

01-389-CD  
M & T BANK et al -vs- PATRICIA WHITNEY et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD PENNSYLVANIA  
CIVIL DIVISION

M & T BANK, Successor in  
Interest to ONBANK,

Plaintiff,

No. 01-389-CO

vs.

COMPLAINT IN REPLEVIN

PATRICIA WHITNEY a/k/a  
PATRICIA L. WHITNEY and  
RONALD WHITNEY a/k/a  
RONALD N. WHITNEY,

Defendants,

FILED ON BEHALF OF:  
Plaintiff

COUNSEL OF RECORD OF  
THIS PARTY:

Lori A. Gibson, Esquire  
PA I.D. #6801  
The Bernstein Law Firm, P.C.  
1133 Penn Avenue  
Pittsburgh, PA 15222  
(412) 456-8100

BERNSTEIN FILE NO. G00001677

**FILED**

MAR 19 2001

William A. Shaw  
Prothonotary

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT  
TO COLLECT A DEBT. ANY INFORMATION WILL BE USED FOR THAT  
PURPOSE.

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

M & T BANK, Successor in  
Interest to ONBANK,

Plaintiff, No.

vs.

PATRICIA WHITNEY a/k/a  
PATRICIA L. WHITNEY and  
RONALD WHITNEY a/k/a  
RONALD N. WHITNEY,

Defendants,

**COMPLAINT IN REPLEVIN 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 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.

LAWYER REFERRAL SERVICE  
PA BAR ASSOCIATION  
P.O. BOX 186  
HARRISBURG, PA  
(800) 692-7375

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COUNT I – REPLEVIN

1. Plaintiff, M & T Bank, Successor in interest to ONBANK, maintains offices located in Williamsville, NY 14221.
2. Defendant, Patricia Whitney a/k/a Patricia L. Whitney, is an adult individual with the last known address of 1 West 5<sup>th</sup> Street, Burnside, Clearfield County, Pennsylvania 15721.
3. Defendant, Ronald Whitney a/k/a Ronald N. Whitney, is an adult individual with the last known address of 1 West 5<sup>th</sup> Street, Burnside, Clearfield County, Pennsylvania 15721.
4. Plaintiff is the holder of a Mobile Home Installment Contract (hereinafter the “Contract”) and Security Agreement secured by a mobile home duly executed and delivered by Defendants in favor of Sunrise Mobile Homes (hereinafter the “Seller”) on or about February 5, 1996. A true and correct copy of the Contract and Security Agreement is attached hereto, marked as Exhibit “1” and made a part hereof.
5. Pursuant to said Contract and Security Agreement, Defendants took possession of the mobile home, more particularly identified in the Contract as a Used 1990 Commodore Parkhill Mobile Home, Serial Number C019953A.
6. The Seller, Sunrise Mobile Homes, subsequently assigned its right, title and interest in said Installment Sale Contract and Security Agreement to Plaintiff.

7. Under the terms of the Contract, Defendants were to make one hundred forty-four (144) consecutive monthly payments of \$250.57 beginning March 5, 1996.

8. The total amount due to Plaintiff pursuant to the Contract was \$37,082.08.

9. Plaintiff maintains a first lien on the aforesaid mobile home by virtue of the Certificate of Title issued by the Commonwealth of Pennsylvania Department of Transportation, a true and correct copy of the Certificate of Title is attached hereto, marked as Exhibit "2" and made part hereof.

10. Defendants are in default of the terms of the Contract because Defendants have failed to make the required monthly payments.

11. Plaintiff is entitled to immediate possession of the said mobile home, which Plaintiff holds a security interest in and any proceeds of the vehicle, including insurance proceeds by virtue of Defendants' default.

12. Defendants have made partial payment under the Contract leaving an unpaid balance in the amount of \$14,716.14 as of January 29, 2001.

13. Plaintiff avers that the Contract provides for interest at the rate of 12.5% per annum.

14. Plaintiff avers that its Contract provides for the addition of late charges on past due amounts.

15. Plaintiff avers that late charges amount to \$148.51 and interest at the rate of 12.5% amounts to \$377.33, totaling \$525.84 as of January 29, 2001.

16. Plaintiff has performed all conditions precedent as holder of all rights, title and interest in the collateral, but Defendants wrongfully remain in possession of the mobile home at the above-stated address.

17. By virtue of Defendants' default, Plaintiff has an immediate right to possession of the mobile home covered by the Security Agreement the value of which is \$14,599.20, plus continuing interest at the aforesaid rate of 12.5% per annum.

18. Under the terms of the Contract, Defendants have undertaken to pay Plaintiff its reasonable attorneys' fees and costs of the retaking possession of the collateral.

WHEREFORE, Plaintiff prays for Judgment against Defendants, jointly and severally, in Count I of this Complaint in Replevin, as follows:

A. For possession of the mobile home, more particularly identified as a Used 1990 Commodore Parkhill Mobile Home, Serial Number 42818448003 WH.

or, in the alternative for damages of \$14,599.20, the value of the vehicle plus continuing interest at the aforesaid rate of 12.5%, in the even that recovery of the vehicle cannot be obtained;

- B. Reasonable attorneys' fees and expenses for retaking possession, and;
- C. For such other relief that the Court deems just and proper.

COUNT II – ACTION IN CONTRACT FOR IN PERSONAM DAMAGES

19. Plaintiff incorporates herein by reference thereto each of the preceding paragraphs of this Complaint in their entirety as if the same were more fully set forth herein.

20. In the alternative to Count I, Plaintiff pleads an action in Contract as a result of the Defendants' default for the accelerated balance due under the Contract in the amount of \$15,241.98, plus appropriate additional interest at the rate of 12.5% per annum on the balance due from January 29, 2001 and costs.

21. Under the terms of the Contract, Plaintiff is entitled to recover reasonable attorneys' fees and costs of retaking possession of the collateral.

22. Plaintiff avers that such attorneys' fees amount to \$500.00 to date and said fees continue to accrue.

23. Contemporaneously hereunder, Defendants have been advised of their right to dispute the validity of this debt, or any part thereof, pursuant to the Fair Debt Collection Practices Act 30 Day Notice, attached hereto, marked Exhibit "3" and made a part hereof.

WHEREFORE, Plaintiff prays for the entry of judgment on Count II against Defendants, jointly and severally, in the amount of \$15,741.98, plus continuing interest at the aforesaid rate of 12.5% per annum from January 29, 2001, reasonable attorney's fees and expenses for retaking possession and costs.

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2. *CO-SIGNER'S AGREEMENT*  
Signatures of both Buyers to be insured for Joint Credit Life Insurance

Insurer:

MOBILE HOME: You agree to purchase, under the terms of this Contract, the following mobile home and its appliances, furniture, equipment and fixtures, which is called the "Mobile Home" in this Contract.

N/U	Year and Manufacturer	Length & Width	Color & Model	Serial Number
U	1990 Commodore	80 x 14	Tan/Parkhill	CO19953A

Equipped with Factory options, tires, wheels, axles, range, refrigerator, furnace.

ASSIGNEE: We may assign this Contract and Security Agreement to the Assignee named in this section, which is the "Assignee." If at any time the Owner of the Contract assigns the Contract to another assignee, the term then refers to such other assignee. After the Assignment, all rights and benefits of the Seller in this Contract and in the Security Agreement shall belong to and be enforceable by the Assignee. The Assignee is:

**ONBANK**

CO-SIGNER: Any person signing the Co-Signer's Agreement below promises separately and together with all Co-Signer(s) and Buyer(s), to pay all sums due and to perform all agreements in this Contract. Co-Signer will not be an Owner of the Mobile Home.

CO-OWNER: Any person signing the Co-Owner's Security Agreement below gives us a security interest in the Vehicle and agrees separately and together with all Co-Owner(s) and Buyer(s), to perform all agreements in the Security Agreement and all other parts of this Contract except the "Promise to Pay" section.

TERMS: The terms shown in the boxes above are part of this Contract.

**PROMISE TO PAY:** You agree to pay us the Total Sale Price for the Mobile Home by making the Total Downpayment and paying us the Amount Financed plus interest. You promise to make payments in accordance with the Payment Schedule. You agree to pay all other amounts which may become due under the terms of this Contract. You agree to pay the Seller or Assignee costs of suit. You also agree to pay reasonable attorneys' fees if Seller or Assignee hires an attorney to collect amounts due under this Contract or to protect or get possession of the Mobile Home. You agree to make payments at the place or to send payments to the address which the Assignee most recently specifies in the written notice to you.

**AUTOMATIC PAYMENT AUTHORIZATION:** If payments are due bi-weekly, you authorize us to deduct the amount of your bi-weekly payments from your Checking Account, which is at:

number \_\_\_\_\_

on the days they come due, and to apply such amounts to what I then owe on this Contract.

**CONVERSION TO MONTHLY PAYMENTS:** (Applicable to bi-weekly only): You agree that if there are insufficient funds in your Checking Account to make any bi-weekly payment on the day it comes due, or your Checking Account is closed for any reason, or you request monthly payments, then your Contract will convert to one requiring you to make monthly payments. The amount of

By signing below, we agree to sell the Mobile Home to you under the terms of this Contract.

SELLER Sunrise Mobile Homes

BY: Robert N. Crook

2-5-96  
Date

**CO-SIGNER'S AGREEMENT: YOU SHOULD READ THE NOTICE TO CO-SIGNER, WHICH HAS BEEN GIVEN TO YOU ON A SEPARATE DOCUMENT, BEFORE SIGNING THIS AGREEMENT.** You, the person (or persons) signing below as "Co-Signer," promise to pay to us all sums due on this Contract and to perform all agreements in this Contract. You intend to be legally bound by all the terms of this Contract, separately and together, with the Buyer. You are making this promise to induce us to make this Contract with the Buyer, even though we will use the proceeds only for the Buyer's benefit. You agree to pay even though we may not have made any prior demand for payment on the Buyer or exercised our security interest.

Co-Signer's Signature	(SEAL)	Address	Date
Co-Signer's Signature	(SEAL)	Address	Date

**CO-OWNER'S SECURITY AGREEMENT:** You, the person signing below as "Co-Owner," together with the Buyer or otherwise being all of the Owners of the Mobile Home, give us a Security Interest in the Vehicle identified above. You agree to be bound by the terms of the Security Agreement and all other parts of this Contract except the "Promise to Pay" section. You are giving us the security interest to induce us to make this Contract with the Buyer, and to secure the payment by the Buyer of all sums due on this Contract. You will not be responsible for any deficiency which might be due after repossession and sale of the Mobile Home.

Co-Owner's Signature	(SEAL)	Address	Date
<b>BUYER, CO-SIGNER AND CO-OWNER, AS APPLICABLE, ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS CONTRACT AT THE TIME OF SIGNING.</b>			
BUYER <u>Patricia L. Whitney</u>	BUYER <u>Donald W. Whitney</u>	CO-SIGNER	CO-SIGNER OR CO-OWNER

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

WHITE - Original To Bank • PINK - Customer/Co-Signer's Copy • CANARY - Dealer's Copy • BLUE - Bank File Copy

## ADDITIONAL TERMS AND CONDITIONS

**1. HOW THE TOTAL OF PAYMENTS IS COMPUTED:** The Total of Payments is the sum of the Amount Financed and the Finance Charge. The Finance Charge consists solely of interest computed daily on the outstanding balance of the Amount Financed. The Finance Charge shown on the front side has been computed on the assumption that we will receive all payments on their scheduled due dates.

**2. COMPUTING INTEREST:** We will charge interest on a daily basis on the outstanding balance subject to interest on each day of the loan term. The daily interest rate is equal to the Annual Percentage Rate divided by the number of days in that calendar year. Borrower agrees that because interest is calculated on a daily basis, late payments will result in additional interest (and, if applicable, a late charge). Early payments will result in less interest being charged. Early and/or late payments will cause the amount of the final payment to change.

**3. LATE CHARGE:** Buyer agrees to pay a late charge for any payment not made within 10 days after its due date. The late charge will be 2% per month on the unpaid amount of the payment. We will consider any part of a month in excess of 10 days to be a full month. The late charge will be due when earned. No late charge will be due if the reason that the payment is late is because, after default, the entire outstanding balance on this Contract is due. No late charge will be due if the only reason that the payment is late is because of a late charge assessed on an earlier payment.

**4. APPLICATION OF PAYMENTS:** We will apply payments in the following order of priority: interest, late charges, fees and then principal.

**5. PREPAYMENT:** You may prepay, in full or in part, the amount owed on this Contract at any time without penalty. If you prepay the Contract in part, you agree to continue to make regularly scheduled payments until you pay all amounts due under this Note. This will reduce the number of payments you will make. If you prepay in full, we will refund to you any unearned credit insurance premium you paid.

### 6. WAIVERS.

**a. WAIVER BY SELLER AND ASSIGNEE:** We and Assignee waive the right to treat any property as security for the repayment of this Contract, except for the Mobile Home and the other security specifically mentioned in this Contract.

**b. WAIVERS BY BUYER, CO-SIGNER AND CO-OWNER:** You agree to make all payments on or before they are due without our having to ask. You give up any right you may have to require that we enforce our rights against some other person or property before we enforce our rights against you. You agree that we may give up our rights against some other person but not against you. You waive due diligence in collection and all defenses based on suretyship and impairment of collateral or security.

**7. INTEREST AFTER MATURITY AND JUDGMENT:** Interest at the rate provided in this Contract shall continue to accrue on the unpaid balance until paid in full, even after maturity and/or after we get a judgment against you for the amounts due. This will apply even if the maturity occurs because of acceleration. If at any time interest as provided for in this paragraph is not permitted by law, interest shall accrue at the highest rate allowed by applicable law beginning at that time.

**8. YOUR PROMISES ABOUT OUR SECURITY INTEREST:** You will not permit anyone other than us to obtain a security interest or other rights in the Mobile Home. You will pay all filing fees necessary for us to obtain and maintain our security interest in the Mobile Home. You will assist us in having our security interest noted on the Certificate of Title to the Mobile Home. You will not sell or give away the Mobile Home. If someone puts a lien on the Mobile Home, you will pay the obligation and clear the lien.

**9. YOUR PROMISES ABOUT THE VEHICLE:** You will keep the Mobile Home in good condition and repair. You will pay all taxes and charges on the Mobile Home. You will pay all costs of maintaining the Mobile Home. You will not abuse the Mobile Home or permit anything to be done to the Mobile Home which will reduce its value, other than for normal wear and use. You will not use the Mobile Home for illegal purposes or for hire or lease. You will not move the Mobile Home from your address shown on the front of this Contract to a new permanent place without notifying us in advance. You will permit us to inspect the Mobile Home at any reasonable time. You agree that the Mobile Home will, at all times until this Contract is paid in full, remain personal property. You agree to place the Mobile Home in such a way that it can be removed without substantial damage or impairment of its value. If you plan to place the Mobile Home on a premises you are leasing, you must obtain a Landlord's Waiver satisfactory to us. The Landlord's Waiver must permit us to enter on the premises and to repossess the Mobile Home if we have the right to do so under this Contract, even if you are in default of your lease. You agree that you must perform your promises under the Contract even if the Mobile Home is lost, damaged or destroyed.

**10. YOUR PROMISES ABOUT INSURANCE:** You will keep the Mobile Home insured against fire, theft and other hazards against which owner's customarily insure such Vehicles until all sums due are paid in full. The insurance coverage must be satisfactory to us and protect your interests and our interests at the time of any insured loss. The insurance must name us as "loss-payer" on the policy. The insurance must be written by an insurance company qualified to do business in Pennsylvania and licensed to sell insurance in the state where the Mobile Home is permanently kept. The insurance policy must provide us with at least 10 days prior written notice of any cancellation or reduction in coverage. On request, you shall deliver the policy or other evidence of insurance coverage to us. In the event of any loss or damage to the Mobile Home, you will immediately notify us in writing and file a proof of loss with the insurer. We may file a proof of loss on your behalf if you fail or refuse to do so. We may endorse your name to any check, draft or other instrument we receive in payment of an insured loss or return insurance premiums. We may apply any insurance proceeds we receive to repair or replace the Mobile Home if, in our opinion, it is economically feasible and you are not then in default under this Contract. Otherwise, we will apply the insurance proceeds to reduce the unpaid balance due us.

**11. OUR PROMISES ABOUT INSURANCE:** This paragraph applies only if we have contracted to purchase physical damage/comprehensive fire and/or theft insurance at your expense and the premium has been included in the Amount Financed. It does not apply to Credit Insurance. If you prepay the sums due on this Contract, unless you specifically request cancellation, the insurance will remain in effect to its scheduled expiration date. If the insurance we obtained for you is cancelled by the insurance company prior to its scheduled expiration date, we will attempt to place comparable insurance with another insurance company on your behalf and give you a copy of any insurance policy we obtain on your behalf. If we are unable to do so, we will notify you that you must obtain replacement insurance from an agent or broker of your choice. If replacement coverage results in additional costs to you for the unexpired period of the original insurance policy, we will reimburse you for the costs.

**12. OUR RIGHTS IF YOU BREAK YOUR PROMISES ABOUT THE SECURITY INTEREST, VEHICLE OR INSURANCE:** If you fail to keep your promises to pay filing fees, taxes, liens or the costs necessary to keep the Mobile Home in good condition and repair, we may advance any money you promised to pay. If you fail to keep your promises about required insurance we may advance money to obtain insurance to cover loss or damage to the Mobile Home. We have the choice of whether or not to advance any money for these purposes. Such insurance will be limited to an amount not greater than you owe on this Contract. We will add any money we advance on your behalf to the balance on which we impose Finance Charges at the Annual Percentage Rate of this Contract. You agree to repay the money advanced as we alone may specify: (i) immediately on demand, or (ii) along with your monthly payments. If we choose to allow you to repay the money advanced along with your monthly payments, we can choose the amount of these payments and how long you have to repay. If any of our rights stated in this paragraph is not permitted by law, we still have the other rights mentioned. Our payments on your behalf will not cure your failure to perform your promises in this Contract. The promises you made in the sections above called YOUR PROMISES ABOUT THE VEHICLE and YOUR PROMISES ABOUT INSURANCE and our rights under this section shall not merge with any judgment entered in any legal action and shall apply until all amounts owed are paid in full.

**13. DEFAULT:** In this paragraph, "You" means the Buyer, Co-Signer and Co-Owner, or any one of them. You will be in "Default" of the Contract if any one or more of the following things happen:

- a. You do not make any payment on or before it is due, or
- b. You do not keep any promise you made in this Contract; or
- c. You do not keep any promise you made in another Contract, Note, Loan or Agreement with Seller or Assignee; or
- d. You made any untrue statement in the credit application for this Contract; or
- e. You committed any forgery in connection with this Contract; or
- f. You die, are convicted of a crime involving fraud or dishonesty, or are found by a court with jurisdiction to do so to be incapacitated; or
- g. You file bankruptcy or insolvency proceedings, or anyone files bankruptcy or insolvency proceedings against you; or
- h. You take the Mobile Home outside the United States or Canada without our written consent; or
- i. You use the Mobile Home or allow someone else to use it in a way that causes it not to be covered by your insurance; or
- j. You do something that causes the Mobile Home to be subject to confiscation by government authorities; or
- k. The Mobile Home is lost, stolen, destroyed or damaged beyond economical repair, and not fixed or found within a reasonable time; or
- l. Another creditor tries to take the Mobile Home or your money on deposit with Assignee by legal process.

**14. OUR RIGHTS IF YOU ARE IN DEFAULT OF THIS CONTRACT:** If you are in Default of this Contract, we may enforce our rights according to law, after we have given you any applicable notice and/or right to cure as required by law. We may also do the things specifically mentioned in this Contract. We may do one of these things and at the same time or later do another. Some of the things we may do are the following:

**a. ACCELERATION:** We can demand that you pay to us the entire unpaid balance owing on the Contract and all unpaid Finance Charges and other money due. You agree that you will pay this money to us in one single payment immediately upon receiving our demand.

**b. REPOSSESSION:** We can repossess the Mobile Home, unless prohibited by law. We can do this ourselves, have a qualified person do it for us, or have a government official (by replevin) do it for us. You agree that we can peacefully come on to your property to do this. We may take any other things found in the Mobile Home, but will return these things to you if you ask. If you want these things back, you agree to ask us in a letter sent to us by certified mail within 24 hours. If you do not send us this letter, you give up any claim to these things. You agree that we may use your license plates in repossessing the Mobile Home and taking it to a place for storage.

**c. VOLUNTARY DELIVERY:** We can ask you to give us the Mobile Home at a reasonably convenient place. You agree to give us the Mobile Home if we ask.

**d. DELAY IN ENFORCEMENT:** We can delay enforcing our rights under this Contract without losing any rights.

**15. SOME THINGS YOU SHOULD KNOW IF WE REPOSSESS THE VEHICLE:** If we repossess without using a government official (by replevin):

**a. NOTICE:** We will send you a Notice of Repossession to your last address we know about. This Notice will tell you how to buy back (redeem) the Mobile Home. This Notice will tell you other information required by law.

**b. CURE:** You have the right to cure your Default at any time before we sell the Mobile Home. If you cure your Default, the Contract will remain in effect as though the Default had not occurred.

**c. REDEMPTION:** You have the right to buy back (redeem) the Mobile Home with 15 days of mailing the Notice of Repossession and at any later time before we sell the Mobile Home.

**d. SALE:** If you do not cure your Default or redeem, you give up all claim to and we will sell the Mobile Home. The money received at sale will be used to pay costs and expenses, and then to pay the amount you owe on this Contract.

**e. SURPLUS OR DEFICIENCY:** If there is money left, we will pay it to the Buyer. If there is not enough money from the sale to pay what you owe, Buyer and Co-Signer agree to pay what is still owed to us.

**f. EXPENSES:** We have the right to charge you, and you agree to pay the costs of repossessing, storing, repairing, preparing for sale and selling the Mobile Home as may be allowed by law. These costs will only be due if:

1. Default exceeds fifteen (15) days at the time of repossession;
2. The amount of costs are actual, necessary and reasonable; and
3. We can prove the costs were paid.

**16. HEIRS AND PERSONAL REPRESENTATIVES BOUND:** After your death, this Contract shall be enforceable against your heirs and personal representatives of your estate.

**17. GOVERNING LAW:** This Contract is to be interpreted according to the law of Pennsylvania.

**18. SEVERABILITY OF PROVISIONS:** If for any reason any part of this Contract shall become illegal, void or unenforceable, that part shall not be a part of this Contract.

**18. ASSIGNMENT BY BUYER:** Buyer shall not assign this Contract.

**19. THERE ARE NO WARRANTIES BY SELLER, EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, UNLESS WE HAVE GIVEN YOU A SEPARATE WRITTEN WARRANTY.**

**10. YOUR PROMISES ABOUT INSURANCE:** You will keep the Mobile Home insured against fire, theft and other hazards against which owner's customarily insure such vehicles until all sums due us are paid in full. The insurance coverage must be satisfactory to us and protect your interests and our interests at the time of any insured loss. The insurance must name us as "loss-payee" on the policy. The insurance must be written by an insurance company qualified to do business in Pennsylvania and licensed to sell insurance in the state where the Mobile Home is permanently kept. The insurance policy must provide us with at least 10 days prior written notice of any cancellation or reduction in coverage. On request, you shall deliver the policy or other evidence of insurance coverage to us. In the event of any loss or damage to the Mobile Home, you will immediately notify us in writing and file a proof of loss with the insurer. We may file a proof of loss on your behalf if you fail or refuse to do so. We may endorse your name to any check, draft or other instrument we receive in payment of an insured loss or return insurance premiums. We may apply any insurance proceeds we receive to repair or replace the Mobile Home if, in our opinion, it is economically feasible and you are not then in default under this Contract. Otherwise, we will apply the insurance proceeds to reduce the unpaid balance due us.

**11. OUR PROMISES ABOUT INSURANCE:** This paragraph applies only if we have contracted to purchase physical damage, comprehensive, fire and/or theft insurance at your expense and the premium has been included in the amount financed. It does not apply to Credit Insurance. If you prepay the sums due on this Contract, unless you specifically request cancellation, the insurance will remain in effect to its scheduled expiration date. If the insurance we obtained for you is cancelled by the insurance company prior to its scheduled expiration date, we will attempt to place comparable insurance with another insurance company on your behalf and give you a copy of any insurance policy we obtain on your behalf. If we are unable to do so, we will notify you that you must obtain replacement insurance from an agent or broker of your choice. If replacement coverage results in additional costs to you for the unexpired period of the original insurance policy, we will reimburse you for the costs.

**NOTICE—ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

#### NOTICE OF PROPOSED CREDIT INSURANCE

The signer(s) of this Contract hereby take(s) notice that Group Credit Life Insurance coverage will be applicable to this Contract if so marked on the front of this Contract, and the coverage will be written by the insurance company named. This insurance, subject to acceptance by the insurer, covers only the person or persons signing the request for such insurance. The amount of charge is indicated for the Credit Insurance to be purchased. The term of insurance will commence as of the date the indebtedness is incurred and will expire on the original scheduled maturity date of the indebtedness, unless a shorter term is so marked on the front of this Contract. Subject to acceptance by the insurer and within 30 days, there will be delivered to the insured debtor(s) a certificate of insurance more fully describing the insurance. In the event of prepayment of the indebtedness, a refund of insurance charges will be made when due.

**NOTICE: SEE OTHER SIDE FOR IMPORTANT INFORMATION.  
THE PROVISION BELOW IS NOT PART OF THE PENNSYLVANIA MOBILE HOME INSTALLMENT SALE CONTRACT BETWEEN THE BUYER AND SELLER.**

#### ASSIGNMENT

To induce you, the "Assignee" identified on the face of this Contract, to purchase the within Contract, the Seller hereby warrants and represents, and continues to warrant and represent that: the sale has been made in strict conformity with all applicable federal, state and local laws and regulations, including, but not limited to, Article 2 of the Pennsylvania Uniform Commercial Code (13 Pa. C.S.A. §§2101 et seq); our title to the Contract and the Mobile Home covered thereby is absolute, free of all liens, encumbrances and security interests, and is subject only to the rights of the Buyer as set forth therein; the Contract is genuine, the signatures thereon are not forgeries, arose from the sale of the Mobile Home therein described, and all parties thereto are of full age and had capacity to contract; the description of the Mobile Home and extra equipment is complete and correct; the cash downpayment and/or trade-in allowance were actually received and no part thereof consisted of notes, post-dated checks, other credit advanced by us to Buyer or rebates or similar payments from us to the Buyer (however manufacturer rebates may constitute all or a part of the downpayment); all warranties and statements therein are true; there is owing thereon the Amount Financed plus interest at the Annual Percentage Rate of the Contract set forth therein; we are duly licensed under the Pennsylvania Motor Mobile Home Sales Finance Act and have duly complied with all requirements thereof with respect to the transaction and with the federal Truth-in-Lending Act and with any other federal or state law, rule or regulation applicable to this Contract; a mobile home title certificate showing a lien or encumbrance in favor of Assignee has been or will be applied for promptly; the Buyer(s) named in the within Contract is (are) personally known to the Seller to be the same identical person(s) whose signature(s) is (are) affixed to this Contract; and Seller has no knowledge of facts impairing the validity or value of the Contract. If any such warranties or representations should be breached at any time, Seller shall repurchase said Contract from Assignee, on demand, and will pay therefor, in cash, the amount owing thereon, computed as set forth below, and said remedy shall be cumulative and not exclusive, and shall not affect any other right or remedy that Assignee might have at law or in equity against Seller. In the event that Buyer fails or refuses to make any payment due hereunder on the assertion, either oral or written, that the Mobile Home is defective, not as represented to the Buyer by Seller, or that Seller refuses to honor any warranty or service agreement of Seller or manufacturer, Seller agrees that, on being advised by Assignee of such claim of Buyer, Seller will repurchase the Contract from Assignee and pay Assignee for same immediately in accordance with the repurchase terms set forth below, and Seller further agrees to hold Assignee harmless from any other claims of Buyer, including attorneys' fees, costs and expenses incurred in defending against claims asserted by Buyer and including claims for refund of payments made by Buyer to Assignee. If the Seller contracts to purchase property insurance on behalf of the Buyer, and that insurance is cancelled by the insurance company prior to its scheduled expiration date, Seller will attempt to place comparable coverage with another insurance company on behalf of the Buyer. If Seller is unable to do so, Seller will notify Buyer and pay to Buyer any additional costs incurred by the Buyer in obtaining replacement insurance for the unexpired period of the original insurance policy. By delivering this Contract to the Assignee and accepting payment for it, Seller authorizes the Assignee to complete or correct the identification of the Assignee in this Assignment to reflect the true Assignee who purchased this Contract, and/or to sign Seller's name to this Assignment, without recourse, if the Assignment has been delivered without Seller's signature.

In the event that Seller is required by this Assignment to repurchase the Contract and/or Mobile Home, Seller shall pay to Assignee, in cash, the full unpaid balance of the Contract as of the date of repurchase, plus any then earned Finance Charge and any and all costs and expenses paid or incurred by Assignee in respect thereto, including reasonable attorneys' fees, in connection with claims by or against any Buyer, Owner or persons in possession of the Mobile home and/or by or against Seller.

For value received, Seller hereby sells, assigns and transfers unto the Assignee, its successors and assigns, the within Contract, all moneys due and to become due thereunder, and all right, title and interest in and to the Mobile Home therein described, with full power in the Assignee in its or our name to take such legal or other action which we might have taken save for this Assignment. Unless Seller marks either of the endorsements below, titled "WITH FULL RE COURSE" or "WITH REPURCHASE," Seller's assignment shall, except for the provisions of the paragraph titled "Assignment," be without recourse.

**WITH FULL RE COURSE**—Seller agrees that, in addition to the paragraph above titled "Assignment," in the event of default by Buyer in the full payment on the due date thereof of any installment payable under the Contract or in the prompt performance of any other obligation to be performed under the Contract by Buyer, Seller will, on demand by Assignee, forthwith repurchase the Contract from Assignee for a repurchase price, in cash, computed as set forth above.

**WITH REPURCHASE**—Seller agrees that, in addition to the provisions of the paragraph above titled "Assignment," in the event of any default by Buyer which shall entitle Assignee to repossess the Mobile Home, Seller will, if the Mobile Home is repossessed by Assignee and delivered to Seller, and without regard to the then condition of the Mobile Home, forthwith repurchase the Contract and the Mobile Home from Assignee for a repurchase price, in cash, computed as set forth above.

By signing below, we agree to the terms of the Assignment.

Seller Seneca Mobile Homes

By Robert N. Cook

25-96

Date

**DEPARTMENT OF TRANSPORTATION  
CERTIFICATE OF TITLE FOR A VEHICLE**

9,668  
960540058003040-001

CD19953A

VEHICLE IDENTIFICATION NUMBER

MH

0

90 COMMODORE

42818448003 WH

YEAR

MAKE OF VEHICLE

TITLE NUMBER

2/28/96

EXEMPT

4

BODY TYPE

DUP

SEAT CAP

PRIOR TITLE STATE

ODOM. PROCD. DATE

ODOM. MILES

ODOM. STATUS

3/28/90

2/28/96

DATE PA TITLED

DATE OF ISSUE

UNLADEN WEIGHT

19,800

GWR

GWR

TITLE BRANDS

ODOMETER STATUS

0 - ACTUAL MILEAGE  
1 - MILEAGE EXCEEDS THE MECHANICAL LIMITS  
2 - NOT THE ACTUAL MILEAGE  
3 - NOT THE ACTUAL MILEAGE-ODOMETER TAMPERING VERIFIED  
4 - EXEMPT FROM ODOMETER DISCLOSURE

**ODOMETER DISCLOSURE EXEMPT BY FEDERAL LAW**

REGISTERED OWNER(S)

PATRICIA L & RONALD N  
WHITNEY  
WEST FIFTH ST  
BURNSIDE PA 15721

FIRST LIEN FAVOR OF:

ONBANK

SECOND LIEN FAVOR OF:

FIRST LIEN RELEASED

DATE

SECOND LIEN RELEASED

DATE

BY

AUTHORIZED REPRESENTATIVE

BY

AUTHORIZED REPRESENTATIVE

MAILING ADDRESS

ONBANK  
101 SOUTH SALINA ST  
SYRACUSE NY 13202

If a second lienholder is listed, upon satisfaction of the first lien, the first lienholder must forward this Title to the Bureau of Motor Vehicles with the appropriate form and fee.

I certify as of the date of issue, the official records of the Pennsylvania Department of Transportation reflect that the person(s) or company named herein is the lawful owner of the said vehicle.

BRADLEY L MALLORY

Secretary of Transportation

**D. APPLICATION FOR TITLE AND LIEN INFORMATION**

SUBSCRIBED AND SWORN

TO BEFORE ME

MO

DAY

YEAR

SIGNATURE OF PERSON ADMINISTERING OATH

SEAL

SIGN IN PRESENCE OF A NOTARY

The undersigned hereby makes application for Certificate of Title to the vehicle described above, subject to the encumbrances and other legal claims set forth here.

SIGNATURE OF APPLICANT OR AUTHORIZED SIGNER

SIGNATURE OF CO-APPLICANT/TITLE OF AUTHORIZED SIGNER

TO BE COMPLETED BY PURCHASER WHEN VEHICLE IS SOLD, AND THE APPROPRIATE SECTIONS ON THE REVERSE SIDE OF THIS DOCUMENT ARE COMPLETED.

When applying for title with a co-owner, other than your spouse, check one of these blocks. If no block is checked, title will be issued as "Tenants in Common".  
 A. Joint Tenants with Right of Survivorship (on death of one owner, title goes to the surviving owner).  
 B. Tenants in Common (on death of one owner, interest of deceased owner goes to his or her heirs or estate).

LIEN DATE IF NO LIEN CHECK BOX

FIRST LIENHOLDER:

NAME

STREET

CITY

STATE

ZIP

SECOND LIENHOLDER:

NAME

STREET

CITY

ZIP

LIEN DATE IF NO LIEN CHECK BOX

SECOND LIENHOLDER:

NAME

STREET

CITY

ZIP

LIEN DATE IF NO LIEN CHECK BOX

SECOND LIENHOLDER:

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STREET

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STREET

CITY

ZIP

LIEN DATE IF NO LIEN CHECK BOX

SECOND LIENHOLDER:

NAME

STREET

## FAIR DEBT COLLECTION ACT 30-DAY NOTICE

By law, this law firm is required to advise you that unless within 30 days after receipt of this notice you dispute the validity of this debt or any portion thereof, the debt will be assumed to be valid by us. If said notification is sent to us in writing, we are required to provide you with verification of the debt. In the event within a 30-day period you request in writing the name of the original creditor, it will be provided to you if different from the current creditor. In the event that you dispute the debt and/or request the name of the original in writing within the 30-day period, no further action will be taken to obtain a Judgment in the pending lawsuit until the verification and/or name of the original creditor has been provided to you.

This law firm is attempting to collect this debt for our client and any information obtained will be used for that purpose.

The above Notice is being given pursuant to the Fair Debt Collection Practices Act and is separate and distinct from the foregoing Complaint, which must be responded to in conformity with the instructions therein. Because of the difference in time parameters, we will not move for Default Judgment for at least thirty (30) days from the date of service of this Complaint upon you, and if you request verification, we will not move for Default Judgment until a reasonable time after verification has been provided, and after the expiration of the thirty (30) day period from the date of service.

**EXHIBIT 13"**

**VERIFICATION**

The undersigned does hereby verify subject to the penalties of Pa. C.S. § 4904 relating to  
unsworn falsification to authorities, that he/she is the Recovery Manager ; Bank OFFICER .  
\_\_\_\_\_  
for the Plaintiff herein, that he/she is duly authorized to make this  
Verification, and that the facts set forth in the forgoing Complaint in Civil Action are true and  
correct to the best of his/her knowledge, information and belief.

A handwritten signature in black ink, appearing to read "Sue E. Fink".

**FILED**

REC MAR 19 2001  
By M H S City Wilson  
William A. Shaw  
Prothonotary  
PA \$80.00

cc: Sherry

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

Sheriff Docket # 10815

M&T BANK

01-389-CD

VS.

WHITNEY, PATRICIA a/k/a PATRICIA L. and RONALD a/k/a RONALD N.

**COMPLAINT IN REPLEVIN**

**SHERIFF RETURNS**

NOW MARCH 20, 2001 AT 11:00 AM EST SERVED THE WITHIN COMPLAINT IN REPLEVIN ON PATRICIA WHITNEY A/K/A PATRICIA L. WHITNEY, DEFENDANT AT RESIDENCE, 1 WEST 5TH ST., BURNSIDE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PATRICIA WHITNEY A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN REPLEVIN AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: SNYDER

NOW MARCH 20, 2001 AT 11:00 AM EST SERVED THE WITHIN COMPLAINT IN REPLEVIN ON RONALD WHITNEY A/K/A RONALD N. WHITNEY, DEFENDANT AT RESIDENCE, 1 WEST 5TH. ST., BURNSIDE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO PATRICIA WHITNEY, WIFE, A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN REPLEVIN AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: SNYDER

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**Return Costs**

Cost      Description

39.60 SHERIFF HAWKINS PAID BY: ATTY.

20.00 SURCHARGE PAID BY: ATTY.

**FILED**

MAR 21 2001  
6/3:40 AM  
William A. Shaw  
Prothonotary *ESB*

Sworn to Before Me This

21<sup>ST</sup> Day Of MARCH 2001

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

So Answers,

  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

M & T BANK, SUCCESSOR IN  
INTEREST TO ONBANK

Plaintiff(s) Civil Action No. 01-389-CD  
vs. PRAECIPE TO DISCONTINUE  
WITHOUT PREJUDICE

PATRICIA WHITNEY a/k/a PATRICIA  
L WHITNEY AND RONALD WHITNEY a/k/a  
RONALD N WHITNEY

Defendant(s) FILED ON BEHALF OF  
Plaintiff(s)  
COUNSEL OF RECORD OF  
THIS PARTY:

LORI A. GIBSON, ESQUIRE  
PA ID#68013  
JON MCKECHNIE, ESQUIRE  
PA ID#36268  
Bernstein Law Firm, P.C.  
Firm #718  
1133 Penn Avenue  
Pittsburgh, PA 15222  
412-456-8100

BERNSTEIN FILE NO. G0001677  
DIRECT DIAL: (412) 456-8100

NOTICE

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO  
COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR  
THAT PURPOSE.

100-1677  
2001  
was

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

M & T BANK, SUCCESSOR IN INTEREST  
TO ONBANK

Plaintiff

vs.

Civil Action No. 01-389-CD

PATRICIA WHITNEY a/k/a PATRICIA  
L WHITNEY and RONALD WHITNEY a/k/a  
RONALD N WHITNEY

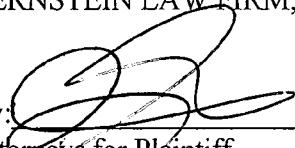
Defendant

PRAECIPE TO DISCONTINUE WITHOUT PREJUDICE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Discontinue without prejudice the above-captioned matter upon the records of the Court and  
mark the costs paid.

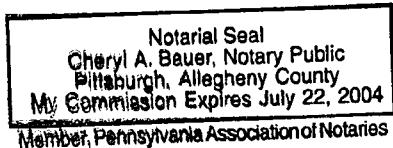
BERNSTEIN LAW FIRM, P.C.

By:   
Attorneys for Plaintiff  
1133 Penn Avenue  
Pittsburgh, PA 15222  
(412) 456-8100

BERNSTEIN FILE NO: G0001677

Sworn to and subscribed  
before me this 31st  
day of May, 2001

Cheryl A. Bauer  
Notary Public



IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

**M & T Bank**

Vs. No. 2001-00389-CD  
**Patricia L. Whitney**  
**Ronald N. Whitney Jr.**

**CERTIFICATE OF DISCONTINUATION**

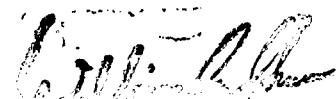
Commonwealth of PA  
County of Clearfield

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 6/7/01 marked:

Settle and Discontinue.

Record costs in the sum of \$139.60 have been paid in full by Lori A. Gibson.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 7th day of June A.D. 2001.



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William A. Shaw, Prothonotary