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**Jul 17 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Joseph M. Strickland, Master-In-Equity

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Appellate Case No.: 2018-CP-40-04044

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Wells Fargo Bank, N.A., not in its individual banking capacity, but solely as Trustee on behalf of  
Green Tree Mortgage Trust 2005-HE1 .....Respondent

v.

James E. Turner, a/k/a James Turner, Sr. ....Appellant.

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**RESPONDENT’S AMENDED RETURN TO  
PETITION FOR SUPERSEDEAS**

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I. **THE PETITION FOR A SUPERCEDEAS IS PREMATURE**

The summons and complaint of the within foreclosure was filed on July 31, 2018. A hearing on the merits was heard on May 11, 2023 before the Honorable Joseph M. Strickland, Richland County Master in Equity. At the end of the testimony the Master in Equity ordered Foreclosure and Sale and set the sale for August 7, 2023.

The attached Notice of Sale was conveyed to the newspaper via email on June 7, 2023. Said Notice was to be published as required by statute in July 2023, for the purpose of including the subject property in the judicial sale roster of August 7, 2023 at 12 o’clock noon to be held at the Richland County Judicial Center.

An error was made when the Richland County Master in Equity’s office mistakenly indicated that the subject property would be included in the judicial sale roster of Monday, July 3, 2023. Plaintiff’s counsel remained unaware of this inaccuracy until Friday, June 30, 2023, when it was notified by Defendant’s counsel. Plaintiff’s counsel immediately reported to Defendant’s counsel at 12:13 PM on Friday, June 30 that the foreclosure sale was not intended to take place until August 7, 2023. Plaintiff’s counsel sent an additional email confirming that there was no foreclosure sale until August 7 at 12:29 PM on Friday, June 30, 2023. Finally, on

Monday, July 3, 2023, Plaintiff's counsel sent an additional email to Defendant's counsel confirming that there would be no July 3, 2023 judicial sale of the subject property.

Appellant's ex parte Petition for Writ of Supersedeas alleges exigent circumstances and emergency time constraints. That is in error and is based on the mistaken belief that the foreclosure sale would be on Monday, July 3, 2023. In fact, the foreclosure sale is not until August 7, 2023. Appellant's grounds for the petition are that there has been no advertising of the sale and no time and location of the sale. That is because the sale is not until August 7 and no advertising has occurred.

## **II . RESPONDENT HAS FILED FOR A HEARING BEFORE THE TRIAL COURT TO SET A SUPERCEDEAS BOND AND FOR JUSTIFICATION OF APPELLANT'S SURETIES**

South Carolina Code of Laws Anno. Section 18 – 9 – 130 specifies that a notice of appeal from a judgment directing the sale of the Defendant's property does not stay the execution of the judgment unless the presiding judge before whom the judgment was obtained grant a stay of execution. The presiding judge may grant a stay of execution and require a bond or other surety to guarantee the payment of the judgment pending the appeal.

In the present case, on July 3, 2023, Appellant filed an Ex Parte Exigent Circumstances Petition for Writ of Supersedeas with the South Carolina Court of Appeals. On July 10, 2023, Appellant filed the attached Undertaking of James E. Turner with the Trial Court. No amount of bond has been set by the trial court and Appellant failed to identify the sureties. In response, on July 14, 2023, Respondent filed the attached Motion for Hearing to Set Bond and for Justification of Sureties with the Trial Court. Pursuant to the provisions of South Carolina Code of Laws Anno. Section 18 – 9 – 130 and South Carolina Code of Laws Anno. Section 18 – 9 – 210, the within matter is before the trial judge for the tdeermination of a bond and the justification of the sureties.

Respondent prays that the Court inquires into this matter and dismiss the appeal as premature.

Respectfully submitted,

s/Theodore von Keller  
Theodore von Keller  
S.C. Bar No. 5718  
Crawford & von Keller, LLC  
Post Office Box 4216  
Columbia, South Carolina 29250  
(803) 764-7444  
ted@crawfordvk.com  
Attorney for Respondent

July 17, 2023

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

Wells Fargo Bank, National )  
Association, not in its individual or )  
banking capacity, but solely as )  
Trustee on behalf of Green Tree )  
Mortgage Trust 2005-HE, )

Case No.: 2018-CP-40-04044

Plaintiff, )

**UNDERTAKING OF JAMES E. TURNER, SR.**  
*[Pursuant to S.C. Code § 18-9-130]*

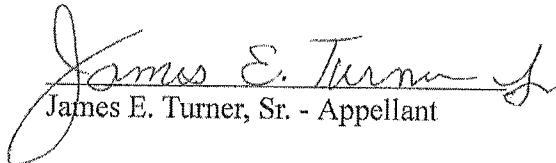
vs. )

James E. Turner, a/k/a James )  
Turner, Sr. et. al. )

Defendants. )

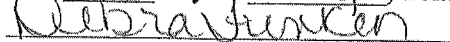
NOW COMES JAMES E. TURNER, SR., having been sworn and duly stating the following under oath:

1. I am a named defendant in the above-captioned case. I am over the age of eighteen, and I am informed and believe that I am competent to give this undertaking.
2. This undertaking is given pursuant to *Pursuant to S.C. Code § 18-9-130.*
3. I, James E. Turner, Sr., as a condition of staying the enforcement of the judgment in the above-stated case, enter into an undertaking, with good sureties, in double the appraised value of the property or the amount of the judgment, to pay the judgment with legal interest and all costs and damages the plaintiff may sustain by reason of the appeal or to produce the property levied on and submit to the sale if the judgment is confirmed.
4. Entered and accepted by the under-signed appellant, James E. Turner, Sr. and the two named sureties.

  
James E. Turner, Sr. - Appellant

Sworn and subscribed before me, this

The 10 day of July, 2023

  
Notary Republic of South Carolina

My Commission Expires: 7/16/23

STATE OF SOUTH CAROLINA

RICHLAND COUNTY

Wells Fargo Bank, National Association,  
not in its individual or banking capacity, but  
solely as Trustee on behalf of Green Tree  
Mortgage Trust 2005-HE1,

Plaintiff,

vs.

James E. Turner a/k/a James Turner, Sr., *Et*  
*al.*,

Defendants,

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-40-04044  
(S.C. Ct. App. 2023-001054)

**MOTION FOR A HEARING FOR  
JUSTIFICATION OF SURETIES AS TO  
DEFENDANT JAMES E. TURNER, SR.**

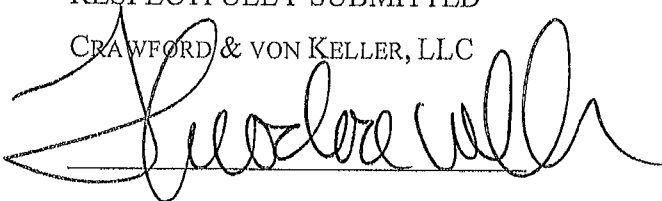
WHEREAS an Order of Judgment of Foreclosure in favor of the Plaintiff was filed in the instant action on June 15, 2023.

WHEREAS The South Carolina Court of Appeals filed an Order temporarily granting Defendant/Appellant James E. Turner a/k/a James Turner Sr.'s petition for supersedeas on June 30, 2023 (*See* 2023-001054 S.C. Ct. App.).

WHEREAS Defendant/Appellant James E. Turner a/k/a James Turner Sr. filed an Undertaking of James E. Turner, Sr. on July 10, 2023, purporting to enter into an undertaking with god sureties; and

THEREFORE Plaintiff/Respondent Wells Fargo Bank, National Association, not in its individual or banking capacity, but solely as Trustee on behalf of Green Tree Mortgage Trust 2005-HE1 hereby requests a hearing before the Richland County Master-in-Equity pursuant to South Carolina Code of Laws §18-9-210 to decree the requirement and amount of a bond or other surety to guarantee payment of the Judgment pending appeal as required by South Carolina Code of Law §18-9-170 and to adjudge the validity of Defendant/Appellant's sureties as affirmed under oath by James E. Turner a/k/a James Turner, Sr.

RESPECTFULLY SUBMITTED  
CRAWFORD & VON KELLER, LLC



Theodore von Keller, S.C. Bar No. 5718  
B. Lindsay Crawford, III S.C. Bar No. 6510  
B. Lindsay Crawford, IV S.C. Bar No. 101707  
Charley S. FitzSimons S.C. Bar No. 104326  
Jason M. Hunter S.C. Bar No. 101501  
Post Office Box 4216  
Columbia, South Carolina 29204  
Telephone 803-790-2626  
ATTORNEYS FOR THE PLAINTIFF

Columbia, SC  
July 14, 2023

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**Jul 17 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Joseph M. Strickland, Master-In-Equity

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Appellate Case No.: 2018-CP-40-04044

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Wells Fargo Bank, N.A., not in its individual banking capacity, but solely as Trustee on behalf of  
Green Tree Mortgage Trust 2005-HE1 .....Respondent  
v.

James E. Turner, a/k/a James Turner, Sr. ....Appellant.

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**PROOF OF SERVICE**

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I certify that I served the foregoing Respondent's Amended Return to Petition for  
Supersedeas in this case on the date given below by mailing it to opposing counsel at the address  
noted below.

Glenn Walters, Sr.  
1910 Russell Street  
P.O. Box 1346  
Orangeburg, SC 29116

[glennwalterspa@gmail.com](mailto:glennwalterspa@gmail.com)

Respectfully submitted,

s/Theodore von Keller

Theodore von Keller

S.C. Bar No. 5718

Crawford & von Keller, LLC

Post Office Box 4216

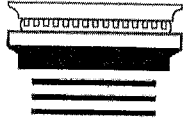
Columbia, South Carolina 29250

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[ted@crawfordvk.com](mailto:ted@crawfordvk.com)

Attorney for Respondent

July 17, 2023



## CRAWFORD & VON KELLER, LLC

SOUTH CAROLINA  
B. Lindsay Crawford, III \*  
Theodore von Keller  
B. Lindsay Crawford, IV\*\*

NORTH CAROLINA  
Benjamin A. Barco  
Arielle Womack  
Brittany T. Morrison\*\*

---

Charley S. FitzSimons  
Jason M. Hunter  
Lawrence W. Johnson, Jr.\* - Special Counsel

\* Certified Specialist in Bankruptcy  
and Debtor-Creditor Law in SC

\*\*Admitted in South Carolina and North Carolina

July 17, 2023

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**Jul 17 2023**

**SC Court of Appeals**

Via [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211

**RE: Wells Fargo Bank, N.A., not in its individual banking capacity, but solely as  
Trustee on behalf of Green Tree Mortgage Trust 2005-HE1 vs. James E. Turner  
a/k/a James Turner, Sr.  
Appellate Case No.: 2018-CP-40-04044**

Dear Sir/Madam:

Enclosed please find Respondent's Amended Return to Petition for Supersedeas and Proof of Service regarding the above referenced matter.

Sincerely,

CRAWFORD & VON KELLER, LLC

---

Theodore von Keller, Esquire  
Post Office Box 4216  
Columbia, South Carolina 29240  
Telephone: (803) 790-2626  
Attorney for Respondent

TVK/tdd  
Enclosure

Cc: Glenn Walters, Sr. – email and regular mail  
1910 Russell Street  
P.O. Box 1346  
Orangeburg, SC 29116

P.O. Box 4216, Columbia, SC 29240 • 1640 St. Julian Place, SC 29204 • 803-790-2626 • Facsimile 803-790-1277  
1017 Ashes Drive, Suite 106, Wilmington, NC 28405 • 910-363-1637 • Facsimile 910-363-1652