

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

SFR INVESTMENTS POOL 1, LLC,  
A NEVADA LIMITED LIABILITY  
COMPANY,

Appellant/Cross-Respondent,

vs.

U.S. BANK N.A., A NATIONAL  
BANKING ASSOCIATION; AND  
NATIONSTAR MORTGAGE, LLC,  
A FOREIGN LIMITED LIABILITY  
COMPANY, AS TRUSTEE FOR  
THE CERTIFICATEHOLDERS OF  
THE OF THE LXS 2006-4N TRUST  
FUND, ERRONEOUSLY PLED AS  
U.S. BANK, N.A.,

Respondents/Cross Appellants.

Supreme Court No. 81293

District Court Case No.  
A-14-705563-C

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**APPEAL**

From the Eight Judicial District Court, Clark County  
The Honorable Gloria Sturman, District Judge  
District Court Case No. A –14 –705563–C

**RESPONSE TO PETITION FOR REHEARING**

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## **I. Introduction**

SFR Investments Pool 1, LLC, a Nevada Limited Liability Company (“SFR”) attempts to persuade this Court to overlook established precedent in another matter in order to argue that this Court misapplied the facts and the law in the instant case. Such is not allowed under NRAP 40, nor is it the type of scenario contemplated by the rule, and the Court must deny the Petition for Rehearing (“Petition”).

SFR attempts to argue that the Courts reliance on *Glass v. Select Portfolio Servicing, Inc.*, 466 P.3d 939 (Nev. July 1, 2020) was misplaced, as *Glass* court quoted the language in the Notice of Recission (“NOR”), which is identical to the NOR language in the instant matter, “as if the language was absent”. In essence, SFR argues not that the facts or law were misapplied in this case, but rather, in the *Glass* case. Because SFR cannot show that this Court either misapplied the facts and the law in the instant case, and because SFR only argues that the court misapplied the *Glass* decision, though it is directly on point to the instant matter, this Court must deny SFR’s Petition.

## **II. Standard for Rehearing**

NRAP 40(c)(2) permits this court to grant a petition for rehearing when it has overlooked or misapprehended a material fact or has overlooked or misapplied controlling law. *City of N. Las Vegas v. 5<sup>th</sup> & Centennial, LLC*, 130 Nev. 619, 622

(Nev. August 7, 2014). In petitions for rehearing, parties may not reargue matters they presented in their appellate briefs and during oral arguments, and no point may be raised for the first time. NRAP 40(c) (*See also Id.*).

### **III. SFR’s Arguments Concerning Additional Language Not Referenced In *Glass* And The Instant Matter Are Merely Rearguments Of The Briefs**

To wit, the basis of SFR’s argument in the Petition is that this Court misapplied the facts in the instant case by failing to address additional language in the Notice of Recission (“NOR”), and erroneously relied on the holding in *Glass*, which, according to SFR’s Petition, was also improperly decided. These are not bases for rehearing pursuant to NRAP 40(c), and the Petition must be denied.

The holding in *Glass* is directly applicable to the instant case, as it involved a similar Notice of Default (“NOD”), followed by a subsequent NOR. The holding in *Glass* that NRS 106.240 is inapplicable due to the NOD being rescinded is directly on point in the instant situation. The only distinguishing fact, according to SFR, is that, in *Glass*, the parties did not dispute that the NOD accelerated the loan and made the balance immediately due, whereas in the instant matter, SFR did dispute that the NOD accelerated the loan making the balance immediately due. The fact that SFR disputed the well-established law of prescribed in NRS 107.080 is not dispositive of the issue; SFR argues that the past-tense language in the NOD means that the DOT

*could* have been accelerated prior to recordation of the NOD. This is missing the point, as the subsequent NOR eliminates any acceleration contemplated by the NOD, thus eliminating any tolling of the 10-year period of NRS 106.240.

SFR's Petition reads more as a petition to rehear to the holding in *Glass*, as that case is dispositive of the issues presented in the instant matter. Further, SFR's arguments were previously raised in its Reply brief.<sup>1</sup> This is an inappropriate basis for rehearing under NRAP 40(c), as it is asking this Court to rehear arguments that were previously brought up in the parties' briefs. Because SFR's only bases for rehearing are matters that were already argued in the parties' briefs, this Court must deny SFR's Petition.

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<sup>1</sup> See Appellant's Reply Brief on Appeal, pp. 34-35

#### IV. CONCLUSION

For the foregoing reasons, this Court must deny SFR's Petition for rehearing because SFR has advanced no arguments that this Court either misapplied the facts, or misapplied the law, by relying on this Court's opinion in *Glass*. As SFR has failed to meet the standard for rehearing as contemplated by NRAP 40(c), this Court must deny SFR's Petition.

DATED this 3rd day of December, 2021

KRAVITZ SCHNITZER JOHNSON  
WATSON & ZEPPENFELD, CHTD.

*/s/ Gary E. Schnitzer*

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### **Certificate of Compliance**

1. I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRA 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word with 14-point, double-spaced Times New Roman font.
2. I further certify that this brief complies with the page or type-volume limitations of NRAP 40(3) because, excluding the pages of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, is 6 pages long and contains 690 words.
3. I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify hat this brief complies with all applicable Nevada rules of Appellate Procedure, in particular, NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

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4. I understand that I may be subject to sanction in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 6th day of December, 2021

KRAVITZ SCHNITZER JOHNSON  
WATSON & ZEPPENFELD, CHTD.

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## **CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of December, 2021, I served a true and correct copy of the foregoing **RESPONSE TO PETITION FOR REHEARING** with the Clerk of the Court for the Nevada Supreme Court by using the Court's electronic file and serve system. I further certify that all parties of record to this appeal are either registered with the Court's electronic filing system or have consented to electronic service and that electronic service shall be made upon and in accordance with the Court's Master Service List.

I further certify that a copy of the above-referenced document was mailed to the parties listed below at their last known mailing address, on December 6, 2021, in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada:

Nationstar Mortgage LLC  
8950 Cypress Waters Blvd.  
Coppell, TX 75019

/s/ Chris Drelich

\_\_\_\_\_  
An employee of KRAVITZ SCHNITZER JOHNSON  
WATSON & ZEPPEFELD, CHTD.