

04-1791-CD
FIRST COMMONWEALTH BANK vs. BARBARA T. MARTIN, et al.

2004-1791-CD
First Commonwealth vs Barbara Martin et al

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

FIRST COMMONWEALTH
BANK,

PLAINTIFF

VS.

BARBARA I. MARTIN,
Executrix of the Estate of
MARGARET Y. MROSKEY,

DEFENDANT

: NO. 04-1791-C.D.
: TYPE OF CASE: REPLEVIN
: TYPE OF PLEADING: COMPLAINT
: FILED ON BEHALF OF: PLAINTIFF
: COUNSEL OF RECORD:
: CHRISTOPHER E. MOHNEY, ESQUIRE
: SUPREME COURT NO.: 63494
: 90 BEAVER DRIVE, SUITE 111B
: DUBOIS, PA 15801
: (814) 375-1044

FILED 11:57 AM
NOV 09 2004 11:57 AM
William A. Shaw
Prothonotary/Clerk of Courts
Pff Ad 85.00

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

FIRST COMMONWEALTH	:	NO. 04 -	C.D.
BANK,	:		
PLAINTIFF	:	TYPE OF CASE: MORTGAGE FORECLOSURE	
VS.	:		
BARBARA I. MARTIN,	:		
Executrix of the Estate of	:		
MARGARET Y. MROSKEY,	:		
DEFENDANT	:		

NOTICE

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 CLAIM SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED 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.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
1 NORTH SECOND STREET
CLEARFIELD, PA 16830
(814) 765-2641

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

FIRST COMMONWEALTH BANK,	:	NO. 04 -	C.D.
PLAINTIFF	:	TYPE OF CASE: REPLEVIN	
VS.	:		
BARBARA I. MARTIN, Executrix of the Estate of MARGARET Y. MROSKEY,	:		
DEFENDANT	:		

COMPLAINT

AND NOW, comes the Plaintiff, **FIRST COMMONWEALTH BANK**, who files the following Complaint in Mortgage Foreclosure and in support thereof, the following is averred:

1. Plaintiff **FIRST COMMONWEALTH BANK**, is a Pennsylvania banking corporation, with a branch office place of business at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County, Pennsylvania 15801.
2. Defendant **BARBARA I. MARTIN** is the Executrix of the Estate of **MARGARET Y. MROSKEY**, who died on March 27, 2004. Prior to her passing, she was vested with sole title to the subject real estate by operation of Pennsylvania law, in that Joseph W. Mroskey died on December 25, 2003.

3. On March 19, 2003, Defendant entered into a Note with Plaintiff, which Note was secured by a Mortgage also dated March 19, 2003. A copy of the Note is attached hereto as Exhibit "A"

4. Attached hereto as Exhibit "B" is copy of Certificate of Title for a trailer indicating first lien in favor of **FIRST COMMONWEALTH BANK**, which trailer was pledged by Defendant as additional security on the aforementioned Note loan.

5. Plaintiff believes, and therefore avers, that the trailer is placed on a foundation on the real estate pledged as collateral on the Note pursuant to the aforementioned mortgage.

6. Defendant is in default under the terms of the Promissory Note in that she has not made the required monthly payments.

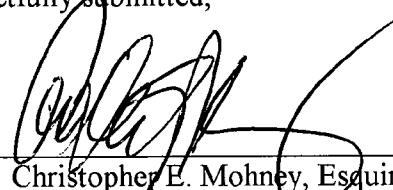
7. Contemporaneous with this Action in Replevin, Plaintiff has filed an Action in Mortgage Foreclosure on the real estate.

8. By virtue of Defendant's failure to make principal payments due upon the aforementioned mortgage and Note, Plaintiff is entitled to possession of the mobile home/trailer that is resting on the real estate, believed to be on a foundation and, therefore, averred to be permanently attached to the property.

9. By reason of the foregoing, Plaintiff is entitled to possession of the 1973 New Moon Mobile Home/Trailer, Pennsylvania Vehicle Identification Number 11211523.

WHEREFORE, Plaintiff demands judgment for possession of the 1989 Brooks Mobile Home/Trailer, Pennsylvania Vehicle Identification Number 1W111394Y.

Respectfully submitted,

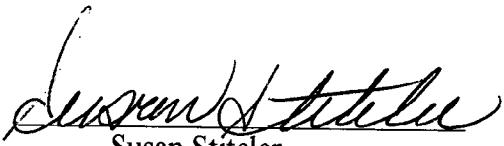
BY: 

Christopher E. Mohney, Esquire
Attorney for the Plaintiff
90 Beaver Drive, Suite 111B
DuBois, PA 15801
(814) 375-1044

VERIFICATION

I, SUSAN STITELER, Assistant Vice President of FIRST COMMONWEALTH BANK, being duly authorized to make this verification, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

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



Susan Stiteler

PROMISSORY NOTE

Principal \$15,123.18	Loan Date 03-19-2003	Maturity 04-01-2008	Loan No 9110000896	Call / Coll	Account	Officer RWE	Initials KMK
References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing **** has been omitted due to text length limitations.							

Borrower: Joseph W Mroskey (SSN: 184-16-5724)
Margaret Y Mroskey (SSN: 181-24-3889)
Box 23
Glen Campbell, PA 15742

Lender: FIRST COMMONWEALTH BANK
Punxy Plaza Office
573 West Mahoning Street
Punxsutawney, PA 15767
(800) 711-2265

Principal Amount: \$15,123.18

Date of Note: March 19, 2003

Maturity Date: April 1, 2008

PROMISE TO PAY. I ("Borrower") jointly and severally promise to pay to FIRST COMMONWEALTH BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of Fifteen Thousand One Hundred Twenty-three & 18/100 Dollars (\$15,123.18), together with interest at the rate of 6.490% per annum on the unpaid principal balance from March 21, 2003, until paid in full.

PAYMENT. I will pay this loan in 60 payments of \$296.44 each payment. My first payment is due May 1, 2003, and all subsequent payments are due on the same day of each month after that. My final payment will be due on April 1, 2008, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. Interest on this Note is computed on a 365/365 simple interest basis; that is, by applying the ratio of the annual interest rate over the number of days in a year (365 during leap years), multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

PREPAYMENT. I agree that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be refunded to me upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Except for the foregoing, I may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve me of my obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in my making fewer payments. I agree not to send Lender payments marked "paid in full", "without recourse", or similar language. If I send such a payment, Lender may accept it without losing any of Lender's rights under this Note, and I will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: FIRST COMMONWEALTH BANK, Punxy Plaza Office, 573 West Mahoning Street, Punxsutawney, PA 15767.

LATE CHARGE. If a payment is 16 days or more late, I will be charged 5.000% of the regularly scheduled payment or \$5.00, whichever is less.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, the total sum due under this Note will bear interest from the date of acceleration or maturity at the interest rate on this Note. The interest rate will not exceed the maximum rate permitted by applicable law.

DEFAULT. I will be in default under this Note if any of the following happen:

Payment Default. I fail to make any payment when due under this Note.

Break Other Promises. I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Note or in any agreement related to this Note, or in any other agreement or loan I have with Lender.

False Statements. Any representation or statement made or furnished to Lender by me or on my behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished.

Death or Insolvency. Any Borrower dies or becomes insolvent; a receiver is appointed for any part of my property; I make an assignment for the benefit of creditors; or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

Taking of the Property. Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, garnishing of or levying on my accounts with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

Defective Collateralization. This Note or any of the related documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Collateral Damage or Loss. Any collateral securing this Note is lost, stolen, substantially damaged or destroyed and the loss, theft, substantial damage or destruction is not covered by insurance.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

Insecurity. Lender in good faith believes itself insecure.

LENDER'S RIGHTS. Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then I will pay that amount.

ATTORNEYS' FEES; EXPENSES. Lender may hire or pay someone else to help collect this Note if I do not pay. I will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

JURY WAIVER. Lender and I hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or me against the other.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all my accounts with Lender (whether checking, savings, or some other account). This includes all accounts I hold jointly with someone else and all accounts I may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. I authorize Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts.

COLLATERAL. I acknowledge this Note is secured by the following collateral described in the security instruments listed herein, all the terms and conditions of which are hereby incorporated and made a part of this Note:

(A) a Mortgage dated March 19, 2003, to Lender on real property located in Clearfield County, Commonwealth of Pennsylvania.

(B) mobile homes described in a Consumer Security Agreement dated March 19, 2003.

PROPERTY INSURANCE. I understand that I am required to obtain insurance for the collateral securing this Note. Further information concerning this requirement is set forth in the Security Agreement and Mortgage and in the Agreement to Provide Insurance, all the terms and conditions of which are hereby incorporated and made a part of this Note.

LIMITATION OF ACTION. If the Borrower has any cause of action against the Lender, now or in the future, arising out of the Related Documents and the transactions contemplated by the Related Documents, whether in contract or tort or otherwise, the Borrower must assert the claim within one year of the occurrence of the event which gives rise to a cause of action. If the Borrower does not assert the claim within one year of the occurrence of a cause of action, the Borrower will be barred from asserting the claim. Borrower and Lender agree that the one year time period is reasonable and sufficient for the Borrower to investigate and act upon the claim and that the provision shall survive any termination of the Agreement.

SUCCESSOR INTERESTS. The terms of this Note shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES. Please notify us if we report any inaccurate information about your account(s) to a consumer reporting agency. The specific inaccurate information and the name and address of the consumer reporting agency describing the specific inaccuracy(ies) should be sent to us at the following address: FIRST COMMONWEALTH BANK, 573 West Mahoning Street, Punxsutawney, PA 15767.

GENERAL PROVISIONS. Lender may delay or forgive any payment by me or any other person who signs, guarantees or endorses this Note. Upon any change in the terms of this Note, and unless otherwise provided, Lender may renew or extend (repeatedly and for any

EXHIBIT

"A"

length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

PRIOR TO SIGNING THIS NOTE, I, AND EACH OF US, READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. I, AND EACH OF US, AGREE TO THE TERMS OF THE NOTE.

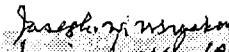
I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER:


X Joseph W. Mroskey
Joseph W. Mroskey, Individually

(Seal)


X Margaret Y. Mroskey, Individually
Margaret Y. Mroskey, Individually

COMMONWEALTH OF PENNSYLVANIA

CERTIFICATE OF TITLE FOR A VEHICLE

081101001150-000

TITLE NUMBER

1761-8803

42106755302 MR

VEHICLE IDENTIFICATION NUMBER

YEAR

MAKE OF VEHICLE

TITLE NUMBER

BODY TYPE

DUP

SEAT CAP.

PRIOR TITLE STATE

ODOM. PROCD. DATE

6/12/03 EXEMPT

ODOM. MILES

ODOM. STATUS

DATE PASTED

DATE OF ISSUE

UNLADEN WEIGHT

GVWA

GWR

TITLE BRANDS

1/19/81

8/1/03

18,190

**WARNING - FEDERAL AND STATE LAWS REQUIRE THAT YOU STATE THE MILEAGE
(ODOMETER READING) IN CONNECTION WITH THE TRANSFER OF OWNERSHIP.
FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN
FINES AND/OR IMPRISONMENT.**

IMPORTANT NOTICE

Please be advised that in lieu of notarization on this form, verification of a person's signature by an issuing agent who is licensed as a vehicle dealer by the Pennsylvania State Board of Vehicle Manufacturers, Dealers and Salespersons, or its employee is acceptable. The signature and printed name of the issuing agent or the issuing agent's employee, date of verification, the issuing agent/licensed dealership's dealer identification number (DIN) and business name, must be listed in the space provided for notarization. Vehicle seller and purchaser must sign only in the presence of an officer empowered to administer oaths or an authorized agent as identified above.

In The Court of Common Pleas of Clearfield County, Pennsylvania

FIRST COMMONWEALTH BANK

VS.

MARTIN, BARBARA I. Executrix of the Estate of MARGARET Y. MROSKEY

COMPLAINT IN REPLEVIN

Sheriff Docket # 16597

04-1791-CD

SHERIFF RETURNS

NOW DECEMBER 6, 2004 MAILED THE WITHIN COMPLAINT IN REPLEVIN TO BARBARA I. MARTIN Executrix of the Estate of Margae Y. Mroskey BY CERT. MAIL # #7002 3150 0000 7854 6464 AT 30 DELAURENTI COURT, WALNUT CREEK, CA. 94598 BEING HER LAST KNOWN ADDRESS. THE LETTER IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "UNCLAIMED".

Return Costs

Cost	Description
23.12	SHERIFF HAWKINS PAID BY: PLFF. CK# 108672
10.00	SURCHARGE PAID BY: PLFF CK# 110601

Sworn to Before Me This

____ Day Of _____ 2005

So Answers,


Chester A. Hawkins
Sheriff

FILED
02/01/05
FEB 07 2005


William A. Shaw
Prothonotary/Clerk of Courts

U.S. POSTAL SERVICE
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 8.15

2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2000 2001

ADDRESS ONLY

Send To
BARBARA I. MARTIN, Executive
Street, Apt. No.;
or PO Box No. 30 Delaurenti Court
City, State, ZIP+4
Walnut Creek, Ca. 94598

PS-Form 3200, June 2002
See Reverse for Instructions

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail® or Priority Mail®.
- Certified Mail is *not* available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

**IMPORTANT: Save this receipt and present it when making an inquiry.
Internet access to delivery information is not available on mail
addressed to APOs and FPOs.**

16597

7002 3150 0000 7854 6464

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL™



7002 3150 0000 7854 6464



REFUSED
UNCLAIMED
REMOVED TO ADDRESS

12/11/04
ADDRESSEE
ONLY

BARBARA I. MARTIN, Executrix of
The Estate of Margaret Y. Mroskey
30 Delaurenti Court
Walnut Creek, CA. 94598

1-13-05
ADDRESSEE
ONLY

3459844602 34

SENDER: COMPLETE THIS SECTION**COMPLETE THIS SECTION ON DELIVERY**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

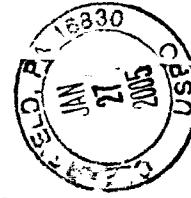
1. Article Addressed to:

BARBARA L. MARTIN Executrix of
Estate of Margaret Y. Mroskey
30 DELAURENTI COURT
WALNUT CREEK, CA. 94598

A. Signature
 X

B. Received by (Printed Name)
 C. Date of Delivery

D. Is delivery address different from item 1?
If YES, enter delivery address below: Yes
 No



3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)
 Yes

2. Article Number
(Transfer from service label)

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540