UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ILLINOIS

PROOF OF CLAIM

Name of Debtor Against Which You Assert Your Claim

YOU MUST SELECT A DEBTOR AGAINST WHOM YOU ASSERT YOUR CLAIM YOU SELECT A DEBTOR BY CHECKING ONE BOX ON THE OTHER SIDE OF THIS NOTICE NOTE Check one box only Creditors holding claims against more than one Debtor must file a separate claim in the case of each Debtor against whom the creditor asserts a claim A creditor will be bound by the Debtor named in its proof of claim

03103104036872

YOUR CLAIM IS SCHEDULED AS

CONSECO FINANCE CORP (02-49675 CAD)

UNKNOWN UNSECURED CONTINGENT DISPUTED UNLIQUIDATED

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503

Name of Creditor and Address

03103104036872

JACKSON AND SHELLY M ALLEN DIANA L
C/O MARK DEMOREST LAW OFFICE OF
19853 W OUTER DRIVE
STE 100
DEARBORN MI 48124-2066

Creditor Telephone Number (313) 565-1330

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☐ **Check box if you have never received any notices from the bankruptcy court in this case**

☐ Check box if this address differs from the address on the envelope sent to you by the court

The amounts reflected above if any constitute your claim as scheduled by the Debtor If you agree with the amounts set forth herein and have no other claim against the Debtor you do not need to file this proof of claim EXCEPT as stated below

If the amounts shown above are listed as Contingent Unliquidated or Disputed a proof of claim must be filed

If you have already filed a proof of claim with the Bankruptcy Court or BMC you do not need to file

CREDITOR TAX I D #

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR

Check here if this claim ☐ replace or ☐ amends a previously filed claim dated _____

1 BASIS FOR CLAIM

☐ Goods sold
☐ Services performed
☐ Money loaned
☐ Bondholder
☐ Personal injury/wrongful death
☐ Taxes
☒ Other (describe briefly) See Attachment A.
☐ Retiree benefits as defined in 11 U S C § 1114(a
☐ Wages salaries, and compensation (Fill out below)

Your social security number _____

Unpaid compensation for services performed from _____ (date) to _____ (date)

2 DATE DEBT WAS INCURRED August 1, 2001

3 IF COURT JUDGMENT, DATE OBTAINED

4 TOTAL AMOUNT OF CLAIM

$ UNLIQUIDATED (unsecured) $ _____ (secured) $ _____ (unsecured priority) $ _____ (total)

See Attachment A.

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below

☒ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

5 SECURED CLAIM

☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief description of collateral

☐ Real Estate
☐ Motor Vehicle
☐ Other _____

Value of collateral $ _____

Amount of arrearage and other charges at time case filed included in secured claim above if any $ _____

6 UNSECURED PRIORITY CLAIM

☐ Check this box if you have an unsecured priority claim

Specify the priority of the claim

☐ Wages salaries or commissions (up to $4 650*) earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor s business whichever is earlier 11 U S C § 507(a)(3)

☐ Contributions to an employee benefit plan - 11 U S C § 507(a)(4)

☐ Up to $2 100* of deposits toward purchase lease or rental of property or services for personal family or household use - 11 U S C § 507(a)(6)

☐ Alimony maintenance or support owed to a spouse former spouse or child -11 U S C § 507(a)(7)

☐ Taxes or penalties owed to governmental units - 11 U S C § 507(a)(8)

☐ Other Specify applicable paragraph of 11 U S C § 507(a) _____

Amounts are subject to adjustment on 4/1/01 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7 CREDITS The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

8 SUPPORTING DOCUMENTS *Attach copies of supporting documents* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available, explain If the documents are voluminous attach a summary

9 DATE-STAMPED COPY **To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of your claim**

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4 00 pm, Central Time on May 22, 2003

BY MAIL TO
Bankruptcy Management Corporation
ATTN Conseco Inc Claims
P O BOX 1042
El Segundo CA 90245-1042

BY HAND OR OVERNIGHT DELIVERY TO
Bankruptcy Management Corporation
ATTN Conseco Inc Claims
1330 East Franklin Avenue
El Segundo, CA 90245

FILED

THIS SPACE FOR COURT USE ONLY

MAY 22 2003

BMC

DATE SIGNED 5-21-03

SIGN and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)

MARK S. DEMOREST, attorney

Penalty for presenting fraudulent claim is a fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C

Conseco Finance Corp Claim

49675002900

Name of Debtor Against Which You Assert Your Claim

Check One Box Only

- [XX] Conseco Finance Corp (02-49675-CAD)
- [ ] Conseco Finance Servicing Corp (02-49676-CAD)
- [ ] Conseco Agency of Alabama, Inc (03-04692-CAD)
- [ ] Conseco Agency Inc (03-04693-CAD)
- [ ] Conseco Agency of Kentucky, Inc (03-04694-CAD)
- [ ] Conseco Agency of Nevada Inc (03-04695-CAD)
- [ ] Conseco Agency of New York Inc (03-04696-CAD)
- [ ] Crum-Reed General Agency Inc (03-04697-CAD)
- [ ] Conseco Finance Canada Company (03-04698-CAD)
- [ ] Conseco Finance Canada Holding Company (03-04699-CAD)
- [ ] Conseco Finance Corp - Alabama (03-04700-CAD)
- [ ] Conseco Finance Credit Corp (03-04701-CAD)
- [ ] Conseco Finance Consumer Discount Company (03-04702-CAD)
- [ ] Conseco Finance Loan Company (03-04703-CAD)
- [ ] Conseco Finance Net Interest Margin Finance Corp I (03-04704-CAD)
- [ ] Conseco Finance Net Interest Margin Finance Corp II (03-04705-CAD)
- [ ] Green Tree Floorplan Funding Corp (03-04706-CAD)
- [ ] Green Tree Finance Corp - Two (03-04707-CAD)
- [ ] Landmark Manufactured Housing Inc (03-04708-CAD)
- [ ] Rice Park Properties Corporation (03-04709-CAD)

INSTRUCTIONS FOR FILING PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law In particular types of cases or circumstances such as bankruptcy cases that are not filed voluntarily by a debtor there may be exceptions to the general rules

— DEFINITIONS —

Debtor

The person corporation or other entity that has filed a bankruptcy case is called the debtor

Creditor

A creditor is any person corporation or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim) This form must be filed with the court appointed Claims Agent Bankruptcy management Corporation at the address listed on the reverse side of this page

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property

Examples of liens are a mortgage on real estate and a security interest in a car truck boat television set, or other item of property A lien may have been obtained through a court proceeding before a bankruptcy case began In some states a court judgment is a lien In addition to the extent a creditor also owes money to the debtor (has a right of setoff) the creditor's claim may be a secured claim (See also Unsecured Claim)

Unsecured Claim

If a claim is not secured claim it is an unsecured claim A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full

Unsecured Priority Claim

Certain types of unsecured claims are given priority so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims) The most common types of priority claims are listed on the proof of claim form Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as Unsecured Nonpriority Claims

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example District of Delaware) the name of the debtor in the bankruptcy case and the bankruptcy case number If you received a notice of the case from the Claims Agent Bankruptcy Management Corporation all of this information is near the top of the notice

Information about Creditor

If not already accurately pre-printed omplete the section giving the name address and telephone number of the creditor to whom the debtor owes money or property and the debtor's account number if any If (a) anyone else has already filed a proof of claim relating to this debt (b) if you never received notices from the bankruptcy court about this case (c) if your address differs from that to which the Claims Agent sent this notice or (d) if this proof of claim replaces or amends a proof of claim that was already filed check the appropriate boxes on the form

1 Basis for Claim

Check the type of debt for which the proof of claim is being filed If the type of debt is not listed check Other and briefly describe the type of debt. If you were an employee of the debtor fill in your social security number and the dates of work for which you were not paid

2 Date Debt Incurred

Fill in the date when the debt was first owed by the debtor

3 Court Judgments

If you have a court judgment for this debt, state the date the court entered the judgment.

4 Total Amount of Claim at Time Case Filed

Fill in the total amount of the entire claim If interest or other charges in addition to the principal amount of the claim are included check the appropriate place on the form and attach an itemization of the interest and charges

5 Secured Claim

If your claim is a secured claim check the appropriate boxes in this section You must state the type and value of property that is collateral for the claim attach copies of the documentation of your lien and state the amount past due on the claim as of the date the bankruptcy case was filed A claim may be partly secured and partly unsecured (See DEFINITIONS above)

6 Unsecured Priority Claim

If your claim is an unsecured priority claim (See DEFINITIONS above) check the appropriate boxes in this section and state the amount entitled to priority A claim may be partly priority and partly nonpriority if for example the claim is more than the amount given priority by the law Check the appropriate place to specify the type of priority claim

7 Credits

By signing this proof of claim you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor

8 Supporting Documents

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or if the documents are too lengthy a summary of those documents If documents are not available you must attach an explanation of why they are not available

Please read – Important information upon completion of this claim form you are certifying that the statements herein are true

Be sure to date the claim and place original signature of claimant or person making the claim for creditor where indicated at the bottom of the claim form Please type or print name of individual under the signature Be sure all items are answered on the claim form If not applicable insert Not Applicable

Return claim form and attachments if any and a second copy with any attachments to the Claims Agent, Bankruptcy Management Corporation at the address on the front of this form

ATTACHMENT "A"

Shelly Allen and Diana Jackson purchased a manufactured home from Hometown USA, with financing provided by Conseco Finance Corp or Conseco Finance Servicing Corp Allen and Jackson claim that they were defrauded in the purchase of the manufactured home, and that they are entitled to rescission and/or damages They filed a lawsuit against Hometown USA, Conseco Finance Corp and Cynthia Jahs in Wayne County Circuit Court, State of Michigan (Case No 02-217868-CK) A copy of the Complaint and Jury Demand in that case is attached (without exhibits) The case has been stayed with regard to Conseco as a result of its bankruptcy filing, but the case is continuing as to Defendants Hometown USA and Cynthia Jahs A trial is expected to take place before the end of 2003

The amount of the claims against Conseco will be unliquidated until the trial in the lawsuit against Hometown USA and Cynthia Jahs is completed

STATE OF MICHIGAN
THIRD CIRCUIT COURT

CASE NO

SUMMONS AND RETURN OF SERVICE

COURT
ADDRESS 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT
TELEPHONE NO (313) 224-

THIS CASE ASSIGNED TO JUDGE

Bar Number:

PLAINTIFF

DEFENDANT

PLAINTIFF'S ATTORNEY

CASE FILING FEE	JURY FEE
	PAID

ISSUED	THIS SUMMONS EXPIRES	DEPUTY COUNTY CLERK
		TRAVIS CLARK

*This summons is invalid unless served on or before its expiration date

Cathy M Garrett – Wayne County Clerk

NOTICE TO THE DEFENDANT In the name of the people of the State of Michigan you are notified

1 You are being sued
2 YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state)
3 If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint

☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint
☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court
☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties
☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court

The docket number and assigned judge of the civil/domestic relations action are

Docket no	Judge	Bar no

The action ☐ remains ☐ is no longer pending

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief

Date

Signature of attorney/plaintiff

SEAL OF THE CIRCUIT COURT OF WAYNE COUNTY MICHIGAN

COMPLAINT IS STATED ON ATTACHED PAGES EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangement

STATE OF MICHIGAN
THIRD CIRCUIT COURT

CASE NO

SUMMONS AND RETURN OF SERVICE

COURT
ADDRESS 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT
TELEPHONE NO (313) 224-5474

THIS CASE ASSIGNED TO JUDGE GERSHWIN A. DRAIN Bar Number: 17737

PLAINTIFF

DEFENDANT

PLAINTIFF'S ATTORNEY

CASE FILING FEE	JURY FEE
PAID	PAID

ISSUED	THIS SUMMONS EXPIRES	DEPUTY COUNTY CLERK
05/24/02	08/23/02	DEPUTY CLERK

*This summons is invalid unless served on or before its expiration date

Cathy M Garrett – Wayne County Clerk

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STATE OF MICHIGAN
THIRD CIRCUIT COURT

CASE NO

SUMMONS AND RETURN OF SERVICE

COURT
ADDRESS 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT
TELEPHONE NO (313) 224-

THIS CASE ASSIGNED TO JUDGE

PLAINTIFF	DEFENDANT

PLAINTIFF'S ATTORNEY

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The docket number and assigned judge of the civil/domestic relations action are

Docket no	Judge	Bar no

The action ☐ remains ☐ is no longer pending

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief

Date

Signature of attorney/plaintiff

SEAL OF THE CIRCUIT COURT OF WAYNE COUNTY MICHIGAN

COMPLAINT IS STATED ON ATTACHED PAGES EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangement

STATE OF MICHIGAN

CIRCUIT COURT FOR WAYNE COUNTY

JURY FEE PAID
THIS DATE: MAY 24 2002
BY

DIANA L JACKSON, an individual
and SHELLY M ALLEN, an individual
Plaintiffs,

v

HOMETOWN USA, INC , a Michigan corporation, CONSECO FINANCE CORP f/k/a Green Tree Financial Servicing Corp , a Minnesota corporation, and CYNTHIA JAHS, an individual

Defendants

02-217868 CK 5/24/2002
JDG GERSHWIN A DRAIN
JACKSON DIANA L
vs
HOMETOWN USA INC

Mark S Demorest (P35912)
LAW OFFICES OF MARK S DEMOREST
Attorneys for Plaintiff
19853 W Outer Drive, Suite 100
Dearborn, Michigan 48124
313/565-1330

COMPLAINT AND JURY DEMAND

Plaintiffs, Diana L Jackson ("Jackson") and Shelly M Allen ("Allen"), by and through their attorneys, Law Offices of Mark S Demorest, state as follows for their Complaint against Defendants Hometown USA, Inc ("Hometown"), Conseco Finance Corp ("Conseco) and Cynthia Jahs ("Jahs")

PARTIES

1 Jackson is a Michigan resident who resides in Wayne County at 26464 Elwell, Belleville, Michigan 48111

2 Allen is a Michigan resident, who resides in Wayne County at 26700 Martinsville Road, New Boston, Michigan 48164

3 Hometown is a Michigan corporation with its principal place of business located in the City of Flat Rock, County of Wayne, State of Michigan

4 Conseco is a Delaware corporation doing business in the State of Michigan, with its registered office located in the City of Detroit, County of Wayne

5 Jahs is a Michigan resident and employee of Hometown, whose principal place of employment is located in the City of Flatrock, County of Wayne, State of Michigan

JURISDICTION

4 The amount in controversy is in excess of $25,000

GENERAL ALLEGATIONS

5 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 4, inclusive

6 Hometown is in the business of selling manufactured homes (a/k/a mobile homes)

7 Conseco is in the business of financing the purchase of manufactured homes

8 On July 28, 2001, Jackson went to Hometown because she was considering purchasing a manufactured home

9 Jackson was accompanied by her sister Delores Murry

10 When Jackson arrived, she was assisted by Jahs, an employee and sales consultant of Hometown

11 Jackson intended to place the manufactured home on her private property at 26464 Elwell in Belleville, Michigan

12 Jackson told Jahs that she intended to place the manufactured home on her private property at 26464 Elwell in Belleville, Michigan

13 Jahs represented to Jackson that Hometown had two manufactured homes for sale that would fit her intended purpose – a $20,000 'single' and a $31,000 "double wide"

14 Jahs represented to Jackson that the 'double wide' was a brand new, model year 2000 home that had never been lived in

15 Jahs further represented to Jackson that the 'double wide' had a '4-12' roof so it could be moved

16 Jahs informed Jackson that Jackson could purchase the double wide' for $31,000, including tax and title

17 Relying upon Jahs' representations, Jackson agreed to purchase the 'double wide manufactured home ("manufactured home") for a total price of $31,000

18 Jahs then told Jackson that in order to purchase the manufactured home all Jackson had to do was place at least a 10% deposit on the manufactured home

19 Once again relying on Jahs' representations, Jackson placed a $3,500 deposit (11%) on the manufactured home

20 The next day, on July 29, 2001, Jahs informed Jackson that Jackson did not have sufficient income to purchase the manufactured home without a co-signer

21 Jahs told Jackson that she would need a co-signer in order to get financing to purchase the manufactured home

22 Jackson then contacted her niece, Allen, and requested that Allen co-sign on the loan

23 Allen agreed to co-sign for Jackson and visited Hometown on or about July 31, 2001 in order to review and sign the sales documents

24 When Allen arrived at Hometown, Jahs informed Allen that she would not be the primary borrower on the loan and would only be listed as a co-owner

25 Jahs also told Allen that the purchase price of the manufactured home was $31,000, and that it would be financed at a rate of 11% per year

26 Jahs then had Allen sign the "Manufactured Home Retail Installment Contract" which also indicated a purchase price of $31,000 and an annual percentage rate of 11% per year (**Exhibit 1**)

27 Jahs then called Jackson and informed Jackson that Allen had co-signed on the loan and requested that Jackson return to Hometown and sign as well

28 Jahs insisted that Jackson return that day in order to sign before the next month arrived

29 Jackson returned to Hometown on July 31, 2001 and also signed the Manufactured Home Retail Installment Contract ("Retail Installment Contract) and other sales documents

30 **After** Jackson signed the sales documents, Jahs altered the previously completed Purchase Agreement and wrote the words **"Sold As Is"** on its face (**Exhibit 2**)

31 Jahs informed Jackson that Hometown was "matching" her $3,500 deposit with a $3,500 rebate so that Jackson's credit application would "look good"

32 When Jackson returned home, and had an opportunity to review all the documents she had signed, she noticed that the annual percentage rate on the Retail Installment Contract had been altered

33 The 11% annual percentage rate that had been indicated on the Retail Installment Agreement when it was signed by Allen had been changed, by hand, to 14 5% ("**Exhibit 1**")

34 In addition, despite having put down $3,500 in certified funds and having allegedly received a "rebate" of $3,500 from Hometown, the amount financed on the manufactured home was indicated as $31,305 not $24,000 Furthermore, the cash sale price (purchase price) of the manufactured home indicated $37,100, instead of $31,000, leading Jackson to believe that all of her deposit and the "rebate" had been rolled back into the purchase price of the manufactured home and financed as part of the loan from Conseco

35 After noticing the changes, Jackson called Hometown to request an explanation regarding the difference between the quoted purchase price and the contract price and the difference between the quoted rate of 11 0% and the altered rate of 14 5%

36 Jackson, who spoke to Jahs, was told by Jahs that the interest rate had been increased because Jackson's niece Allen had a 'repossession" listed on her credit report

37 Jahs offered no explanation why the price of the manufactured home had been increased from $31,000 to $37,100

38 The next day, on or about August 1, 2001, Jackson returned to Hometown and formally requested rescission of the Retail Installment Contract

39 Jahs then represented to Jackson that Jahs had to talk to her boss because "this has never happened before "

40 Jahs also represented to Jackson that Jackson was still required to get a letter from her bank verifying that she had $5,000 or more in the bank and that it had been there for over 60 days Jahs also requested the account number

41 Jackson obtained a letter from her bank verifying funds of at least $5,000 (**Exhibit 3**)

42 On or about the next day, August 2, 2001, Jackson returned to Hometown with the letter from her bank and reiterated her demand for rescission

43 Jackson was informed by Jahs that Hometown was 'not giving [Jackson] back one red penny" of her money

44 Jackson then demanded the keys to her home However, Hometown refused to give Jackson her keys until Jackson paid another $687 00 ostensibly for "lot fees"

45 Jackson refused to pay the "lot fee" and was not given her keys

46 Jackson left Hometown and attempted to deal with Conseco directly, whom she contacted by telephone

47 Jackson informed Conseco that she was exercising her right to rescind or "break the contract" and demanded the cancellation of the Retail Installment Contract and the return of her $3,500 deposit

48 Jackson was informed by an agent and employee of Conseco, identified only as "Judy that Jackson was just going to lose her $3,500 deposit because Conseco did not give refunds or "return any monies"

49 On or about August 3, 2001, Jackson again returned to Hometown and requested the keys to her manufactured home However, Hometown again refused to surrender the keys to Jackson this time alleging that the "display furniture had to be removed"

50 On or about August 6, 2001, Jackson again returned to Hometown, this time accompanied by her sister, Delores Murry, and once more requested the keys to her manufactured home

51 Jackson spoke with Jahs, who once again requested a bank statement, but indicated that Jackson "could borrow her set of keys to look in the manufactured home"

52 Jahs then demanded $782 00 from Jackson in payment of the "lot fee"

53 Jackson refused to pay the lot fee and once again reiterated to Jahs that she had purchased the manufactured home with the sole intention of putting it on her own private property

54 On or about August 6, 2001, Jackson once again, in writing, expressed to Hometown her desire to rescind the purchase (**"Exhibit 4"**)

55 This request was made within the 7-day rescission period provided in the contract, but once again Hometown refused to rescind the purchase and return Jackson's deposit

56 Jackson never received the keys to the manufactured home

57 Jackson has never taken possession of the manufactured home

58 Jackson has never received a certificate of title or "Certificate of Manufactured Home Ownership" for the manufactured home

59 Jackson has never received a payment book or account number from Conseco

60 Jackson has never received a policy of insurance or declarations page evidencing $1,610 in 'insurance" allegedly purchased on the manufactured home as part of the Retail Installment Contract

61 Upon information and belief, Hometown and Conseco have now unlawfully "foreclosed" upon Jackson and Allen's manufactured home

COUNT I
FRAUDULENT MISREPRESENTATION

62 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 61, inclusive

63 Hometown and Jahs intentionally made false representations of material facts to Jackson and Allen regarding the suitability of the mobile home to be placed on private property, the purchase price of the mobile home, the interest rate applicable to the Manufactured Home Retail Installment Contract, and their right to rescission, as set forth in the preceding paragraphs

64 Hometown's and Jahs' representations were false when they were made

65 Hometown and Jahs knew that their representations were false when they were made or they made them recklessly, without knowing whether they were true

66 Hometown and Jahs made their representations intentionally and maliciously, and intended that Jackson and Allen rely on their representations in executing the Plain Language Purchase Agreement ("purchase agreement"), Manufactured Home Retail Installment Contract and other sales documents in purchasing the manufactured home

67 Jackson and Allen relied on Hometown's and Jahs' false representations in executing the Purchase Agreement, Manufactured Home Retail Installment Contract and other sales documents in purchasing the manufactured home

68 As a result of Hometown's and Jahs' fraudulent misrepresentations, Jackson and Allen have suffered substantial economic losses, loss of credit, harassment, emotional distress and mental suffering

WHEREFORE, Jackson and Allen request this Court to enter Judgment in their favor and against Hometown and Jahs and award the following damages

a compensatory damages in an amount in excess of $25,000 and that is sufficient to compensate Jackson and Allen for their actual, consequential and incidental losses sustained as a result of Hometown and Jahs wrongful actions

b exemplary damages in an amount in excess of $25,000 resulting from Hometown and Jahs intentional and malicious actions

c Interest, costs and reasonably attorney fees

COUNT II
INNOCENT MISREPRESENTATION

69 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 68, inclusive

70 Hometown's and Jahs' representations as set forth in the preceding paragraphs were made in connection with the making of a contract between Hometown and Jackson and Allen

71 Jackson and Allen would not have entered into the contract to purchase the manufactured home if Hometown and Jahs had not made the representations

72 Jackson and Allen have suffered substantial economic losses as a result of entering into the contract, and their losses benefited Hometown and Jahs through the sale of the manufactured home

WHEREFORE, Jackson and Allen request this Court to enter Judgment in their favor and against Hometown and Jahs and award the following damages

a compensatory damages in an amount in excess of $25,000 and that is sufficient to compensate Jackson and Allen for their actual, consequential and incidental losses sustained as a result of Hometown and Jahs wrongful actions

b exemplary damages in an amount in excess of $25,000 resulting from Hometown and Jahs intentional and malicious actions

c Interest, costs and reasonably attorney fees

COUNT III
BREACH OF CONTRACT

73 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 72, inclusive

74 Hometown entered into a contract with Jackson and Allen to sell them a brand new manufactured home according to their plans and specifications for a total price of $31,000

75 Jackson and Allen placed a $3,500 deposit on the manufactured home and executed a Purchase Agreement, Manufactured Home Retail Installment Contract and other sales documents in fulfillment of all of their obligations under the contract

76 In exchange, Hometown agreed to secure financing from Conseco, at a rate of 11% per year, for Jackson and Allen to purchase the manufactured home for $31,000

77 Instead of securing financing for Jackson and Allen from Conseco, at a rate of 11% per year, Hometown secured financing from Conseco at a rate of 14 5% and then altered the rate of interest on the Manufactured Home Retail Installment Contract, without Jackson and Allen's knowledge or consent, to reflect this new rate

78 Instead of selling the manufactured home to Jackson and Allen for $31,000, Hometown altered the purchase price on the Manufactured Home Retail Installment Contract, without Jackson and Allen's knowledge or consent, in breach of contract, to reflect a purchase price of $37,100

79 Instead of selling the manufactured home to Jackson and Allen as "new", Hometown altered the Plain Language Purchase Agreement, without the consent of Jackson or Allen and sold the manufactured home "as is", in breach of contract

80 Jackson and Allen specifically requested, and Hometown agreed to sell them, a manufactured home that was capable of being located on private property, outside of a mobile home park

81 After executing the Manufactured Home Retail Installment Contract, Jackson and Allen discovered that the manufactured home sold to them by Hometown was not capable of being located on private property and had to be located in a mobile home park

82 Furthermore, despite the performance of Jackson and Allen, Hometown has failed and/or refused to surrender possession of the manufactured home to Jackson and Allen including but not limited to failing to give Jackson and Allen keys to the manufactured home, failing to provide Jackson and Allen with a Certificate of Manufactured Home Ownership, and failing to effect delivery of the manufactured home to the location agreed upon, in breach of contract

83 Jackson and Allen promptly brought these matters to Hometown's attention at the time of the transaction and Hometown failed and/or refused to cure

84 Hometown's conduct as described in this complaint constituted a breach of the contract between the parties

85 Jackson and Allen have been damaged by Hometown's breach of contract

WHEREFORE, Jackson and Allen request that this court enter Judgment in their favor and against Hometown in the amount of at least $25,000, plus interest at the statutory rate from the date of filing and that the Court grant them such other and different relief as the Court deems warranted

COUNT IV
BREACH OF WARRANTY

86 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 85, inclusive

87 Hometown warranted and sold the manufactured home purchased by Jackson and Allen as "new"

88 As a "new" mobile home, Hometown was required by MCLA §125 993 and MCLA §125 994 to warrant that the mobile home was sold to the buyers free from substantial defects in materials or workmanship

89 After Jackson and Allen signed the plain language purchase agreement, Hometown violated MCLA §§125 993 and 125 994 by writing on the face of the plain language purchase agreement without the consent of Jackson or Allen the words "sold as is"

90 Hometown's attempt to convey a "new" mobile home "as is" is a violation of MCLA §§125 993 and 125 994 and constitutes a breach of warranty

91 In addition, in order to induce Jackson and Allen into purchasing the mobile home, Hometown warranted that the mobile home sold to Jackson and Allen was fit for a particular purpose, to wit to be set up on private property outside of a mobile home park

92 Jackson and Allen relied upon this warranty in agreeing to purchase the mobile home

93 Jackson and Allen have discovered that the mobile home was either not capable of being set up on private property outside of a mobile home park or could not be set up outside of a mobile home park on private property without Jackson and Allen incurring substantial additional cost above and beyond the purchase price of the mobile home itself

94 Hometown has breached its warranty by failing to convey to Jackson and Allen a mobile home capable of being set up outside of a mobile home park on private property

95 That as a direct and proximate result of Hometown's breach of warranty Jackson and Allen have suffered damage and injury within the jurisdictional limit of this court and they are entitled to damages for injuries suffered by them

WHEREFORE, Jackson and Allen request that this Court enter a Judgment in their favor and against Hometown in an amount in excess of $25,000, plus other incidental and consequential damages, interest, costs and attorney fees

COUNT V
CONVERSION

96 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 95, inclusive

97 On or about July 31, 2001, Jackson and Allen purchased a manufactured home from Hometown

98 Hometown was paid in full for the manufactured home

99 Conseco financed Jackson's and Allen's purchase of the manufactured home as evidenced by the Manufactured Home Retail Installment Contract and Plain Language Purchase Agreement executed by Jackson, Allen and Hometown

100 On or about August 2, 2001, Jackson demanded the keys to her home, however Hometown refused to give Jackson her keys until Jackson paid another $687 00, ostensibly for "lot fees"

101 On or about August 3, 2001, Jackson again returned to Hometown and requested the keys to her manufactured home, however Hometown again refused to surrender the keys to Jackson alleging that the "display furniture had to be removed"

102 On or about August 6, 2001, Jackson again returned to Hometown, this time accompanied by sister, Delores Murry, and demanded the keys to her manufactured home

103 Hometown then requested a bank statement from Jackson with her account number on it but indicated that Jackson "could borrow a set of keys to look in the manufactured home"

104 Hometown then demanded $782 00 from Jackson in payment of the "lot fee"

105 Jackson refused to pay the fee and once again reiterated to Hometown that she had purchased the manufactured home with the sole intention of putting it on her own private property and that Hometown had no authority to refuse to surrender the manufactured home to Jackson and Allen

106 To date, Hometown has never surrendered possession of the manufactured home to Jackson and Allen

107 Hometown's possession of Jackson's and Allen's manufactured home, after it was purchased by them, was without authority and constitutes a conversion of Jackson and Allen's property

108 After Hometown refused to surrender possession to Jackson and Allen, Jackson then attempted to deal with Conseco directly, whom Jackson contacted by telephone

109 Jackson informed Conseco that she had not taken possession of the manufactured home and that Hometown was unlawfully refusing to surrender possession of the manufactured home to Jackson

110 Jackson also informed Conseco that neither Jackson nor Allen had received a "payment book", "an account number" or a Certificate of Manufactured Home Ownership" in connection with their purchase of the manufactured home

111 Conseco never mailed or otherwise provided these documents to Jackson or Allen

112 Allen also has made several attempts to contact Conseco in order to obtain from Conseco an account number and other information necessary to protect Allen's and Jackson's interest in the manufactured home

113 Conseco has either failed or refused to provide this or any other information to Allen

114 Conseco has intentionally refused to assist Jackson or Allen in protecting their interest in the manufactured home and continued to aide and assist Hometown in the retention and conversion of Jackson and Allen's property

115 Upon information and belief, Conseco has "foreclosed" on the Manufactured Home Retail Installment Contract and unlawfully converted and sold Jackson and Allen's property

116 Hometown and Conseco have unlawfully retained and asserted dominance over property belonging to Jackson and Allen

117 The acts described above constitute an unlawful conversion of Jackson and Allen s property, resulting in damages to Jackson and Allen

118 Under Michigan law, Plaintiffs are entitled to treble damages for conversion

WHEREFORE, Jackson and Allen request this Court enter Judgment in their favor against Hometown and Conseco, jointly and severally, and award such treble damages as Jackson and Allen may be entitled to, plus interest, costs, attorney fees and any other relief that the Court may deem appropriate under the circumstances

COUNT VI
VIOLATION OF THE MICHIGAN CONSUMER PROTECTION ACT

119 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 118, inclusive

120 Hometown has violated the provisions of the Michigan Consumer Protection Act, MCLA §445 903 ("MCPA"), including but not limited to the following

a Causing a probability of confusion or of misunderstanding with respect to the authority of a saleperson, representative, or agent to negotiate the final terms of a transaction in violation of MCLA 445 903(1)(m),

b Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction in violation of MCLA 445 903(1)(n),

c Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction in violation of MCLA 445 903(1)(o)

d Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer in violation of MCLA 445 903(1)(s)

e Entering into a consumer transaction in which the consumer waives or purports to waive a right, benefit, or immunity provided by law in violation of MCLA 445 903(1)(t)

f Failing, in a consumer transaction which is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled thereto any deposit, down payment, or other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of

the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest in violation of MCLA 445 903(1)(u)

g Taking or arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true in violation of MCLA 445 903(1)(v)

h Taking advantage of the consumer's inability reasonably to protect his interests by reason of disability, illiteracy, or inability to understand the language of an agreement presented by the other party to the transaction who knows or reasonably should know of the consumer's inability in violation of MCLA 445 903(1)(x)

i Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits in violation of MCLA 445 903(1)(y)

j Charging the consumer a price which is grossly in excess of the price at which similar property or services are sold in violation of MCLA 445 903(1)(z)

k Causing coercion and duress as a result of the time and nature of a sales presentation in violation of MCLA 445 903(1)(aa)

l Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is

m Failing to reveal facts that are material to the transaction in light of the representations of fact made in a positive manner in violation of MCLA 445 903(1)(cc)

121 That as a direct and proximate result of the conduct of Hometown, Jackson and Allen have been damaged and injured

WHEREFORE, Jackson and Allen request this Court enter a Judgment in their favor against Hometown in an amount in excess of $25,000, plus other incidental and consequential damages, interest costs and attorney fees allowed under the Michigan Consumer Protection Act

COUNT VII
VIOLATION OF THE MICHIGAN
MOBILE HOME COMMISSION ACT (MCLA 125 2327)

122 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 121, inclusive

123 MCLA 125 2327 pertains to unlawful schemes and misrepresentations in the sale of a mobile home, mobile home site or equipment

124 Hometown is a "mobile home dealer" as defined at MCLA 125 2302(h)

125 Hometown sold Jackson and Allen a "mobile home" as defined at MCLA 125 2302(g)

126 On or about July 31, 2001, Hometown sold a mobile home to Jackson and Allen

127 In connection with the offer, sale and purchase of the mobile home, Hometown stated to Jackson that the mobile home was capable of being occupied outside of a mobile home park on private property

128 This statement was untrue and/or Hometown omitted to state a material fact necessary to make the statement not misleading by failing to inform Jackson of the plans and specifications needed to locate the home on private property

129 In connection with the offer, sale and purchase of the mobile home, Hometown stated to Jackson that the mobile home would be sold to her for a total purchase price of $31,000, which would be financed at a rate of 11% per year

130 This statement was untrue and/or Hometown omitted to state a material fact necessary to make the statement not misleading by failing to inform Jackson that any "rebates" Hometown offered to Jackson would be added back into the purchase price and that the final interest rate on the Manufactured Home Retail Installment Contract would be changed to 14 5% after Jackson and Allen had signed it

131 In connection with the offer, sale and purchase of the mobile home, Hometown stated to Jackson that she could take delivery of the mobile home once she signed the

Manufactured Home Retail Installment Contract In fact, Hometown stated that it was imperative that Jackson sign before the end of the month

132 This statement was untrue and/or Hometown omitted to state a material fact necessary to make the statement not misleading by failing to inform Jackson that she would also be required to become a member of a "mobile home park and pay a $782 "lot fee" in order to take possession of her mobile home

133 Hometown's statements, as outlined above, constitute a violation of MCLA 125 2327(1)(a) and (b) and MCLA 125 2327(4)

134 Jackson and Allen have suffered damages as a result of Hometown's violations of MCLA 125 2327(1)(a) and (b) and MCLA 125 2327(4)

WHEREFORE, Jackson and Allen request that this Court enter an Order rescinding the purchase of the mobile home and awarding a monetary Judgment in favor of Jackson and Allen and against Hometown, pursuant to MCLA 125 2331, in the amount of the actual damages suffered by Jackson and Allen, together with reasonable attorney fees, interest and costs

COUNT VIII
RESCISSION

135 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 134, inclusive

136 Jackson and Allen are entitled to rescission

137 In the making of the contract, Hometown had a duty to properly inform Jackson and Allen of their right to rescission and how to exercise that right

138 Hometown failed and/or refused to inform Jackson and Allen of their right to rescission and intentionally misled Jackson with regards to how to exercise her right to rescind

139 Jackson and Allen both requested rescission of the contract within the seven (7) day period of time called for in the plain language purchase agreement

140 Jackson's request for rescission was first made orally on or about August 1, 2001 and again, in writing, on or about August 6, 2001

141 Both requests put Hometown on notice of Jackson's and Allen's desire to rescind

142 No tender back of the property was necessary as Jackson and Allen never took possession of the manufactured home and Hometown never ceased to exercise its possession and control over it

143 On or about August 2, 2001, Jackson and Allen also demanded rescission of Conseco and informed Conseco that they had not taken possession of the manufactured home

144 Conseco failed and/or refused to comply with the demand for rescission

145 Jackson and Allen are also entitled to statutory rescission pursuant to MCLA 125 2331 as a result of Hometown's violations of the Michigan Mobile Commission Act, as more fully alleged in Count VII of the complaint

146 That as a direct and proximate result of Hometown's misrepresentations and omissions of material facts, and its violations of the Michigan Mobile Home Commission Act, Jackson and Allen have suffered damage and injury within the jurisdictional limit of this court and are entitled to rescission of the purchase along with a return of consideration paid to Hometown plus incidental and consequential damages

WHEREFORE, Jackson and Allen request that this Court enter a Judgment in favor of Jackson and Allen and against Hometown and Conseco rescinding the purchase of the manufactured home, and awarding Jackson and Allen the consideration paid for the manufactured home, incidental and consequential damages, plus interest, costs and attorney fees

COUNT IX
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

147 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 146, inclusive

148 Hometown's conduct as outlined above was intentional

149 Hometown's conduct as outlined above was extreme, outrageous, and of such character as not to be tolerated by a civilized society

150 Hometown's conduct as outlined above was for an ulterior motive or purpose

151 Hometown's conduct resulted in severe and serious emotional distress

152 As a direct and proximate result of Hometown's conduct, Jackson and Allen have been damaged in the manner outlined above

WHEREFORE, Jackson and Allen request this Court to enter Judgment in their favor and against Hometown in whatever amount Jackson and Allen are found to be entitled together with interest, costs and attorney's fees

COUNT X
NEGLIGENT SUPERVISION

153 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 152, inclusive

154 In connection with the sale of the manufactured home, Jahs was employed by and/or acting under a mobile home dealer's license issued to Hometown

155 Hometown has statutory and common-law duties to appropriately supervise its agents, employees and/or mobile home sales persons that act under its employ or its dealer's license

156 Hometown is additionally responsible for the acts of its employees, licensees and/or agents while the same are performing under its dealer's license and/or while acting within the scope of their employment

157 Hometown breached its duties to Jackson and Allen by failing to properly supervise and/or instruct its agents, licensees and/or employees acting under its employ and/or its dealer's license

158 As a direct and proximate result of Hometown's breach of the foregoing duties, Jackson and Allen have suffered substantial harm and damages in excess of $37,100, including

interest, finance charges, foreclosure, loss of good credit, attorney's fees, court costs and emotional and mental anguish

159 Jahs' representations were made intentionally and maliciously and have caused Jackson and Allen to suffer humiliation, outrage, and indignation

WHEREFORE, Jackson and Allen request that this Court enter Judgment in their favor against Hometown in an amount in excess of $25,000, together with an award for emotional and mental anguish, and reasonable costs, interest and attorney's fees

COUNT XI
RESPONDEAT SUPERIOR

160 Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 159, inclusive

161 In connection with the sale of the manufactured home, Jahs was employed by and/or acting under a mobile home dealer's license issued to Hometown

162 Hometown has statutory and common law duties to appropriately supervise its agents, employees and/or mobile home sales persons which act under its employ or its dealer's license

163 Hometown is additionally responsible for the acts of its employees, licensees and/or agents while the same are performing under its dealer's licenses and/or while acting within the scope of their employment

164 Hometown breached its duties to Jackson and Allen by failing to properly supervise and/or instruct its agents, licensees and/or employees acting under its employ and/or its dealer's license

165 As a direct and proximate result of Hometown's breach of the foregoing duties, Jackson and Allen have suffered substantial harm and damages, including interest, finance charges, foreclosure, loss of good credit, attorney's fees, court costs and emotional and mental anguish

WHEREFORE, Jackson and Allen request that this Court enter Judgment in their favor against Hometown in an amount in excess of $25,000, together with an award for emotional and mental anguish, and reasonable costs, interest and attorney's fees

DEMAND FOR JURY TRIAL

Plaintiffs Diana L Jackson and Shelly M Allen, by and through their attorneys, Law Offices of Mark S Demorest, hereby demand a trial by jury in the above-entitled cause of action

Respectfully submitted,

LAW OFFICES OF MARK S DEMOREST

MARK S DEMOREST (P35912)
Attorneys for Plaintiffs
19853 W Outer Drive, Suite 100
Dearborn, Michigan 48124
313/565-1330

Dated May 24, 2002

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