

## **CONTENT OF MOTIONS TO APPROVE LOAN MODIFICATION AND RELATED ORDERS**

The Court is aware that, in connection with the modification of existing loans, lenders often desire, or require, approval of the modification by the Court. The Court is willing to provide such comfort, but to do so, it needs some basic information on the benefit to the debtor of the modification. In a motion to approve a loan modification, the motion should apprise the Court, without resort to a detailed review of attached documents, of the benefits the debtor of the proposed modification. Such information should include all of the following (to the extent applicable):

- a. The existing arrearage is being rolled into the loan, in whole or in part (stating the size of the arrearage, the amount or portion being rolled into the loan and any portion being forgiven);
- b. The interest rate is being lowered (stating both the old and new rates);
- c. The term is being extended (stating the length of the current remaining term and the length of the extended term);
- d. Principal or other amounts owed are being forgiven (stating how much is being forgiven)
- e. The monthly payment is being decreased (stating the amount of the old and new payments).

In the absence of sufficient information in the motion to determine the benefit of the loan modification to the debtor, such a motion will be heard, even in the absence of objection, so that such information can be obtained on the record.

Orders granting such motions can contain stipulations of facts regarding the existing or revised loan (amount owed, interest rate, payment etc.) but such stipulations should not purport to be findings by the Court unless the matter is actually heard and evidence presented. Also, the Order should not order or direct the debtor to enter into the modification or make the corresponding payments – it should merely authorize the debtor to do so. Finally, if the modification results in the satisfaction of the arrearage, the Order must authorize and direct the Chapter 13 trustee to cease funding the arrearage under the plan, if the plan provides for such funding.