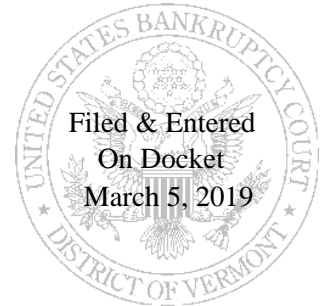


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT



In re:

**Marilyn Morgan,
Debtor.**

**Chapter 7 Case
18-10495**

ORDER
DENYING REAFFIRMATION AGREEMENT AFTER HEARING

On February 18, 2019, OneMain Mortgage Services, Inc. (“OneMain”) filed a reaffirmation agreement evidencing an agreement between itself and *pro se* debtor Marilyn Morgan (the “Debtor”) (doc. # 11). The Court issued a notice of no action, indicating it could not rule on the reaffirmation agreement because that document did not have OneMain’s signature on it (doc. # 12). Shortly thereafter, OneMain filed an amended reaffirmation agreement on February 25, 2019, (doc. # 14, hereafter the “Agreement”), under which the Debtor would reaffirm a \$13,024 debt secured by the Debtor’s residence at 4 West Minster St., Saxtons River, VT (the “Property”). Although a hearing is not typically required to reaffirm a debt secured by real property, see 11 U.S.C. § 524(c)(6)(B), the Court scheduled a hearing to address deficiencies in the Agreement, and to resolve conflicts between the Agreement and the Debtor’s schedules. The Agreement was procedurally deficient because OneMain had not signed the coversheet and the Debtor had not completed Part II of the Agreement (“Debtor’s Statement in Support of Reaffirmation Agreement”). Moreover, it was unclear whether the debt to be reaffirmed was secured by the Property, as OneMain stated in the Agreement, or whether it was unsecured, as the Debtor stated in her sworn Schedules (doc. # 1).¹

The Court held a hearing on the Agreement on March 1, 2019, at which the Debtor appeared on her own behalf, and no one appeared on behalf of OneMain. At that hearing, the Court explained the purpose of the hearing, recited the foregoing deficiencies and lack of proof of any security interest in the record, and denied approval of the Agreement. The Court enters this Order to memorialize that ruling.

At the March 1st hearing, the Debtor explained the steps she had taken to try to determine whether OneMain held a mortgage on the Property. She explained that, as of the date of the petition, she believed OneMain was an unsecured creditor (and therefore listed it as unsecured in her bankruptcy schedules).

¹ Wells Fargo Home Mortgage is the only creditor listed as holding a secured interest in the Property according to the Debtor’s schedules. See doc. # 1.

But, based on conversations with "a lawyer friend," the Debtor subsequently came to believe that OneMain might have a mortgage on the Property, although she has no public records to confirm that belief. The Debtor also averred that despite her several requests to OneMain for documentation to show that OneMain has a mortgage or other lien on the Property, the only indication she has gotten from it, which might be consistent with OneMain having a security interest in the Property, was the reaffirmation agreement. In response to the Court's inquiry, the Debtor did not know why the Agreement reduced the Debtor's monthly payment to OneMain from \$466 to \$233, though it appeared not to change either the interest rate or repayment term (doc. # 14, p. 4). With regard to whether this Agreement would impose an undue burden on the Debtor, the Debtor stated she had had difficulty in the past paying anything beyond the required minimum payment each month to OneMain and had already reaffirmed her auto loan.

Based on the record in this case, and the Debtor's representations at the March 1, 2019 hearing, THE COURT FOUND the record was insufficient for the Court to determine if OneMain's debt was secured.

THE COURT FURTHER FOUND (i) the Debtor's negative net monthly income of -\$1,540 indicated she could not afford to make a monthly payment of \$233, and (ii) that reaffirming this debt, at an interest rate of 17.25%, would impose an undue burden on the Debtor and impair her fresh start.

THE COURT FURTHER FOUND the Debtor has met her obligation under 11 U.S.C. § 521(a)(6), by filing the Agreement, appearing at the hearing, and indicating a willingness to reaffirm the debt.

Accordingly IT IS HEREBY ORDERED that the Debtor's reaffirmation agreement with OneMain is DISAPPROVED.

SO ORDERED.

March 5, 2019
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge