



IT IS ORDERED as set forth below:

Date: March 11, 2010

James E. Massey

James E. Massey
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

CASE NO. 08-75770

Michael Williams and Laura D. Williams,

CHAPTER 13

Debtors.

JUDGE MASSEY

Michael Williams and Laura D. Williams,

Movants,

v.

CONTESTED MATTER

National City Mortgage ,

Respondent.

ORDER DENYING OBJECTION TO CLAIM

Debtors objected to Respondent's proof of a fully secured claim on the ground that they dispute the "validity" of the debt and had negotiated a loan modification. The objection is incoherent because if the claim has no validity, why in the world would Debtors have negotiated a loan modification? The relief sought is an order directing the "Trustee [to] withhold all

disbursements to Respondent” until a hearing and disallowing the prepetition arrearage in its entirety, which shows that Debtors are not objecting to the “validity of the debt referenced by the proof of claim,” as their objection states. Respondent’s proof of claim, as amended, was filed on November 24, 2009. It states that the prepetition arrearage totaled \$6,337.45 and that its total claim is \$79,162.85. Respondent did not respond to the objection.

Alleging that the amount of the prepetition arrearage is wrong says nothing about the total amount of the claim. Further, Debtors swore on Schedule D that the claim of Respondent totaled \$79,162. Not only that, they estimated a prepetition arrearage of \$3,818.15 in their plan, which was confirmed on December 2, 2009. By seeking and obtaining the confirmation of a plan estimating an arrearage of nearly \$4,000, Debtors communicated that they recognized they were in arrears in a substantial amount. The confirmed plan specifically provides, without reservation, for payment of Respondent’s claim, proof of which had been filed prior to the confirmation hearing. The allegation that Debtors dispute the “validity of the debt” is, under these circumstances, the statement of a conclusion of law. Hence, in failing to respond to the objection, Respondent admitted nothing.

To make matters worse, Debtors’ counsel submitted a proposed order providing for the disallowance of the *entire* claim, which is relief Debtors did not seek in the objection to the claim. Submitting an order providing for relief neither demanded nor supported by facts alleged in a motion or objection to a claim is outrageous and unprofessional.

For these reasons, the objection to Respondent’s claim is DENIED. The Clerk is directed to serve a copy of this Order on Debtors, Matthew Berry, Respondent and the Chapter 13 Trustee.

END OF ORDER