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3 **NOT FOR PUBLICATION**

4 **UNITED STATES BANKRUPTCY COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
6

7 In re:) Case No. 08-37113-D-13L
8 JO ANN VASSALLO,) DC No. none
9 Debtor.)
10 _____)

11 **This memorandum decision is not approved for publication and may**
12 **not be cited except when relevant under the doctrine of law of**
13 **the case or the rules of claim preclusion or issue preclusion.**

13 **MEMORANDUM DECISION**

14 On November 21, 2008, Jo Ann Vassallo ("the debtor") filed
15 the instant Chapter 13 case. On November 25, 2008 the debtor
16 filed a Motion to Overturn Foreclosure Sale (the "Motion"). The
17 Motion requests the court nullify a pre-petition foreclosure sale
18 on the debtor's residence. The Motion will be denied for the
19 reasons stated below.

20 The Motion requests the court "overturn" a pre-petition
21 foreclosure sale. As such, the Motion requests the court
22 determine the debtor's interest in real property and such relief
23 can only be granted by way of an adversary proceeding, not by
24 motion. (See Bankruptcy Rule 7001(2))

25 As a separate basis for denying the Motion, service was
26 defective in that it was not served on interested parties
27 pursuant to Bankruptcy Rule 7004, and the debtor failed to comply
28 with the procedural requirements of Local Bankruptcy Rule 9014.

1 For the foregoing reasons the Motion will be denied by separate
2 order.

3 Dated: December 3, 2008

_____/s/
4 ROBERT S. BARDWIL
5 United States Bankruptcy Judge
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