

# Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed August 17, 2011.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D10-2581  
Lower Tribunal No. 09-47268

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**Pablo Martinez,**  
Appellant,

vs.

**Aurora Loan Services, LLC,**  
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Ronald C. Dresnick, Judge.

Anthony P. Carbone, for appellant.

Akerman Senterfitt, and Katherine E. Giddings, Nancy M. Wallace (Tallahassee), and William P. Heller (Fort Lauderdale), for appellee.

Before RAMIREZ, SUAREZ, and ROTHENBERG, JJ.,

RAMIREZ, J.

## ON MOTION TO DISMISS

Aurora Loan Services, LLC moved to dismiss this appeal based on an order denying Pablo Martinez's post-judgment motion to quash service of process

rendered on August 27, 2010, and the denial of his motion for rehearing rendered on September 24, 2010. We dismiss the appeal for lack of jurisdiction.

Martinez filed his notice of appeal on October 1, 2010. We previously have stated that a trial court lacks jurisdiction to entertain a motion for rehearing of an order denying a motion to set aside default judgment because motions for rehearing of orders issued under Florida Rule of Civil Procedure 1.540(b) are not authorized. See Drak, L.L.C. v. Salcines Dev., Inc., 5 So. 3d 713 (Fla. 3d DCA 2009); Francisco v. Victoria Marine Shipping, Inc., 486 So. 2d 1386, 1391 (Fla. 3d DCA 1986) (stating that an order entered under rule 1.540 does not rise to the level of a judgment and therefore, a trial court lacks authority to entertain a motion for rehearing from such an order). Thus, the motion for rehearing was not authorized and did not toll the time for filing the notice of appeal which should have been filed within thirty days of the August 27 order. Because the notice of appeal was untimely filed, we lack jurisdiction and therefore grant the motion to dismiss.

Dismissed.