

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**The Travelers Life and Annuity Company,  
CJA and Associates, Inc.,  
Raymond G. Ankner, and  
Jeffrey I. Bleiweis**

Plaintiffs

v.

**John J. Koresko, V**

Defendant

Civil Action No. 05-cv-\_\_\_\_\_

**COMPLAINT**

Plaintiffs The Travelers Life and Annuity Company (“TLAC”), CJA and Associates, Inc. (“CJA”), Raymond G. Ankner (“Ankner”), and Jeffrey I. Bleiweis (“Bleiweis”) complain against Defendant John J. Koresko, V (“Koresko”) as follows:

**Background**

1. This is a complaint for a declaratory judgment of non-infringement, invalidity, and unenforceability of a patent.

**The Parties**

2. Plaintiff TLAC is a Connecticut corporation with its principal place of business at 1 Cityplace, Hartford, Connecticut, 06103.

3. Plaintiff CJA is a Delaware corporation with its principal place of business at 321 North Clark Street, Suite 1450, Chicago, Illinois, 60610.

4. Plaintiff Ankner is a individual who resides and is domiciled in Florida and whose principal place of business is at 321 North Clark Street, Suite 1450, Chicago, Illinois, 60610. Ankner is the president of CJA.

5. Plaintiff Bleiweis is a individual who resides and is domiciled in Illinois and whose principal place of business is at 321 North Clark Street, Suite 1450, Chicago, Illinois, 60610. Bleiweis is the vice-president of CJA.

6. Defendant Koresko is an individual and lawyer who resides at 1159 Seaton Ross Road, Radnor, Pennsylvania, 19087, and is domiciled in Pennsylvania and whose principal place of business is 200 West Fourth Street, Bridgeport, Pennsylvania, 19405.

### **Jurisdiction and Venue**

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because it arises under the laws of the United States, pursuant to 28 U.S.C. § 1332(a) because the matter in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs and the parties are completely diverse, and pursuant to 28 U.S.C. § 1338(a) because it arises under an act of Congress relating to patents.

8. Personal jurisdiction over Koresko is authorized under 42 Pa. Cons. Stat. § 5301 because, among other reasons, he is domiciled within Pennsylvania.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Koresko resides in this District and because a substantial part of the events or omissions giving rise to the claim occurred in this District.

10. The declaratory judgment sought is authorized by 28 U.S.C. § 2201(a).

**Koresko's "Variable 412(i)" Scheme**

11. Koresko claims to have developed a method of funding pension plans called "Variable 412(i)." He maintains that "Variable 412(i)" provides the investment flexibility and economic advantages of a variable annuity while allowing employers to take advantage of a purported tax loophole to use Internal Revenue Code Section 412(i) to obtain large tax deductions.

12. In fact, Koresko's "Variable 412(i)" scheme does not qualify under Internal Revenue Code Section 412(i).

13. Koresko is the title holder of record and purported inventor of United States Patent No. 6,963,852 (the " '852 Patent") entitled "System and Method for Creating a Defined Benefit Pension Plan Funded with a Variable Life Insurance Policy and/or a Variable Annuity Policy." The '852 Patent issued on November 8, 2005. A copy of the '852 Patent is attached as Exhibit 1 to this Complaint.

14. The “invention” in the ’852 Patent is Koresko’s “Variable 412(i)” tax avoidance scheme.

15. In granting the ’852 Patent, the United States Patent and Trademark Office (“USPTO”) did not evaluate whether the invention and Koresko’s “Variable 412(i)” scheme would qualify under Internal Revenue Code Section 412(i).

16. During the prosecution of his application for the ’852 Patent before the USPTO, defendant Koresko and others helping him to obtain the ’852 Patent deliberately withheld from the USPTO the existence of litigation involving the subject matter for which the patent was sought, as well as documents relating to such litigation, with the intent of deceiving the USPTO into issuing the ’852 Patent and/or issuing it with broader claims than it otherwise could have obtained.

17. But for this deliberate withholding of information from the USPTO, the USPTO would not have issued the ’852 Patent.

**The Plaintiffs’ Insurance and Annuity Businesses**

18. TLAC is in the business of issuing life insurance and annuity contracts.

19. TLAC issues annuity contracts which help fund defined benefit pension plans, including but not limited to plans which meet the requirements of Internal Revenue Code Section 412(i). However, TLAC has not made, used, sold, or offered to sell the patented invention or any product made by the patented process during the term of the ’852 Patent, nor has TLAC

induced others to do so, nor has TLAC contributorially infringed the '852 Patent.

20. CJA is in the business of marketing life insurance and annuity plans, including ERISA plans.

21. CJA markets annuity contracts which help fund defined benefit pension plans, including but not limited to plans which meet the requirements of Internal Revenue Code Section 412(i). However, CJA has not made, used, sold, or offered to sell the patented invention or any product made by the patented process during the term of the '852 Patent, nor has CJA induced others to do so, nor has CJA contributorially infringed the '852 Patent.

22. Ankner has not made, used, sold, or offered to sell the patented invention or any product made by the patented process during the term of the '852 Patent, nor has Ankner induced others to do so, nor has Ankner contributorially infringed the '852 Patent.

23. Bleiweis has not made, used, sold, or offered to sell the patented invention or any product made by the patented process during the term of the '852 Patent, nor has Bleiweis induced others to do so, nor has Bleiweis contributorially infringed the '852 Patent.

24. Nonetheless, Koresko has threatened to sue TLAC, CJA, Ankner, and Bleiweis for infringement of the '852 Patent.

**COUNT I**  
**Declaratory Judgment of Non-Infringement**

25. The plaintiffs incorporate the previous and subsequent paragraphs of this Complaint into this Count.

26. An actual controversy exists between the plaintiffs and Koresko regarding whether or not the plaintiffs have infringed or continue to infringe any claim of the '852 Patent.

27. The plaintiffs are not infringing and have never infringed any claim of the '852 Patent, either directly or indirectly, either literally or under the doctrine of equivalents.

28. The plaintiffs are entitled to a judgment declaring that they have never infringed and are not infringing any claim of the '852 Patent, either directly or indirectly, either literally or under the doctrine of equivalents.

**COUNT II**  
**Declaratory Judgment of Invalidity**

29. The plaintiffs incorporate the previous and subsequent paragraphs of this Complaint into this Count.

30. An actual controversy exists between the plaintiffs and Koresko regarding whether or not each claim of the '852 Patent is valid.

31. Each claim of the '852 Patent is invalid under 35 U.S.C. §§ 101, 102, 103, and/or 112.

32. The plaintiffs are entitled to a judgment declaring that each claim of the '852 Patent is invalid.

**COUNT III**  
**Declaratory Judgment of Unenforceability**

33. The plaintiffs incorporate the previous and subsequent paragraphs of this Complaint into this Count.

34. An actual controversy exists between the plaintiffs and Koresko regarding whether or not each claim of the '852 Patent is enforceable.

35. The actions of Koresko and others helping him to obtain the '852 Patent constitute inequitable conduct before the USPTO.

36. Each claim of the '852 Patent is unenforceable because of that inequitable conduct.

37. The plaintiffs are entitled to a judgment declaring that each claim of the '852 Patent is unenforceable.

**Prayer for Relief**

Wherefore, the plaintiffs pray that this Court enter judgment:

a. declaring that the plaintiffs have never infringed and are not infringing any claim of the '852 Patent, either directly or indirectly, either literally or under the doctrine of equivalents;

b. declaring that each claim of the '852 Patent is invalid;

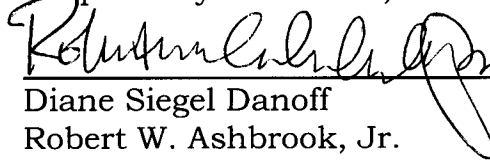
c. declaring that each claim of the '852 Patent is unenforceable;

d. declaring that Koresko is without right or authority to enforce or to threaten to enforce the '852 Patent against the plaintiffs or against any other person; and

e. granting the plaintiffs such further relief as is appropriate.

Dated: November 8, 2005

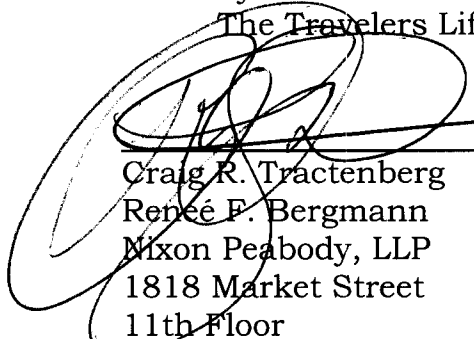
Respectfully submitted,

 PA ID 89,502

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The Travelers Life and Annuity Co.

Dated: November 8, 2005

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