 2A-933, 2A-934, 2A-935, 2A-936, 2A-937, 2A-938, 2A-939, 2A-940, 2A-941, 2A-942, 2A-943, 2A-944, 2A-945, 2A-946, 2A-947, 2A-948, 2A-949, 2A-950, 2A-951, 2A-952, 2A-953, 2A-954, 2A-955, 2A-956, 2A-957, 2A-958, 2A-959, 2A-960, 2A-961, 2A-962, 2A-963, 2A-964, 2A-965, 2A-966, 2A-967, 2A-968, 2A-969, 2A-970, 2A-971, 2A-972, 2A-973, 2A-974, 2A-975, 2A-976, 2A-977, 2A-978, 2A-979, 2A-980, 2A-981, 2A-982, 2A-983, 2A-984, 2A-985, 2A-986, 2A-987, 2A-988, 2A-989, 2A-990, 2A-991, 2A-992, 2A-993, 2A-994, 2A-995, 2A-996, 2A-997, 2A-998, 2A-999, 2A-1000.

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is Joan Fless  
(NAME)

VP of Port Svcs of Federated Capital, plaintiff herein, that  
(TITLE) (COMPANY)

he/she is duly authorized to make this verification, and that the facts set forth in the foregoing Complaint are true and correct to the best of his/her knowledge, information and belief.

Joan Fless VP of Port Svcs  
(SIGNATURE)

Rita Sagmani  
Notary Public, Oakland County, MI  
Acting in Oakland Co, MI  
My Commission Expires on 5-9-2011

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

FEDERATED CAPITAL CORPORATION

Plaintiff

vs.

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

No. 05-128-CD

PRAECIPE TO REINSTATE COMPLAINT

FILED ON BEHALF OF  
Plaintiff

COUNSEL OF RECORD OF  
THIS PARTY:

James C. Warmbrodt  
PA I.D. #42524  
WELTMAN, WEINBERG & REIS, CO., L.P.A.  
2718 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219  
(412) 434-7955

WWR#03975265

FILED

SEP 06 2005

W 12:45/6  
William A. Shaw

Prothonotary/Clerk of Courts

NO CEN.

REINSTATE COMPLAINT  
TO STATE

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

FEDERATED CAPITAL CORPORATION

Plaintiff

vs.

Civil Action No. 05-128-CD

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

PRAECIPE TO REINSTATE COMPLAINT

Kindly reinstate the Complaint in the above captioned matter.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 

James C. Warmbrodt

PA I.D. #42524

WELTMAN, WEINBERG & REIS CO., L.P.A.

2718 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219

(412) 434-7955

WWR #03975265

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

FEDERATED CAPITAL CORP.,

Plaintiff,

vs.

JOSEPH KELLY D/B/A,  
KELLY'S CONVENIENCE STORE, INC.  
Defendant.

NO. 05-128-C.D.

Type of Pleading: PRAECIPE FOR  
ENTRY OF APPEARANCE

Filed on Behalf of: DEFENDANT

Counsel of Record:  
CHRISTOPHER E. MOHNEY, ESQUIRE

Supreme Court No.: 63494

90 BEAVER DRIVE  
SUITE 111B  
DUBOIS, PA 15801  
(814) 375-1044

FILED *no cc*  
*m/2:00pm*  
OCT 20 2005 *SM*

William A. Shaw  
Prothonotary/Clerk of Courts

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

FEDERATED CAPITAL CORP.,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	NO. 05-128-C.D.
	:	
JOSEPH KELLY D/B/A,	:	
KELLY'S CONVENIENCE STORE, INC.,	:	
Defendant.	:	

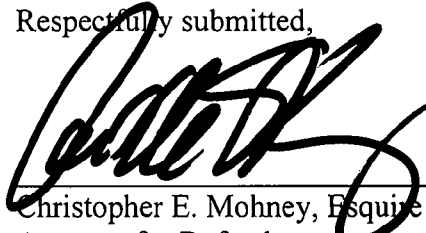
**PRAECIPE FOR ENTRY OF APPEARANCE**

TO: WILLIAM A. SHAW, PROTHONOTARY

Kindly enter my appearance of record on behalf of Defendant JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC. in the above-captioned matter.

Respectfully submitted,

By:

  
\_\_\_\_\_  
Christopher E. Mohny, Esquire  
Attorney for Defendant

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

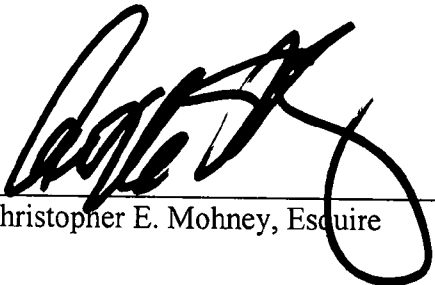
FEDERATED CAPITAL CORP.,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	NO. 05-128-C.D.
	:	
JOSEPH KELLY D/B/A,	:	
KELLY'S CONVENIENCE STORE, INC.	:	

**CERTIFICATE OF SERVICE**

I, Christopher E. Mohnney, Esquire, do hereby certify that on this 19<sup>th</sup> day of October, 2005, I caused to be served by First Class United States Mail, postage prepaid, Praeceptum for Entry of Appearance on the following:

William T. Molczan, Esquire  
Weltman, Weinberg & Reis Co., L.P.A.  
2718 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219

By:

  
Christopher E. Mohnney, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100792  
NO: 05-128-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: FEDERATED CAPITAL CORP.

vs.

DEFENDANT: JOSEPH KELLY d/b/a KELLY'S CONVENIENCE STORE, INC.

SHERIFF RETURN

NOW, October 04, 2005 AT 2:45 PM SERVED THE WITHIN COMPLAINT ON JOSEPH KELLY D/B/A KELLY'S CONVENIENCE STORE, INC. DEFENDANT AT PO BOX 86, 16 JACQUELYN CT., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOSEPH KELLY, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DEHAVEN / COUDRIET

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	WELTMAN	8220412	10.00
SHERIFF HAWKINS	WELTMAN	8220412	65.00

**FILED**  
01/08/2006  
JAN 11 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 200~~5~~<sup>6</sup>

\_\_\_\_\_

So Answers,

*Chester A. Hawkins*  
*by Marilyn Hamr*  
Chester A. Hawkins  
Sheriff



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

FEDERATED FINANCIAL CORPORATION

Plaintiff

No. 05-128-CD

vs.

**PRAECIPE TO SETTLE, DISCONTINUE  
& END**

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

FILED ON BEHALF OF  
Plaintiff

COUNSEL OF RECORD OF  
THIS PARTY:

James C. Warmbrodt, Esquire  
Pa. I.D. No. 42524  
Weltman, Weinberg & Reis, Co, LLC  
2718 Koppers Building  
436 7<sup>th</sup> Avenue  
Pittsburgh, PA 15219

WWR#03975265

**FILED** *(Signature)*

MAY 08 2006  
*m/l: 45/12*

William A. Shaw  
Prothonotary/Clerk of Courts  
*no c/c*

*CEH of Disc to*

*ATTY + C/A*

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

FEDERATED FINANCIAL CORPORATION

Plaintiff

vs.

Civil Action No. 05-128-CD

JOSEPH KELLY D/B/A  
KELLY'S CONVENIENCE STORE, INC.

Defendant

**PRAECIPE TO SETTLE DISCONTINUE AND END**

**TO THE PROTHONOTARY OF COUNTY:**

**Please kindly Settle Discontinue and End the above captioned matter upon the records of the Court and mark the cost paid.**

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 

James C. Warmbrodt, Esquire

Pa. I.D. No. 42524

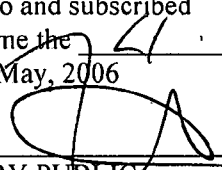
Weltman, Weinberg & Reis, Co, LLC

2718 Koppers Building

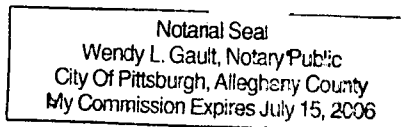
436 7<sup>th</sup> Avenue

Pittsburgh, PA 15219

WWR#03975265

Sworn to and subscribed  
Before me the   
Day of May, 2006

NOTARY PUBLIC



IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Federated Capital Corp.

Vs.

No. 2005-00128-CD

Joseph Kelly  
Kelly's Convenience Store

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on May 8, 2006, marked:

Sett.e. Discontinue and End

Record costs in the sum of \$193.00 have been paid in full by Weltman, Weinberg and Reis, Co. LLC.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 8th day of May A.D. 2006.

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