



NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

AMELIA VANESSA THOMAS,

Debtor.

Case No.: 2:18-bk-14495-RK

Chapter 7

**ORDER DENYING DEBTOR'S MOTION TO
CONVERT UNDER 11 U.S.C § 706(a)
WITHOUT PREJUDICE**

Pending before this court is the motion of Debtor Amelia Vanessa Thomas under 11 U.S.C. § 706(a), to convert this Chapter 7 bankruptcy case to one under Chapter 13, Electronic Case Filing No. ("ECF") 15, filed on June 15, 2018. The motion was filed on the court's Form 1017-1.1.MOTION.DEBTOR.CONVERT, and there was no evidence attached in support of the motion, apparently indicating that Debtor did not expect that any party in interest would oppose the motion to exercise her unwaivable right as the debtor in this bankruptcy case to convert the case under 11 U.S.C. § 706(a), which provides: "The debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title. Any waiver of the right to convert a case under this

1 subsection is unenforceable.” See also, *Marrama v. Citizens Bank of Massachusetts*,
2 549 U.S. 365 (2007).

3 Because the court finds that the motion is procedurally defective due to
4 insufficient notice and service of process, the court rules on the motion on procedural
5 grounds on the papers without reaching the merits and denies the motion without
6 prejudice.

7 Notice of motion and service of process are insufficient because Debtor did not
8 serve all creditors with a notice of motion as required by Federal Rule of Bankruptcy
9 Procedure 2002(a)(4). Local Bankruptcy Rule 9013-1(c)(3)(A) and (i) requires that
10 factual contentions involved in a motion must be supported by declarations and other
11 written evidence and that such evidence be attached to the motion. Since there is no
12 evidence in support of the motion, the motion is also denied for insufficient evidence in
13 support.

14 Accordingly, the court denies the motion without prejudice for insufficient notice
15 and lack of submission of evidence in support of the motion, and if Debtor files another
16 motion to convert, the court directs that Debtor must serve notice of that motion on all
17 creditors listed on the creditor mailing matrix, the Chapter 7 Trustee, the United States
18 Trustee and any party requesting special notice.

19 IT IS SO ORDERED.

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24 Date: July 27, 2018



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26 Robert Kwan
United States Bankruptcy Judge