

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
ROBERT PAUL MARSH) CASE NO. 08-14366
BRENDA MARIE CRAGO-MARSH)
)
Debtors)

DECISION AND ORDER

At Fort Wayne, Indiana, on June 23, 2009.

Debtors' Petition for Court Finding Permitting Modification of Home Mortgage, filed on June 19, 2009, is DENIED. To the extent it is seeking some kind of declaration that the mortgage may be modified or that doing so does not violate the stay, absent the parties' agreement, that type of relief seems to require an adversary proceeding. Fed. R. Bankr. P. Rule 7001(9) (an adversary proceeding is required "to obtain a declaratory judgment."). To the extent the parties are affirmatively agreeing to particular changes, it would seem that the motion is either moot or unnecessary, see e.g., 11 U.S.C. § 1325(a)(5)(A)(i)(I) (secured creditor may accepted the treatment proposed). In that event, all they would need to do is file a motion asking the court to approve their agreement and give other creditors notice of the motion and opportunity to object.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court