

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
_____ DIVISION

In re:

DEBTOR'S NAME,

Case No. xx-xxxxxx-xxx

Debtor.

Chapter 13

**MOTION TO VALUE COLLATERAL AND DETERMINE THE
AMOUNT OF A CLAIM SECURED BY A LIEN ON REAL PROPERTY**

IMPORTANT NOTICE TO CREDITORS:

THIS MOTION SEEKS TO VALUE THE COLLATERAL SECURING THE CLAIM LISTED BELOW. IF YOU DISPUTE THE VALUE ALLEGED OR THE PROPOSED TREATMENT OF YOUR CLAIM, YOU MUST FILE A WRITTEN OBJECTION NO LATER THAN TWO BUSINESS DAYS BEFORE THE SCHEDULED HEARING.

If you have not filed a proof of claim, you have until the later of the claims bar date or 21 days from the date this motion was served on you to file a proof of claim. Failure to timely file a proof of claim will result in waiver of the right to payment on any unsecured claim to which you might otherwise have been entitled.

1. The debtor seeks to value real property securing the claim of [lien holder's name] ("Creditor") pursuant to 11 U.S.C. § 506(a) and Federal Rule of Bankruptcy Procedure 3012.

2. **Collateral:**

Creditor holds a mortgage recorded on [date] at OR Book ____ Page ____ in the official records of _____ County, Florida. The real property is located at [address] and has the following legal description:

[legal description]

3. **Value of Real Property:**

As of the petition date, the value of the real property is \$_____, based on [insert method of valuation].

4. **Senior Liens:**

The following creditors hold liens on the real property senior in priority to Creditor, securing claims in the aggregate amount of \$_____:

[list entities holding senior liens]

5. **Value of Creditor's Secured Claim (select only one):**

- Creditor's claim is secured only by a security interest in real property that is the debtor's principal residence. Because there is no equity in the real property above the value of the claims secured by liens senior to that of Creditor, the value of Creditor's secured claim is \$0.00.
- Creditor's claim is not secured only by a security interest in real property that is the debtor's principal residence. There is \$_____ in value in the real property above the value of the claims secured by liens senior to that of Creditor. Accordingly, Creditor's claim is a secured claim in the amount of \$_____.

6. **Treatment of claim (select only one):**

- Creditor has not filed a proof of claim. The trustee will not disburse any payments to Creditor unless a proof of claim is timely filed. If Creditor timely files a proof of claim, Creditor's claim will be classified in the plan as a secured claim in the amount listed in paragraph 5, and as a general unsecured claim for the balance of the claim (deficiency claim), regardless of how the claim is classified in the proof of claim.
- Creditor filed a proof of claim. Creditor's claim will be classified in the plan as a secured claim in the amount listed in paragraph 5, and as a general unsecured claim for the balance of the claim (deficiency claim), regardless of how the claim is classified in the proof of claim.

7. The debtor may not sell or refinance the real property without a court order after notice to creditors.
8. This motion and the notice of hearing on this motion will be served on Creditor as if it were a summons and complaint under Federal Rule of Bankruptcy Procedure 7004, at least 21 days before the hearing date. The movant will then file a certificate of service of the motion and the notice of hearing.

[If the motion seeks to strip off the lien] WHEREFORE, the debtor respectfully requests that the Court (a) determine the value of the real property securing Creditor's claim to be the value listed in paragraph 3; (b) determine the value of Creditor's secured claim to be the value set forth in paragraph 5; (c) determine the

treatment of Creditor's claim as set forth in paragraph 6; (d) determine that because the value of Creditor's interest in the estate's interest in the real property is \$0.00, upon entry of a discharge under 11 U.S.C. § 1328 and without further Court order, Creditor's mortgage on the real property will be void and automatically extinguished; and (e) grant such other relief as justice and equity require.

[If the motion seeks to strip down the lien] WHEREFORE, the debtor respectfully requests that the Court (a) determine the value of the real property securing Creditor's claim to be the value listed in paragraph 3; (b) determine the value of Creditor's secured claim to be the value set forth in paragraph 5; (c) determine the treatment of Creditor's claim as set forth in paragraph 6; (d) determine that because the value of Creditor's interest in the estate's interest in the real property is \$ _____, upon entry of a discharge under 11 U.S.C. § 1328 and without further Court order, Creditor's mortgage on the real property will be secured only to the extent of this amount less any payments made on this debt during this chapter 13 case; and (e) grant such other relief as justice and equity require.

Dated: _____

[Signature and signature block]