

b. The substitute vehicle chosen by the Debtors must be mutually acceptable to the Debtors and AmeriCredit and must be comparable in value to the 2002 Mazda. Prompt consent shall not be unreasonably withheld or delayed by AmeriCredit; and

c. The insurance proceeds from the 2002 Mazda shall be paid by the insurance company forthwith to the trust account of the Debtors' attorney, to be held by the attorney and released to the seller of the substitute vehicle only under such circumstances that AmeriCredit is entered as the first lien holder on the title to the substitute vehicle; and

d. Any insurance proceeds not used for the purchase of the substitute vehicle shall be delivered by the Debtors' attorney to the Trustee for disbursement on AmeriCredit's claim; and

e. Upon entry of this order, AmeriCredit is required to release its lien on the 2002 Mazda and surrender the certificate of title to GMAC; and

f. The Debtors shall obtain and maintain physical damage (comprehensive and collision) insurance protection on the vehicle, in strict compliance with the terms of the contract between AmeriCredit and the Debtors, including but not limited to listing AmeriCredit as a loss payee and shall provide AmeriCredit with proof of insurance for the substituted vehicle prior to AmeriCredit delivering title to the 2002 Mazda; and

g. The Debtors' attorney is allowed an additional non-base fee of \$450.00 to be paid through the Chapter 13 Plan.

9. The debtor and the debtor's attorney then located numerous vehicles similar to the 2002 Mazda Tribute and each one was turned down by AmeriCredit Financial Services. The debtor needed a reliable automobile to travel to and from work. He began having problems making it to work and was jeopardizing his job.

10. He was then forced to seek to obtain new credit to purchase a vehicle on his own. He obtained the new credit on October 17, 2007 to purchase a vehicle through U.S. Finance Limited in the maximum amount of \$9,004.95 and a maximum monthly payment of \$318.93. He purchased a 2002 Ford Explorer in the amount of \$9,004.85 from Village Auto Sales in Gastonia, North Carolina in October of 2007 that is being paid outside of the plan.

11. On November 28, 2007 an Order Terminating the Automatic Stay to allow AmeriCredit Financial to collect and apply the above insurance proceeds for its vehicle that the debtor totaled, more fully described as a 2002 Mazda Tribute – V6 Utility 4D LX 2WD (VIN #4F2YU09162KM55378), was entered.

12. Therefore, the debtor is moving the court for an order directing the Trustee to strike the secured claim of AmeriCredit Financial for the debt on the 2002 Mazda Tribute, identified on the records of the Trustee as claim number 4. The debtor abandons all interest in this vehicle and consents to granting a release from this case to AmeriCredit Financial to repossess the vehicle.

13. In addition, on approximately December 19, 2007, the automatic stay on the debtor's home was terminated by Chase Home Finance, LLC (aka – Wells Fargo Bank) due to the debtor defaulting on a consent order dated September 19, 2007. Therefore, the debtor is moving the court for an order directing the Trustee to strike the secured claims of Chase Home Finance, LLC (aka – Wells Fargo Bank), identified on the records of the Trustee

as claim numbers 5, 6, 7, and 8. The debtor abandons all interest in the home located at 401 W. Indiana Avenue, Bessemer City, NC 28016 and consents to granting a release from this case to Chase Home Finance, LLC (aka – Wells Fargo Bank) to proceed with foreclosing on the property.

14. The debtor is also moving the court to reduce his monthly plan payment to \$125.00 due to the removal of the above mentioned claims numbered 4, 5, 6, 7, and 8 in relation to Americredit Financial and Chase Home Finance, LLC (aka – Wells Fargo Bank). Amended Schedules I and J and a statistical summary are being filed along with this motion in support of this reduction in the plan payment.

15. The debtor is in need of a reduction in his plan payment due to a number of unforeseen changes in his circumstances. In addition to losing his automobile and his house he also has a torn rotator cuff, and is not be able to work as much due to this injury, the surgery to repair it, and the time off that will be required due to the injury.

16. The male debtor is also moving the Court for such other and additional relief as to the court may seem just and proper.

WHEREFORE, the debtor respectfully prays of the Court as follows:

A. That the male debtor's motion to modify plan be granted as provided for in the body of this motion; and

B. That the debtor's motion that the secured claim in favor of AmeriCredit Financial on the 2002 Mazda Tribute be removed from the plan; and

C. That the secured claims in favor of Chase Home Finance, LLC (aka – Wells Fargo Bank) be removed from the plan as outlined in this motion; and

D. That the debtor's monthly plan payment be reduced to \$125.00 due to the removal of Americredit's and Chase Home Finance, LLC's (aka – Wells Fargo Bank) secured claims; and

E. That the attorney for the debtor be granted an additional non-base legal fee of \$350.00 and expenses of \$106.00, said fee and expenses to be paid by the Trustee out of the funds paid by the debtor into the Plan; and

F. That the debtor have such other and further relief as to the Court may seem just and proper.

Dated this the 16th Day of January 2008.



O. Max Gardner III
Gardner Law Offices



William S. Gardner
Gardner Law Offices

Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 6164
(704) 487-0616/Fax (888) 870-1647
e-mail: maxgardner@maxgardner.com

Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 32684
(704) 487-0616/Fax (888) 870-1644
e-mail: bgardner@maxgardner.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

IN THE MATTER OF:

**NAME: WHITE, WILLIAM BERNARD Chapter 13 No. 07-30899
Our File No. 12122-B**

**ADDRESS: 401 W. INDIANA AVENUE
BESSEMER CITY, NC 28016**

SSN: --- -- 7935

Debtors.

**NOTICE OF MOTION TO MODIFY CHAPTER 13 PLAN
TO REMOVE DEBTS
AND
NOTICE OF OPPORTUNITY FOR HEARING**

**(No-Protest Notice: No Hearing Will Be Held
Unless Request For Hearing Is Filed)**

TAKE NOTICE that the above-named debtors have filed papers with the Court for the secured claim in favor of AmeriCredit Financial on the 2002 Mazda Tribute to be removed from the plan due to the surrender of the vehicle to Americredit Financial and for the removal of the secured claims of Chase Home Financial, LLC (aka – Wells Fargo Bank) due to relief from stay being granted due to the debtor defaulting on a consent order. A copy of these paper(s) is included with this Notice or copied on the reverse side of this Notice.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.

If you do not want the Court to order the removal of the secured claims in favor of AmeriCredit Financial on the 2002 Mazda Tribute and Chase Home Financial, LLC's (aka – Wells Fargo Bank) secured claims, or if you want the Court to consider your views on the motion, then on or before the **11th Day of February 2008** you or your attorney must do three (3) things:

1. **File with the court a written response requesting that the Court hold a hearing and explaining your position. File the response at:**

United States Bankruptcy Court
Western District of North Carolina
P.O. Box 34189
Charlotte, NC 28234-4189

If you mail your request to the Court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

2. **On or before the date stated above for written responses, you must also mail or fax a copy of your written request to:**

William S. Gardner
Attorney for the Debtor(s)
P.O. Box 1000
Shelby, NC 28151-1000
(888) 870-1644

and to:

Warren L. Tadlock
Chapter 13 Trustee
PO Box 30097
Charlotte, NC 28230-0097

3. **Attend the hearing scheduled for Tuesday, February 12th, 2008 at 9:30 a.m.** at the Charles Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202.

If you or your attorney do not take these steps, **A HEARING WILL NOT BE HELD**, and the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated this the 16th Day of January 2008.



O. Max Gardner III
Gardner Law Offices
Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 6164
(704) 487-0616/Fax (888) 870-1647
e-mail: maxgardner@maxgardner.com



William S. Gardner
Gardner Law Offices
Attorney for the Debtor
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(704) 487-0616/Fax (888) 870-1644
e-mail: bgardner@maxgardner.com

CERTIFICATE OF SERVICE

WILLIAM S. GARDNER, attorney for the debtor, hereby certifies to the Court as follows:

1. I am not a party for the foregoing proceeding;
2. I am not less than 18 years of age;
3. I have this day served a copy of the foregoing **MOTION TO MODIFY CHAPTER 13 PLAN TO REMOVE DEBTS AND NOTICE OF OPPORTUNITY FOR HEARING** on all parties in interest by placing the same in an envelope, first-class mail, postage prepaid, addressed to each person at his dwelling house or usual place of abode or to the place where he regularly conducts his business or profession as follows:

GMAC Insurance
Attn: Chad Smith
P.O. Box 3199
Winston-Salem, NC 27102-3199

Americredit Financial
P.O. Box 183853
Arlington, TX 76096

Chase Home Finance, LLC
3415 Vision Drive
Columbus, OH 43219

William Bernard White
401 W. Indiana Avenue
Bessemer City, NC 28016

And via the Court's Electronic Case Filing System to:

Law Offices of Rebecca A. Leigh, P.C.
Attorney for Americredit Financial
301 S. Greene Street, Suite 201
Greensboro, NC 27401

Brock & Scott, PLLC
Attn: Sean M. Corcoran
Attorney for Chase Home Finance, LLC
5121 Parkway Plaza Drive, Suite 300
Charlotte, NC 28217

Warren L. Tadlock
Chapter 13 Trustee
PO Box 30097
Charlotte, NC 28230-0097

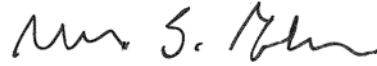
John Bramlett, Bankruptcy Administrator
402 W. Trade St., Room 200
Charlotte, NC 28202-1664

4. I have also served copies of the **NOTICE OF OPPORTUNITY FOR HEARING** on all creditors listed on the master mailing matrix, a copy of which is attached hereto, in the same manner and method as described in paragraph number 3 above;
5. To the best of my knowledge, information and belief, the parties in interest are not infants or incompetent persons;
6. Service as outlined herein was made within the United States of America.

Dated this the _____ day of January 2008.



O. Max Gardner III
Gardner Law Offices
Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 6164
(704) 487-0616/Fax (888) 870-1647
e-mail: maxgardner@maxgardner.com



William S. Gardner
Gardner Law Offices
Attorney for the Debtor
P.O. Box 1000, Shelby, NC 28151-1000
N.C. State Bar No. 32684
(704) 487-0616/Fax (888) 870-1644
e-mail: bgardner@maxgardner.com

MATRIX ATTACHED HERETO AS EXHIBIT "A"

Label Matrix for local noticing
0419-3
Case 07-30899
Western District of North Carolina
Charlotte
Wed Jan 16 11:33:44 EST 2008

AmeriCredit Financial Services
1820 E. Sky Harbor Circle South
Phoenix, AZ 85034-4810

Charlotte Division
P.O. Box 34189
Charlotte, NC 28234-4189

(p)AMERICREDIT
PO BOX 183853
ARLINGTON TX 76096-3853

American General Auto Finance
7520 E. Independence Blvd. Ste 160
Charlotte, NC 28227-9460

American General Finance
P.O. Box 3121
Evansville, IN 47731-3121

(p)AMERICAN GENERAL
P O BOX 3121
EVANSVILLE IN 47731-3121

(p)AMERICAN HONDA FINANCE
P O BOX 168088
IRVING TX 75016-8088

Bankruptcy Administrator
402 W. Trade St., Room 200
Charlotte, NC 28202-1673

Brenda R. White
2231 McLean St., Apt J
Gastonia, NC 28054-6717

Brock & Scott, PLLC
Jeremy B. Wilkins, Substitute Trustee
5431 Oleander Dr., Suite 200
Wilmington, NC 28403-5857

CAROMONT HEALTH/GASTON MEMORIAL HOSPITAL
P.O.BOX 538571
ATLANTA, GA 30384-8571

CSC Credit Services
652 N. Sam Houston Pkwy E. Ste 400
P.O. Box 674402
Houston, TX 77267-4402

Calvin B. Hamrick, Esq.
Hamrick & Warshawsky
359 W. Main Ave.
Gastonia, NC 28052-4132

Certegy Check Services, Inc.
P.O. Box 30046
Tampa, FL 33663-0001

Chase Manhattan Mortgage Corp.
10790 Rancho Bernardo Rd.
San Diego, CA 92127-5705

Chase Manhattan Mortgage Corp.
3415 Vision Drive
Columbus, OH 43219-6009

ChexSystems
Attn: Consumer Relations
7805 Hudson Rd., Suite 100
Woodbury, MN 55125-1703

CitiFinancial
P.O. Box 499
Hanover, MD 21076-0499

CitiFinancial Investment Recovery
P.O. Box 70913
Charlotte, NC 28272-0913

CitiFinancial Investment Recovery
P.O. Box 913
Owings Mills, MD 21117-0700

EMP Of Gaston County PLLC
c/o Consumer Debt Services
1606 E. Turkeyfoot Lake Rd.
Akron, OH 44312-5936

Equifax Information Services LLC
P.O. Box 740256
Atlanta, GA 30374-0256

Experian
P.O. Box 2002
Allen, TX 75013-2002

Firestone
P.O. Box 81307 Bk 14
Cleveland, OH 44181-0307

GE Money Bank
Attn: Bankruptcy Dept.
P.O. Box 103104
Roswell, GA 30076-9104

Gaston County Tax Collector
P. O. Box 1578
Gastonia, NC 28053-1578

Gaston Cty Clerk Of Court
File 06-CVD-3911
P.O. Box 340
Gastonia, NC 28053-0340

Gaston Cty Clerk Of Court
File 07-SP-356
P.O. Box 340
Gastonia, NC 28053-0340

Gaston Cty Tax Collector
P.O. Box 580326
Charlotte, NC 28258-0326

Gaston Cty Tax Office
P.O. Box 1578
Gastonia, NC 28053-1578

Gaston EMS
P.O. Box 1578
Gastonia, NC 28053-1578

Gaston Emergency Physicians, Inc.
P.O. Box 65321
Charlotte, NC 28265-0321

Gaston Memorial Hospital
P.O. Box 1747
Gastonia, NC 28053-1747

Gaston Memorial Hospital
P.O. Box 890325
Charlotte, NC 28289-0325

(p)INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 21126
PHILADELPHIA PA 19114-0326

ISO Claim Search
545 Washington Blvd.
Jersey City, NJ 07310-1607

Jon Barry & Associates, Inc.
P.O. Box 127
Concord, NC 28026-0127

LexisNexis
1900 NW Expressway, Suite 1600
Oklahoma City, OK 73118-1845

Malcolm B. McSpadden, Esq.
P.O. Box 2336
Gastonia, NC 28053-2336

Medical Information Bureau
160 University Ave.
Westwood, MA 02090-2307

NC Department Of Revenue
P.O. Box 1168
Raleigh, NC 27602-1168

NC Dept. Of Revenue
P.O. Box 25000
Raleigh, NC 27640-0100

North Carolina Department of Revenue
Bankruptcy Unit
P.O. Box 1168
Raleigh, NC 27602-1168

Performance Capital Management
2811 Main St.
Irvine, CA 92614-5901

Sam's Club/MCCBG
P.O. Box 981064
El Paso, TX 79998-1064

Southern Credit Adjusters
P.O. Box 2764
Rocky Mount, NC 27802-2764

Telecheck Recovery Services, Inc.
5251 Westheimer
Houston, TX 77056-5499

TransUnion
P.O. Box 2000
Chester, PA 19022-2002

U.S. Attorney's Office
Suite 1700, Carillon Bldg.
227 W. Trade St.
Charlotte, NC 28202-1675

United States Attorney
Room 207 U.S. Courthouse
100 Otis Street
Asheville, NC 28801-2608

Warren L. Tadlock, Esq.
Chapter 13 Standing Trustee
P.O. Box 30097
Charlotte, NC 28230-0097

Wells Fargo Bank Minnesota, N.A.
c/o Chase Home Finance
3415 Vision Drive
Columbus, OH 43219-6009

eCast Settlement Corporation
P.O. Box 35480
Newark, NJ 07193-5480

O. Max Gardner III
P. O. Box 1000
Shelby, NC 28151-1000

Warren L. Tadlock
P.O. Box 30097
Charlotte, NC 28230-0097

William Bernard White
401 W. Indiana Ave.
Bessemer City, NC 28016-2535

AmeriCredit P.O. Box 183593 Arlington, TX 76096	(d)AmeriCredit POB 183853 Arlington, TX 76096	(d)AmeriCredit Financial Services P.O. Box 78143 Phoenix, AZ 85062-8143
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American General Finance P.O. Box 3212 Evansville, IN 47731-3212	American Honda Finance Corp. 8601 McAlpine Park Dr., Suite 230 Charlotte, NC 28211	IRS P.O. Box 21126 Philadelphia, PA 19114
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(d)IRS Special Procedures 320 Federal Place Room 335 Greensboro, NC 27401	(d)Internal Revenue Service P.O. Box 21126 Philadelphia, PA 19114	(d)Internal Revenue Service Special Procedures Function 320 Federal Place Room 335 , NC 27401
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(d)Internal Revenue Service
Special Procedures Function
320 Federal Place, Room 335
Greensboro, NC 27401

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)AmeriCredit Financial Services, Inc.	(u)Chase Home Finance, LLC	(u)Wells Fargo Bank Minnesota, N.A.
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(d)Wells Fargo Bank Minnesota, N.A. c/o Chase Home Finance, LLC 3415 Vision Drive Columbus, OH 43219-6009	End of Label Matrix Mailable recipients 56 Bypassed recipients 4 Total 60
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