

In re Maria G. Martins
11-14128-BKC-LMI

The Lender and first mortgage-holder on the Debtor's homestead filed a motion for attorney's fees and costs after the Debtor's bankruptcy case was dismissed and reinstated, but only after a foreclosure sale was re-scheduled. The Lender requested, pursuant to Federal Rule of Bankruptcy Procedure 3002.1, attorney's fees and cost it incurred due to the dismissals and reinstatements. The Court determined that Fed. R. Bankr. P. 3002.1 requires lenders to give notice within 180 days of incurring claim-related expenses that the lender believes are recoverable against either the debtor or the debtor's residence. As such, the Court held the Lender could only recover attorney's fees and costs under 11 U.S.C. §506(a) that the Lender incurred within the prior 180 days. However, if the case is dismissed again, the Lender could seek, in any subsequent foreclosure actions, fees and costs incurred.