

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

In re:

CASE NO. 99-11417-BKC-RAM
CHAPTER 13

FELIX E. FORESTIERI and
ALEIDA FORESTIERI,

Debtors.

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ORDER DENYING MOTION TO REDUCE PREJUDICE PERIOD

On July 30, 2001, two days prior to the scheduled foreclosure sale, Debtors filed their Motion to Reduce the Prejudice Period Requesting An Emergency Hearing ("Emergency Motion"). Upon review of the Court file, the Court finds that relief should be denied. This case was filed on February 16, 1999, and a First Amended Chapter 13 Plan was confirmed on July 14, 1999. From that date, until the date of dismissal on March 28, 2001, the file reflects a continuing pattern of delinquency in payments followed by amended plans requiring increased monthly payments.

Specifically, after a Notice of Delinquency on March 8, 2000, the Debtors filed a modified plan which was approved after a hearing on April 12, 2000. Barely three months into their modified plan, on July 26, 2000, the Trustee issued another Notice of Delinquency in response to which the Debtors filed a motion to further modify their plan. On October 16, 2000, the Court entered an Order granting the second motion to modify and approving a Fourth Modified Chapter 13

Plan. Once again, after barely three months, the Debtors were delinquent resulting in a third Notice of Delinquency issued on January 19, 2001. Following a Notice of Non-compliance, this case was dismissed on March 28, 2001.

In addition to the foregoing history, which amply demonstrates a lack of feasibility by these Debtors to remain current under their Chapter 13 plans, the Court finds that emergency relief is inappropriate due to the delay in filing the Emergency Motion. As noted, this case was dismissed on March 28, 2001. The Debtors waited four months, until the eve of the foreclosure sale, to seek relief from the Court.

For the foregoing reasons, it is -

ORDERED that the Emergency Motion is denied.

ORDERED in the Southern District of Florida this 30th day of July, 2001.

ROBERT A. MARK
Chief U.S. Bankruptcy Judge

UNPUBLISHED ORDER