

IN THE SUPREME COURT OF THE STATE OF NEVADA

VINCENT W. HESSER, AN
INDIVIDUAL,

Appellant,

vs.

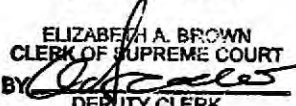
KENNEDY FUNDING, INC., A NEW
JERSEY CORPORATION,

Respondent.

No. 81383

FILED

NOV 06 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER TO SHOW CAUSE

This is an appeal from an order denying a motion to alter or amend an order. Preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(g) reveals potential jurisdictional defects. Initially, an order denying a motion to alter or amend a judgment is not substantively appealable. *See Uniroyal Goodrich Tire Co. v. Mercer*, 111 Nev. 318, 320 n.1, 890 P.2d 785, 787 n.1 (1995), *superseded on other grounds by statute as stated in RTTC Commc'ns, LLC v. Saratoga Flier, Inc.*, 121 Nev. 34, 110 P.3d 24 (2005).

Alternatively, if the notice of appeal is construed as challenging the district court's order denying the motion to declare the judgment expired, to which the motion to alter or amend was directed, it appears that that order is likewise not substantively appealable. This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule. *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 678 P.2d 1152 (1984). No statute or court rule provides for an appeal from an order denying a motion to declare a judgment expired. Additionally, it appears that the notice of appeal is untimely as to that order. Notice of entry of the order denying the motion to declare the judgement expired was served on December 3, 2019. The notice of appeal was not filed until June

19, 2020, well beyond the relevant appeal period, and it does not appear that the motion to alter or amend tolled the time to file the notice of appeal. *See Lytle v. Rosemere Estates Prop. Owners*, 129 Nev. 923, 925, 314 P.3d 946, 947 (2013) (concluding that a motion to alter or amend will toll the time to appeal the appealable order it challenges). An untimely notice of appeal fails to vest jurisdiction in this court. *Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 741 P.2d 432 (1987).

Appellant shall have 30 days from the date of this order within which to show cause why this appeal should not be dismissed for lack of jurisdiction. Failure to demonstrate that this court has jurisdiction may result in this court's dismissal of this appeal. The deadlines for filing documents in this appeal shall be suspended pending further order of this court. Respondent may file any reply within 14 days from the date that appellant's response is served

It is so ORDERED.

Pickering, C.J.

cc: Law Offices of Byron Thomas
Lynch Law Practice, PLLC