

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

In re: }
Mortgage Modifications and }
Motions to Incur Debt }

**INSTRUCTIONS ON FILING A MOTION TO AUTHORIZE MORTGAGE
MODIFICATION OR MOTION TO INCUR DEBT**

Pursuant to the Rules of Construction in 11 U.S.C. § 102, effective July 11, 2012, the Court will consider **(1) motions to authorize home mortgage loan modifications and (2) motions to incur new debt for the purpose of purchasing a vehicle** to be filed with a notice and opportunity for hearing (“negative notice”).

I. MOTIONS TO INCUR DEBT FOR THE PURCHASE OF A VEHICLE

These motions **MUST** be sent out on negative notice. The filer will need to include the requisite negative notice provisions when filing the motion if negative notice is preferred; otherwise, a hearing will be set. See Section III below.

The body of the Motion shall disclose:

1. The make, model, and year of vehicle being purchased
2. The name of the lender
3. The total purchase price of the vehicle
4. The amount being financed and the amount being paid out-of-pocket
5. The interest rate
6. The monthly payment

Motions shall have attached legible copies of the following:

- a. The proposed retail purchase contract (required)
- b. Truth-in-lending disclosures (required)
- c. Amended schedules I and J that take into account the proposed vehicle loan payments (required)

II. MOTIONS TO MODIFY EXISTING SECURED HOME MORTGAGE DEBT

These motions **MUST** be sent out on negative notice **UNLESS** the proposed modification concerns a reverse mortgage **OR** the filer is acting pro se. If either counsel for the debtor, counsel for the lender, or the Chapter 13 Trustee files a motion to modify (except those concerning a reverse mortgage) without the requisite negative notice provisions the Clerk will process a Notice of Incorrect Event and the motion will not be further considered by the Court. See Section III below.

The body of the Motion shall disclose:

1. The purpose of the transaction
2. Name of the mortgage creditor
3. Current principal balance and the new principal balance under the modification
4. Current monthly payment and the new principal payment under the modification
5. Current interest rate and the new interest rate under the modification
6. The pre-modification maturity date and the new maturity date under the modification
7. Amount of arrearage to be capitalized and added to the principal balance
8. Fees and expenses to be paid by the debtor or added to the principal balance
9. Cash proceeds, if any, that the debtor will receive from the modification
10. Balance of arrearage claim, if applicable, will be disallowed with any arrearage to be paid in the mortgage modification

Motions shall have attached legible copies of the following:

- a. Modification agreement or refinancing agreement (required)
- b. Truth in Lending disclosures (if not available, indicate such)
- c. HUD-1 financing statement (if not available, indicate such)

III. APPLICABLE TO BOTH TYPES OF MOTIONS:

- The Motion must be served with a Notice and Opportunity for Hearing providing that any party who wishes to object must file an objection within 21 days. Absent objection, the Court may enter an order granting the relief sought in the motion without a hearing.
- The Motion must be served on the Trustee, the creditor financing the transaction, and all other creditors. The certificate of service must clearly set forth the name of the creditor financing the transaction, the name of the individual or officer served, and the address at which the creditor was served.