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Elizabeth A. Brown
Clerk of Supreme Court

7 **THE NEVADA SUPREME COURT**

8 JOEL BECK,

Docket No.: 84229

9 Appellant,

**RESPONDENTS' MOTION FOR LEAVE
TO FILE A RESPONSE TO
APPELLANT'S PETITION FOR
REHEARING**

10 VS.

11 NATIONSTAR MORTGAGE dba MR.
12 COOPER; FIRST AMERICAN TRUSTEE
13 SERVICING, SOLUTIONS LLC; WELLS
14 FARGO BANK, N.A. AS TRUSTEE FOR
SECURITIZED TRUST STRUCTURED
ADJUSTABLE RATE MORTGAGE LOAN
TRUST SERIES 2007-3,

15 Respondents.
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18 Respondents Nationstar Mortgage LLC d/b/a Mr. Cooper and Wells Fargo Bank, National
19 Association, as Trustee for Structured Adjustable Rate Mortgage Loan Trust Mortgage Pass-Through
20 Certificates, Series 2007-3 (**Respondents**) hereby move for leave to file a response to Appellant Joe
21 Beck's petition for rehearing the Court's order dismissing the appeal.

22 On February 18, 2022, this Court entered an order *sua sponte* dismissing this appeal. On March
23 7, 2022, the Appellant Joel Beck filed a petition to rehear the order dismissing the appeal, and
24 Respondents filed an opposition to the petition. On March 17, 2022, this Court rejected the opposition
25 to the petition for rehearing and directed Respondents to refile the opposition with a motion for leave
26 to file a response to the petition for rehearing within five days. Respondents file this motion for leave
27 in response to that March 17, 2022 notice rejecting its opposition.
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1 Respondents request that the Court permit them to respond to Mr. Beck's petition for rehearing.
2 In the petition, Beck asks the Court to consider his appeal in the context of the wider case. The
3 opposition to his petition provides the Court with that context necessary to evaluate Mr. Beck's claims.
4 It also provides the Court with exhibits of orders entered in the lower court for reference to the nature
5 of the order being appealed and the past orders in the case. Respondents believe the Court will benefit
6 from the information in reviewing the petition for rehearing, and the Court should grant leave to
7 respond to the petition for rehearing.

8 DATED March 21, 2022.

9 TROUTMAN PEPPER HAMILTON SANDERS LLP

10 

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17 *Attorney for Nationstar Mortgage LLC d/b/a Mr. Cooper*
18 *and Wells Fargo Bank, National Association, as Trustee for*
19 *Structured Adjustable Rate Mortgage Loan Trust Mortgage*
20 *Pass-Through Certificates, Series 2007-3*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Troutman Pepper Hamilton Sanders LLP, and that on the 21st day of March, 2022, I caused to be served a true and correct copy of the foregoing **RESPONDENTS' MOTION FOR LEAVE TO FILE A RESPONSE TO APPELLANT'S PETITION FOR REHEARING** on the persons below as follows:

Joel Beck 255 Sherwood Court PO Box 3414 Stateline, Nevada 89449-3414 Pro se Plaintiff <i>SERVICE VIA US MAIL</i>	Aaron R. Maurice, Esq. Brittany Wood, Esq. MAURICE WOOD PLLC 8250 West Charleston Blvd., Suite 100 Las Vegas, Nevada 89117 Attorneys for First American Trustee Servicing Solutions, LLC <i>SERVICE VIA ELECTRONIC SERVICE</i>
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☒ (UNITED STATES MAIL) By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, to the parties listed above at their last-known mailing addresses, on the date above written.

☒ (ELECTRONIC SERVICE) Document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.


An employee of Troutman Pepper Hamilton Sanders, LLP

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8 **THE NEVADA SUPREME COURT**

9 JOEL BECK,

10 Appellant,

11 VS.

12 NATIONSTAR MORTGAGE dba MR.
13 COOPER; FIRST AMERICAN TRUSTEE
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15 FARGO BANK, N.A. AS TRUSTEE FOR
16 SECURITIZED TRUST STRUCTURED
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18 TRUST SERIES 2007-3,

19 Respondents.

Docket No.: 84229

20 **RESPONDENTS' OPPOSITION TO**
21 **APPELLANT'S MOTION FOR**
22 **REHEARING**

23 Respondents Nationstar Mortgage LLC d/b/a Mr. Cooper and Wells Fargo Bank, National
24 Association, as Trustee for Structured Adjustable Rate Mortgage Loan Trust Mortgage Pass-Through
25 Certificates, Series 2007-3 (**Respondents**) hereby oppose Appellant Joe Beck's petition for rehearing
26 the Court's order dismissing the appeal.

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1 This opposition is based on the memorandum of points and authorities below and the exhibits
2 attached to the motion.

3 DATED March 11, 2022.

4 TROUTMAN PEPPER HAMILTON SANDERS LLP

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16 **INTRODUCTION**

17 In moving to rehear the order dismissing its appeal, Appellant Joel Beck fails to address the
18 reason the Court denied the appeal in the first place, which is because the Court lacks jurisdiction.
19 Moreover, this Court's order correctly found that it does not have jurisdiction to hear the appeal.
20 Construed in the most charitable way possible, the order that Mr. Beck appealed is an order denying
21 a motion to rehear an order denying a baseless motion. Under NRAP 3A this Court does not have
22 jurisdiction to consider the appeals of orders denying motions for rehearing, so the Court does not
23 have jurisdiction over this appeal. Moreover, the Court cannot construe the appeal as an appeal of
24 the previous order both because it was not an appealable order and because it was not timely filed
25 under NRAP 4(a)(4). Finally, the Court cannot construe the notice of appeal as an appeal of the
26 order dismissing Beck's complaint, because the notice is untimely. Beck's motion for a rehearing
27 fails to acknowledge or address these jurisdictional defects. Instead, Beck uses his motion to argue
28 the alleged merits of his case and to accuse the Court of having a bias against pro se litigants. But no
matter how much Mr. Beck believes his appeal has merit and how much he plays up his status as a

1 pro se litigant, this Court cannot hear the appeal where it has no jurisdiction, and it should not rehear
2 its order dismissing the appeal.

3 PROCEDURAL HISTORY

4 More than a year ago, in November 2020, the district court dismissed Beck’s first amended
5 complaint (the **First Amended Complaint**) in this action for Beck’s failure to prosecute the case.
6 On November 20, 2020, Respondents caused the notice of entry of the order dismissing the action to
7 be filed and served on Beck. (Exhibit 1).
8

9 Eight months later, on July 26, 2021, Beck filed a motion in the then dormant action, which
10 he entitled “Emergency Motion” (the **Emergency Motion**). (Exhibit 2). The Emergency Motion
11 essentially asked the district court to set aside the order dismissing the First Amended Complaint
12 because Beck believed the order of dismissal was not properly served. The Emergency Motion did
13 not cite any statutes, rules, or other authority to support the Emergency Motion and did not set forth
14 the procedural grounds for bringing the Motion. On November 3, 2021, the district court issued an
15 order denying the Emergency Motion, and on November 17, 2021, a notice of entry of that order was
16 filed and served on Beck. (Exhibit 3).
17

18 After the district court issued the order denying Emergency Motion, Beck filed another
19 motion on November 8, 2021, which he entitled, “Plaintiff’s Motion for Leave Pursuant to Nevada
20 Rules of Civil Procedure 12(b)(4) Insufficient Service of Process” (the **Motion for Leave**). (Exhibit
21 4). The Motion for Leave rehashes the exact same arguments made in the Emergency Motion—Beck
22 argues he was not properly served the order dismissing the First Amended Complaint—and it asks
23 the district court for leave to proceed with discovery even though the case was dismissed for a
24 failure to prosecute. On January 4, 2022, the district court denied the Motion for Leave as redundant,
25 and on January 24, 2022, a notice of entry of that order was filed with the district court and served
26 on Beck. (Exhibit 5).
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1 On January 31, 2022, Beck filed the notice of appeal of the order denying the Motion for Leave,
2 which resulted in this appeal. Soon thereafter this Court entered an order denying the appeal for
3 containing jurisdictional defects. Namely, the Court pointed out that no statute or court rule allows an
4 appeal from the order identified in the notice of appeal, and the appeal of the earlier order dismissing
5 the complaint was untimely. This opposition builds on the points raised in the order.

6 ARGUMENT

7 **A. The Court Does Not Have Jurisdiction to Hear the Appeal of the Motion for Leave Under** 8 **NRAP 3A**

9 In his petition for rehearing, Beck accuses this Court of failing to grasp the scope and purpose
10 of the Motion for Leave that is the subject of the notice of appeal. However, it only takes a brief glance
11 into the history of this case to understand that no matter how the Court looks at the Motion to leave,
12 the Motion is effectively a motion for a rehearing, and this Court does not have jurisdiction to hear the
13 appeal of an order denying such a motion under NRAP 3A. The Court must, therefore, dismiss the
14 appeal.

15 This Court may only consider an appeal when the appeal is authorized either by a statute or by
16 a rule of this Court. *See, Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 678 P.2d 1152 (1984).
17 This rule goes straight to the heart of the Court’s jurisdiction. *See, Valley Bank of Nevada v. Ginsburg*,
18 874 P.2d 729, 732 (Nev. 1994) ([T]his court has jurisdiction to entertain an appeal only where an
19 appeal is authorized by statute or court rule.”). In general, the list of appealable judgments and orders
20 this Court has jurisdiction over are set forth in NRAP 3A(b). While NRAP 3A(b)(8) allows the appeal
21 of “[a] special order entered after final judgment,” it has been well established that “[an] order
22 **denying rehearing is not appealable as a special order made after final judgment.**” *Alvis v. State*,
23 660 P.2d 980, 981 (Nev. 1983), disapproved of on other grounds by *AA Primo Builders, LLC v.*
24 *Washington*, 245 P.3d 1190 (Nev. 2010) (emphasis added); *see also, e.g., Silver v. Towner*, 497 P.3d
25 622 (Nev. 2021) (unpublished); *Sheridan v. Goff*, 496 P.3d 969 n. 5 (Nev. 2021) (unpublished); *Est.*
26 *of Yan Shing v. Wen Zhang*, 471 P.3d 75 (Nev. 2020).¹

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28 ¹ Although this Court has held that an order on a motion for rehearing should be construed as an appealable
motion to amend final judgment under NRCP 59(e) whenever possible, the Motion for Leave was clearly not a

1 In both his Motion to Leave and his Emergency Motion, Beck fails to list any proper grounds
2 for bringing his motions. While he does list NRCP 12(b)(4) as the basis for his Motion to Leave, that
3 court rule concerns motions to dismiss complaints, and Beck's Motion to Leave is certainly not a
4 motion to dismiss. Adopting the position that is most charitable to Beck, his Motion to Leave could
5 only be construed as a motion to rehear his previous Emergency Motion. It was filed immediately after
6 the Emergency Motion was denied, it was based on the same arguments contained Emergency Motion,
7 and it sought the same relief sought in the Emergency Motion. As such, under NRAP 3A and *Alvis*,
8 the order denying the Motion for Leave is not appealable, and this Court does not have jurisdiction to
9 consider the appeal. The Court, therefore, correctly dismissed the appeal for lack of jurisdiction.

10 **B. The Court Cannot Construe the Appeal as an Appeal of Any Previous Order in This Case**

11 The Court also cannot construe the appeal as an appeal of past orders such as the order denying
12 the Emergency Motion or the order dismissing Beck's First Amended Complaint. However, even if
13 the Court were to construe the notice of appeal as concerning past orders, the notice still suffers from
14 major jurisdictional defects. First, Beck did not attempt to establish any basis for bringing his
15 Emergency Motion, and that Emergency Motion suffers from the same jurisdictional defects as the
16 Motion for Leave. No court rule or statute authorizes the appeal of the Emergency Motion, so the
17 Court does not have jurisdiction over the Emergency Motion.

18 An appeal of the Emergency Motion also suffers from other major jurisdictional defects as
19 well. Even if the Court were to attempt to construe the Emergency Motion as an appealable motion,
20 Beck was served the notice of entry of order denying the Emergency Motion on November 17, 2021.
21 Under NRAP 4(a)(1), he had 30 days (or until December 16, 2021) to file a notice of appeal. He did
22 not file any such notice until January 31, 2022, well past the deadline to file. When a notice of appeal
23 is not timely filed, this Court does not have jurisdiction to hear the appeal. *See, Dickerson v. State*,
24 967 P.2d 1132, 1134 (Nev. 1998). Moreover, "[t]he rule is well-established in this jurisdiction that a
25 motion for rehearing does not toll the time in which a notice of appeal may be filed." *Alvis*, 660 P.2d
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28 properly filed motion to amend final judgment as it was filed a year after the case was dismissed. The Motion
for Leave, therefore, cannot be construed as a motion to amend final judgment under NRCP 59(e).

1 at 981. Thus, the filing of the Motion for Leave had no tolling effect on the time-period to file the
2 notice of appeal, and the notice of appeal was untimely.

3 If the Court construes the notice of appeal as concerning the original order dismissing the First
4 Amended Complaint, the Court lacks jurisdiction because the notice of appeal is even more obviously
5 untimely. The notice of entry of order Dismissing the First Amended Complaint was filed and served
6 in November 2020, and Beck did not file any motions to toll the time for filing the notice of appeal.
7 The notice of appeal, therefore, was filed more than a year after it was due, and this Court does not
8 have jurisdiction to hear the appeal.

9 **C. Because This Court Has no Jurisdiction, the Merits of Beck’s Appeal are Irrelevant**

10 In its motion for a rehearing, Beck ignores the jurisdictional defects with his notice of appeal
11 and instead argues the merits of the appeal. While Beck’s arguments on the merits are problematic on
12 multiple levels, the Court need not even consider the arguments because they are irrelevant. When this
13 Court does not obtain jurisdiction over an appeal it “has no power to consider the issues raised, no
14 matter how much merit they may have.” *Dickerson*, 967 P.2d at 1134. Because this Court already
15 found that it does not have jurisdiction, and because Beck does not address this Court’s jurisdictional
16 findings, the Court cannot consider the merits of the case. Further, the Court cannot set aside the
17 jurisdictional deficiencies just because Beck is a pro se litigant. “[A] pro se litigant cannot use his
18 alleged ignorance as a shield to protect him from the consequences of failing to comply with basic
19 procedural requirements.” *Rodriguez v. Fiesta Palms, LLC*, 428 P.3d 255, 258–59 (Nev. 2018). For
20 those reasons, the Court should deny the motion for a rehearing.

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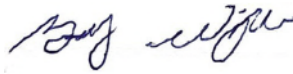
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1 **CONCLUSION**

2 Because the order denying the Motion to Leave and Emergency Motion are not appealable and
3 because Beck did not timely appeal the order denying the Emergency Motion or the order dismissing
4 his complaint, this Court rightfully dismissed the appeal for lack of jurisdiction. In his motion for a
5 rehearing, Beck does not address any of the jurisdictional defects. The Court should, therefore, deny
6 Beck's motion and uphold the order dismissing the case.

7 DATED March 11, 2022.

8 TROUTMAN PEPPER HAMILTON SANDERS LLP

9 

10

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1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that I am an employee of Troutman Pepper Hamilton Sanders
3 LLP, and that on the 17th day of March, 2022, I caused to be served a true and correct copy
4 of the foregoing **RESPONDENTS' OPPOSITION TO APPELLANT'S MOTION FOR**
5 **REHEARING** on the persons below as follows:

6

7 Joel Beck 8 255 Sherwood Court 9 PO Box 3414 10 Stateline, Nevada 89449-3414 11 Pro se Plaintiff 12 <i>SERVICE VIA US MAIL</i>	Aaron R. Maurice, Esq. Brittany Wood, Esq. MAURICE WOOD PLLC 8250 West Charleston Blvd., Suite 100 Las Vegas, Nevada 89117 Attorneys for First American Trustee Servicing Solutions, LLC <i>SERVICE VIA ELECTRONIC SERVICE</i>
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13
14 ☒ **(UNITED STATES MAIL)** By depositing a copy of the above-referenced
15 document for mailing in the United States Mail, first-class postage prepaid, to the parties listed
16 above at their last-known mailing addresses, on the date above written.

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19 those parties listed on the Court's Master Service List.

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21 I declare that I am employed in the office of a member of the bar of this Court at whose
22 discretion the service was made.

23
24 
25 An employee of Troutman Pepper Hamilton Sanders, LLP