**UNITED STATES BANKRUPTCY COURT**

 **DISTRICT OF VERMONT**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

In re:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter \_\_\_**

 **Debtor(s). Case # \_\_\_\_\_\_\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Motion for Approval of Mortgage Modification Agreement**

**and Modified Mortgage with [Lender]**

 [*name of debtor*] by and through attorney, [*name of attorney*], and [*name of lender*] request that this Court enter an order approving a mortgage modification agreement and a modified mortgage. In support of this motion, the debtor and lender state the following.

1. Check the appropriate line:

\_\_\_ The above named debtor(s) granted the lender a mortgage (copy attached as Exhibit A) secured by a loan, evidenced by a promissory note dated [*date*] payable to [*lender name*] in the original amount of $\_\_\_\_\_\_\_\_\_\_ (a copy attached as Exhibit B) on [*date*], secured by real estate located at [*address*].

\_\_\_ The lender became holder of the note and assignee of mortgage through the following transactions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The debtor(s) filed for relief under chapter \_\_ on [*date*].
2. The lender affirms that:
	1. it is the holder of the promissory note represented by Exhibit A, the obligation of which is secured by the subject mortgage shown on Exhibit B;
	2. it has standing to enforce the above referenced promissory note and mortgage and has full authority to modify the terms of the note and mortgage; and
	3. the sums due under the note as modified and reflected below are not more than the amount currently due under the loan to be modified.
3. The debtor(s) and [*lender name*] have agreed that the above referenced mortgage shall be modified in the following respects as reflected on the attached Modified Mortgage (Exhibit C): [*set out changes to mortgage*].
4. The debtor(s) affirms that:
5. the property encumbered by the subject mortgage [*is/is not*] the debtor’s primary residence;
6. the debtor will not receive any cash or incur any new debt through the mortgage modification;
7. the modification will reduce the debtor’s monthly mortgage payment by $\_\_\_\_\_; and
8. as a result of the modification, the debtor will be able to make a payment of $\_\_\_\_\_\_\_ to the chapter \_\_trustee and this amount is sufficient to fund a chapter \_\_ plan.

 WHEREFORE, the debtor and lender respectfully request that this Court enter an order approving the mortgage modification agreement and the debtor’s modified mortgage with [*lender*].

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Debtor’s Name

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Joint Debtor’s Name

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [*Signature*]

[*typed name, with address, e-mail address, and telephone number*]

 [*Lender’s Name*]

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [*Signature*]

[*typed name, with address, e-mail address, and telephone number*]

**UNITED STATES BANKRUPTCY COURT**

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**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

In re:

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter \_\_\_**

 **Debtor(s). Case # \_\_\_\_\_\_\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Notice of Motion**

**for Approval of Mortgage Modification Agreement and**

**Modified Mortgage with [Lender]**

 **NOTICE IS HEREBY GIVEN** to all parties in interest that a motion has been made for approval of a modification of the above referenced mortgage. **IF YOU OPPOSE THE MOTION** you must file a written opposition with the Clerk of Court, by [*date*], and serve a copy of your oppositionon the debtor, the debtor’s counsel, the U.S. trustee, and the chapter 13 trustee. (Addresses for those parties are set forth below).

 **IF AN OPPOSITION IS TIMELY FILED**, the Court will hold a hearing on the motion and any opposition at [*time*] on [*date*] at the following location: [*indicate Rutland or Burlington location*],

 **IF NO OPPOSITION IS TIMELY FILED**, the Court **may** issue an order approving the mortgage modification without a hearing.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [*Signature of Movant’s attorney*]

[*typed name, with address, e-mail address, and telephone number*]

U.S. Trustee Case Trustee

74 Chapel St, Suite 200 [*Name of Law Firm*]

Albany, NY 12207-2190 [*Street Address or P.O. Box*]

 [*City, State, Zip Code*]

Counsel for Debtor

[*Name of Law Firm*]

[*Street Address or P.O. Box*]

[*City, State, Zip Code*]