

EXHIBIT N

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter _____

**NOTICE AND MOTION FOR
LOSS MITIGATION/MORTGAGE
MODIFICATION PURSUANT TO
JUDGE WAITES' CHAMBERS
GUIDELINES**

To: _____ ("Mortgage Creditor") and Parties in Interest

The Debtor(s), through counsel, hereby move the Court for an Order Requiring Loss Mitigation/Mortgage Modification with respect to the following property:

*[Identify the Property]
[Last Four Digits of Loan Number]
[Mortgage Creditor's Name and Address]*

The Debtor(s) request an order directing the parties to participate in the Loss Mitigation/Mortgage Modification (LM/MM) via the Portal as set forth in Judge Waites' Chambers Guidelines, available at <http://www.scb.uscourts.gov/content/judge-waites>

Prior to filing this Motion, Debtor(s)' Counsel has determined that:

- The Mortgage Creditor is registered with the Portal. Within 28 days after entry of the Order, Debtor(s)' Counsel will upload to the Portal Debtor(s)' Prepared Package on the Portal.

- The Mortgage Creditor is not registered. The Debtor(s) request that the Court require Mortgage Creditor to register with the Portal within 7 days after entry of the Order. Within 28 days after entry of the Order, Debtor(s)' Counsel will upload to the Portal Debtor(s)' Prepared Package on the Portal.

The Debtor(s) have or have not previously sought loss mitigation/mortgage modification through any procedure/process during this bankruptcy case or within the previous two years. List dates and results: _____

The Debtor(s)' current Chapter 13 plan does or does not provide for a LM/MM review.

If a previous attempt at loss mitigation/mortgage modification was made during the case or if the Court has previously granted the Mortgage Creditor relief from the automatic stay in this case, the change of circumstances which makes this attempt more likely to succeed is as follows:

TAKE FURTHER NOTICE that any response, return and/or objection to this Motion should be filed with the Court no later than 14 days from service of the Motion and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this Motion, except as required by the Judge, unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on _____, ____ at ____ a.m./p.m. at _____, _____, South Carolina. No further notice of this hearing will be given.

Attorney Name & Fed. ID #

Address

Email

EXHIBIT O

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter __

**ORDER REQUIRING
LOSS MITIGATION/MORTGAGE
MODIFICATION**

A Motion for Loss Mitigation/Mortgage Modification (LM/MM) was filed by [Debtor Name] (“Debtor(s)”), and the necessary parties have had notice and an opportunity to object. It appearing that no objections were filed or that any objections filed have been withdrawn or otherwise ruled upon or that the applicable parties now consent, it is hereby

ORDERED that the Debtor(s), acting through counsel, and _____ (“Mortgage Creditor”) [and additional parties, if any] are directed to participate in LM/MM Portal Program according to Chambers Guidelines; it is further

ORDERED that the Debtor(s), Debtor(s)’ counsel, the Mortgage Creditor and its counsel, and any participating co-borrower or obligor shall comply with the LM/MM Procedures set forth in Judge Waites’ Chambers Guidelines (available at www.scb.uscourts.gov/ChambersJW.htm) and engage in the LM/MM process in good faith, and that failure to do so may result in the scheduling of a hearing to consider sanctions or other relief; and it is further

ORDERED that the Debtor(s), Debtor(s)’ Counsel, and the Mortgage Creditor and its counsel shall observe the following deadlines:

- (1) Upon entry of this Order, Debtor(s)’ Counsel shall immediately register as an authorized user on the Portal (if counsel has not already done so).¹⁹ Once registered, all communication between the parties regarding the loss mitigation review shall be sent through the Portal. Communication and negotiation for the Debtor shall be by Debtor(s)’ Counsel unless otherwise allowed by the Court.
- (2) Within 7 days after service of this Order, the Mortgage Creditor shall register to use the Portal (if not previously registered), assign designated counsel to assist with the LM/MM review, and ensure that the Portal provider has been provided with the standard application forms and documentation requirements necessary for consideration of all types of LM/MM available to Debtor(s). Debtor(s)’ Counsel shall report, by correspondence filed on the Court’s docket, any failure to timely register to use the Portal.
- (3) Within 28 days after entry of this Order, Debtor(s)’ Counsel shall upload the standard LM/MM forms (the "Debtor(s)' Prepared Package") to the Portal. Unless exempted by the Court, the Court's approved online document preparation program (the “Document

¹⁹ The Portal is available at <https://www.dclmwp.com>.

Preparation Program”), provided at www.documods.com, must be used to complete the Debtor(s)’ Prepared Package.

- (4) Within 7 days after submission of the Debtor(s)’ Prepared Package and any additional documentation **on the Portal**, the Mortgage Creditor shall:
 - i. Acknowledge receipt of Debtor(s)’ Prepared Package on the Portal;
 - ii. Provide on the Portal all contact information of the representative in charge of the Debtor(s)’ account;
 - iii. Assign designated counsel on the Portal; and
 - iv. State on the Portal any grounds for ineligibility or disqualification of the requested LM/MM that are not based on a current financial review of the Debtor(s).
- (5) Within 14 days after the submission of the Debtor(s)’ Prepared Package, the Mortgage Creditor shall complete a full review of the Debtor’s Prepared Package and post in a single entry on the Portal of any and all additional or updated final information required to process the application for immediate and complete consideration. In addition, counsel for the Mortgage Creditor shall certify by **a correspondence filed on CM/ECF** that the Mortgage Creditor has complied with the requirements of this paragraph.
- (6) Within 28 days of the filing of counsel for the Mortgage Creditor’s certification, the parties shall exchange and review all necessary documentation in order to submit the LM/MM application to the underwriter or other approving party for final approval of LM/MM. If the parties are unable to complete this requirement within 28 days, the parties shall notify the Court by filing a correspondence on CM/ECF.
- (7) **Unless a shorter time is set by applicable law, rules or regulations**, the Mortgage Creditor shall have a total of 120 days from entry of this Order (“Loss Mitigation Period”) to conclude its consideration,²⁰ and provide a final response to the Loss Mitigation request by advising on all means of Loss Mitigation, including mortgage modification, or verify a denial (after the conclusion of all appeals) by filing a Mortgage Loan Modification Report. **Any denial shall include a detailed explanation for the denial, including specific and enumerated reasons.**
- (8) Upon acceptance of the Debtor(s) in any Trial Period Plan and before the first trial period payment is due, Debtor(s)’ Counsel shall submit a proposed Order Approving Trial Period Plan for consideration and approval by the Court. During the trial payment period, the Mortgage Creditor shall timely post in the Portal receipt of each of Debtor(s)’ trial payments.
- (9) **Other requirements set forth in Chambers Guidelines, which may include additional required steps and deadlines, are incorporated herein and shall be effective. Failure to adhere to the Order and Chambers Guidelines may subject parties and counsel to sanctions or other relief.**

²⁰ The expiration of the 120-day loss mitigation period or any extension therefor does not terminate the requirements of the LM/MM Order or conclude the LM/MM process. All parties remain obligated to act in good faith and to continue the LM/MM review until its final conclusion.

It is further **ORDERED** that the parties must submit and seek Court **approval of any final agreement** providing for LM/MM using forms and procedures outlined in Judge Waites' Chambers Guidelines referenced above. Dismissal of the bankruptcy case, relief from the automatic stay as to the affected property, or reaffirmation of the debt shall not be a prerequisite condition of loss mitigation, including modification of mortgage loan, unless allowed by the Court after consideration at a hearing; and it is further

ORDERED that, absent entry of a Consent Order Approving Loss Mitigation/Mortgage Modification, a final report must be submitted by the Mortgage Creditor within thirty (30) days after a denial (after the conclusion of all appeals) of LM/MM. **Any denial of LM/MM shall include a detailed explanation for the denial, including specific and enumerated reasons;** and it is further

ORDERED that the Mortgage Creditor, via counsel, is ordered to inform the Court, the Debtor(s), Debtor(s)' Counsel, the Trustee, and any participating co-borrower or obligor if the applicable loan is sold or securitized to another company during the LM/MM process within 7 days of the transfer. The transferee or new servicer of the loan shall be advised of these requirements by the original Mortgage Creditor and shall be bound by all prior orders, agreements, forms, and documentation. The transferee or servicer shall register for the Portal within 7 days and the Mortgage Creditor shall transfer the Portal account to the transferee so that the transferee may review all previously submitted transmissions and continue with the process.

ORDERED that Debtor(s)' Counsel, in consideration for assisting the Debtor(s) with the LM/MM process and in addition to any other fees charged in connection with the case, shall be permitted to charge an additional attorney's fee of \$1,700. Said fee shall be paid in a manner described below and reflected in a fee disclosure [**select applicable provision and include only that provision in the order**]:

- The Debtor(s) shall pay \$1,700 or such other agreed upon amount directly to Debtor(s)' Counsel outside of the bankruptcy in accordance with a separate fee or retainer agreement. If Debtor(s) fail to make such payment, Debtor(s)' Counsel is authorized to file a request for supplemental fees to seek payment through the Chapter 13 Plan;
- Debtor has or shall pay a partial payment of \$___ directly to Debtor(s)' Counsel outside of the bankruptcy, leaving a balance of \$_____ to be paid from the Chapter 13 Plan.
- The entire fee of \$1,700 shall be paid to Debtor(s)' Counsel from the Chapter 13 Plan.
- Other: (to be completed by Debtor(s)' counsel and subject to Court approval)

IT IS FURTHER ORDERED that should the Debtor(s) at any time fail to meet a payment obligation as described above, regardless of whether it is a direct payment to the attorney or a plan payment to the Trustee, Debtor(s)' counsel may report that failure to the Court by correspondence and request to be relieved from further obligation of LM/MM assistance.

AND IT IS SO ORDERED

EXHIBIT P

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**MORTGAGE LOAN
MODIFICATION/LOSS MITIGATION
REPORT**

Following efforts to negotiate loss mitigation/mortgage modification of the below described loan, the parties report that loss mitigation/mortgage modification was denied or has failed for the following reasons:²¹

Name of Mortgage Creditor: _____

Property Address: _____

Dated: Signature: _____

²¹ Indicate if a Trial Period Plan was previously approved but was not successfully completed.

EXHIBIT Q

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**LIMITED NOTICE OF APPEARANCE,
REQUEST FOR NOTICE, AND
DISCLOSURE OF COMPENSATION**

The undersigned attorney files this Limited Notice of Appearance on behalf of [Debtor(s)' Name] ("Debtor(s)") in this case for the sole purpose of seeking Loss Mitigation/Mortgage Modification for the Debtor(s). The undersigned further states that s/he will receive \$_____ compensation for this limited appearance to be paid through the Chapter 13 Trustee's distribution or through direct payment by Debtor(s) from post petition income or exempt assets. An attorney fee disclosure statement shall be filed upon the earning of the fee according to Chambers Guidelines.

Attorney Name & Fed. ID #

Address

Email

CERTIFICATE OF SERVICE

The above signing attorney certifies that on [date of service], a copy of the foregoing Limited Notice of Appearance, Request for Notice, and Disclosure of Compensation was served on the Debtor(s), the Chapter 13 Trustee and any affected creditor by first class U.S. Mail at the following addresses:

EXHIBIT R

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**ORDER GRANTING APPROVAL OF
TRIAL PERIOD PLAN
(PORTAL)**

This matter comes before the Court upon the Debtor(s)' Request to Approve Trial Period Plan with _____ ("the Mortgage Creditor"), and this Court having considered the matter
ORDERS AS FOLLOWS:

- a. The request is granted.
- b. The Trial Period Plan with the Mortgage Creditor is hereby approved and the parties are ordered to comply with the terms of the Trial Period Plan:
 - The Trial Period Plan is described in the attachments hereto (**with private information redacted**) or
 - The terms are as follows:
 - i. The Trial Period Plan Payments are in the amount of \$_____, representing principal, interest, taxes and insurance beginning _____, 20____.
 - ii. The payments will be sent to: [insert address]

Debtor(s)' counsel shall timely submit for Court approval any final loss mitigation or mortgage modification agreement after the Trial Period Plan Payments are made.

AND IT IS SO ORDERED.

APPROVAL REQUESTED BY:

Attorney Name & Fed. ID #

Address

Email

EXHIBIT S

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**CONSENT ORDER APPROVING LOSS
MITIGATION/MORTGAGE
MODIFICATION²²
(PORTAL)**

This matter comes before the Court upon the request of [Debtor(s)' Name(s)] ("Debtor(s)") and [Creditor Name] ("Mortgage Creditor") for approval of the parties' agreement for loss mitigation/mortgage modification ("LM/MM"). Mortgage Creditor has an existing loan secured by the Debtor(s)' real property. Using the Portal procedure set forth in the undersigned's Chambers Guidelines, the parties have reached an agreement for LM/MM, which will have the following benefits to the Debtor(s):

- Reduction of the Debtor(s)' mortgage payments from the current amount of \$_____ per month to approximately \$_____ per month.
- Interest rate reduced from ____% to ____% [Fixed or Variable]
- Arrearage in the amount of \$_____ forgiven or postponed.
- Other – Describe below:

Regarding LM/MM, the parties represent and agree that:

1. There will be no extension of additional funds beyond what is already owed;
2. Payments to other lien holders under the plan will not be affected;
3. That the LM/MM has no detrimental effect on other creditors and is in the best interest of Debtor(s) and the estate;
4. That payments to Creditor for arrearage are/are not being made by the Trustee, and will/will not be made upon the effective date of the LM/MM agreement; any overage paid by the Trustee will be refunded to the Trustee within 60 days;
5. Stay relief has not been granted to any secured creditor on the property as a prerequisite of the agreement for loss mitigation;
6. The trial period has been successfully completed [if applicable]; and
7. The documents finalizing the LM/MM shall be executed by the parties within 60 days from the entry of this Order.

²² Mortgage Creditor's consent may be demonstrated by attachment of document evidencing Mortgage Creditor's offer.

Debtor(s) certify that the costs of DMM have been previously paid by Debtor(s) (or other source) and the attorney's fees specifically attributable to services required for participation in LM/MM have been previously paid by Debtor or will be paid through the Trustee's distributions.

Now, therefore, upon the agreement of Debtor and Mortgage Creditor and with the consent of the Trustee, as indicated by the signatures below,

IT IS HEREBY ORDERED that the LM/MM is hereby approved.

AND IT IS SO ORDERED.

WE SO MOVE AND CONSENT:

/s/ Attorney for Mortgage Creditor
Attorney for Mortgage Creditor
District Court I.D. _____

/s/ Attorney for Debtor
Attorney for Debtor
District Court I.D. _____

Chapter 13 Trustee

EXHIBIT T

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**CONSENT ORDER APPROVING
TRIAL PERIOD PLAN
(NON-PORTAL)**

This case came before the Court upon the Debtor(s)' Motion to Approve Non-Portal Trial Period Plan with _____ ("Mortgage Creditor"), and this Court having considered the matter **ORDERS AS FOLLOWS:**

- a. The Motion is granted.
- b. The Trial Period Plan with Mortgage Creditor is hereby approved and the parties are ordered to comply with the terms of the Trial Period Plan:
 - The Trial Period Plan is described in the attachments hereto (with private information redacted) **or**
 - The terms are as follows:
 - iii. The Trial Period Plan Payments are in the amount of \$ _____, representing principal, interest, taxes and insurance beginning _____, 20 ____.
 - iv. The payments will be sent to: [insert address]

Debtor(s)' counsel shall timely submit for Court approval any final loss mitigation or mortgage modification agreement after the Trial Period Plan Payments are made and file an amended plan if the confirmed plan does not provide for Loss Mitigation/Mortgage Modification or provide that all payments shall be made directly to the Mortgage Creditor.

AND IT IS SO ORDERED.

WE SO MOVE AND CONSENT:

/s/ Attorney for Mortgage Creditor
Attorney for Mortgage Creditor
District Court I.D. _____

/s/ Attorney for Debtor
Attorney for Debtor
District Court I.D. _____

Chapter 13 Trustee

EXHIBIT U

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**CONSENT ORDER APPROVING LOSS
MITIGATION/MORTGAGE
MODIFICATION²³
(NON-PORTAL)**

This matter comes before the Court upon the request of [Debtor(s)' Name(s)] ("Debtor(s)") and [Creditor Name] ("Mortgage Creditor") for approval of the parties' agreement for loss mitigation/mortgage modification ("LM/MM"). Mortgage Creditor has an existing loan secured by the Debtor(s)' real property. The parties have reached an agreement for LM/MM without using the Portal, which will have the following material benefits to the Debtor(s):

- Reduction of the Debtor(s)' mortgage payments from the current amount of \$_____ per month to approximately \$_____ per month.
- Interest rate reduced from ____% to ____% [Fixed or Variable]
- Arrearage in the amount of \$_____ forgiven or postponed.
- Other – Describe below:

Regarding LM/MM, the parties represent and agree that:

1. There will be no extension of additional funds beyond what is already owed;
2. Payments to other lien holders under the plan will not be affected;
3. That the LM/MM has no detrimental effect on other creditors and is in the best interest of Debtor(s) and the estate;
4. That payments to Mortgage Creditor for arrearage are/are not being made by the Trustee, and will/will not be made upon the effective date of the LM/MM agreement; any overage paid will be refunded to the Trustee within 60 days;
5. The Debtor(s) have amended the plan, if necessary, to provide for mortgage payments to be made directly to Mortgage Creditor;
6. Stay relief has not been granted to any secured creditor on the property as part of the LM/MM agreement;
7. The trial period has been successfully completed [if applicable]; and
8. The documents finalizing the LM/MM shall be executed by the parties within 60 days from the entry of this Order.

²³ Mortgage Creditor's Consent may be demonstrated by attachment of document evidencing Mortgage Creditor's offer.

Now, therefore, with the consents of Debtor(s), Mortgage Creditor, and the Trustee, as indicated by the signatures below,

IT IS HEREBY ORDERED that LM/MM is hereby approved.

AND IT IS SO ORDERED.

WE CONSENT:

/s/ Attorney for Mortgage Creditor
Attorney for Mortgage Creditor
District Court I.D. _____

/s/ Attorney for Debtor
Attorney for Debtor
District Court I.D. _____

Chapter 13 Trustee

EXHIBIT V

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

IN RE:

[Debtor Name],

Debtor(s).

C/A No. _____

Chapter ____

**CONSENT ORDER APPROVING LOSS
MITIGATION/MORTGAGE
MODIFICATION²⁴
(STREAMLINED MODIFICATION)**

This matter comes before the Court upon the request of [Debtor(s)' Name(s)] ("Debtor(s)") and [Creditor Name] ("Mortgage Creditor") for approval of the parties' agreement for a streamlined loss mitigation mortgage modification ["Streamlined LM/MM"]. Mortgage Creditor has an existing loan secured by the Debtor(s)' real property. The parties have reached an agreement for Streamlined LM/MM, which will have the following benefits to the Debtor(s):

- Reduction of the Debtor(s)' mortgage payments from the current amount of \$_____ per month to approximately \$_____ per month.
- Interest rate reduced from ____% to ____% [Fixed or Variable]
- Arrearage in the amount of \$_____ forgiven or postponed.
- Other – Describe below:

Regarding the Streamlined LM/MM, the parties represent and agree that:

1. There will be no extension of additional funds beyond what is already owed;
2. Payments to other lien holders under the plan will not be affected;
3. That the Streamlined LM/MM has no detrimental effect on other creditors and is in the best interest of Debtor(s) and the estate;
4. That payments to Mortgage Creditor for arrearage are/are not being made by the Trustee, and will/will not be made upon the effective date of the Streamlined LM/MM agreement; any overage paid will be refunded to the Trustee within 60 days;
5. The Debtor(s) have amended the plan, if necessary, to provide for mortgage payments to be made directly to Mortgage Creditor;
6. Stay relief has not been granted to any secured creditor on the property as part of the Streamlined LM/MM agreement;
7. The trial period has been successfully completed [if applicable]; and
8. The documents finalizing the Streamlined LM/MM shall be executed by the parties within 60 days from the entry of this Order.

²⁴ Mortgage Creditor's Consent may be demonstrated by attachment of document evidencing Mortgage Creditor's offer.

Now, therefore, upon the agreement of Debtor and Mortgage Creditor and with the consent of the Trustee, as indicated by the signatures below,

IT IS HEREBY ORDERED that the Streamlined LM/MM is hereby approved.

AND IT IS SO ORDERED.

WE SO MOVE AND CONSENT:

/s/ Attorney for Mortgage Creditor _____
Attorney for Mortgage Creditor
District Court I.D. _____

/s/ Attorney for Debtor _____
Attorney for Debtor
District Court I.D. _____

Chapter 13 Trustee