

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA

3
4 In re:) Case No. 06-21554-D-13L
5 Jackie Ray Elston,) Docket Control No. [none]
6)
7 Debtor.) Date: Sept. 26, 2006
Time: 1:00 p.m.
Dept: D

8 MEMORANDUM DECISION

9 On July 12, 2006, Jackie Ray Elston (the "Debtor") filed her
10 Motion for [Order] Determining Value of Collateral and Allowing
11 Deficiency as an Unsecured Claim (the "Motion"). In the Motion,
12 the Debtor requests that the collateral of Wells Fargo Financial
13 ("WFF") be valued and the deficiency amount be allowed as an
14 unsecured claim in her chapter 13 case. Because the Motion is
15 procedurally defective, as explained below, the court will deny
16 the Motion without prejudice.

17 The Motion is a request under section 506(a) of the
18 Bankruptcy Code for determination of the value of WFF's
19 collateral and secured claim in the Debtor's case. The Motion is
20 a contested matter governed by Local Bankruptcy Rule ("LBR")
21 9014-1, and by Federal Rule of Bankruptcy Procedure ("Rule")
22 3012.

23 Under LBR 9014-1(c), "a Docket Control Number (designated as
24 DC No.) shall be included by all parties immediately below the
25 case number on all pleadings and other documents." The Docket
26 Control Number is critical in aiding the court to identify and
27 review the various documents filed in each bankruptcy proceeding.
28 The Debtor did not include such a number in the Motion.

1 Under Rule 3012, a motion to value a secured claim must be
2 served on the holder of the secured claim, which in this case is
3 WFF.¹ As reflected in this court's General Order 05-03, ¶ 3(b),
4 which among other things governs motions to value collateral that
5 are served with a Chapter 13 Plan, service on the holder of the
6 secured claim must be accomplished pursuant to Rule 9014, which
7 by reference incorporates Rule 7004.

8 Where notice of a motion to value collateral of a corporate
9 entity, such as WFF, is served by mail, the moving party is to
10 serve the motion, notice, and supporting documents, including any
11 declaration, in the manner stated in Rule 7004(b)(3): addressed
12 "to the attention of an officer, a managing or general agent, or
13 to any other agent authorized by appointment or by law to receive
14 service of process."² Case law interpreting Rule 7004(b)(3)
15 provides that service can be accomplished by properly addressing
16 and dispatching first-class mail to a corporate entity's
17 designated agent for service of process, or at the corporate
18 entity's address of record. See e.g. In re Villar, 317 B.R. 88
19 (B.A.P. 9th Cir. 2004) (motion to avoid judgment lien). Service
20 can also be effected at an address specified by the creditor for
21 the bankruptcy case, including by way of the entity's Proof of
22 Claim filed in the case.

23 Here, the Debtor's Certificate of Service by Mail, filed
24 July 12, 2006, indicates that the Motion and the Notice of

25
26 1. Applicable rules may entitle other parties to service,
such as the trustee and parties that have requested service.

27 2. Rule 7004 provides for alternative methods of service not
28 commonly used in bankruptcy cases, as well as additional service
requirements in particular circumstances not discussed here.

