

FILED

2025 OCT 31 PM 2:29

LISA M. COMER  
CLERK OF COURT  
LEXINGTON, SC

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

Case No. 2023-CP-32-02327

RECEIVED

OCT 31 2025

SC Court of Appeals

PennyMac Loan Services, LLC, Respondent

v.

Judith-Ann Kelly, as Trustee of the Judith Ann Kelly Family Trust, Pro Se Appellant

**NOTICE OF APPEAL**

Judith-Ann Kelly, as Trustee of the Judith Ann Kelly Family Trust, hereby gives notice, pursuant to Rule 203(b)(1), South Carolina Appellate Court Rules, of appeal to the South Carolina Court of Appeals from the Judgment of Foreclosure and Sale entered October 30, 2025, in the Court of Common Pleas for Lexington County.

This appeal challenges the judgment and all underlying rulings for lack of due process, failure to rule on pending motions, and errors of law concerning federal pre-emption of FHA-insured mortgages. Appellant attaches Exhibits A, B, and C in support of this appeal, including Exhibit A - Annotated Rebuttal to Judgment of Foreclosure and Sale, Exhibit B - Judgment of Foreclosure and Sale (Filed October 30, 2025), and Exhibit C - Notice of Sale (Filed October 30, 2025, Lexington County Court of Common Pleas).

Dated: October 31, 2025

Respectfully submitted,



Judith-Ann Kelly  
as Trustee of the Judith Ann Kelly Family Trust  
Pro Se Appellant  
408 Cannongate Court  
Lexington, SC 29073

## South Carolina Court of Appeals – Docketing Statement

Case No.: 2023-CP-32-02327

Lower Court: Court of Common Pleas, Lexington County

Judge: Hon. William P. Spong

Title: PennyMac Loan Services, LLC v. Judith-Ann Kelly

Appellant: Judith-Ann Kelly, Trustee, Judith Ann Kelly Family Trust

Respondent: PennyMac Loan Services, LLC

Date of Judgment: October 30, 2025

Nature of Case: Mortgage Foreclosure (FHA-insured)

### Issues on Appeal:


1. Denial of due process.
2. Failure to rule on pending motions.
3. Judicial-recusal irregularities.
4. Non-compliance with HUD regulations and federal pre-emption.
5. Equitable hardship.

### Relief Sought:

Reversal and remand, or vacatur of judgment; stay of sale.

Counsel/Appellant Address:

408 Cannongate Court  
Lexington, SC 29073

Signature: 

Date: October 31, 2025

## **EXHIBIT A – APPELLANT’S ANNOTATED REBUTTAL TO JUDGMENT OF FORECLOSURE AND SALE**

Case No. 2023-CP-32-02327

Court of Common Pleas, Lexington County, South Carolina

Judgment Filed: October 30, 2025

### **I. INTRODUCTION**

This Exhibit is submitted by Judith-Ann Kelly, Trustee of the Judith Ann Kelly Family Trust, Pro Se Appellant, as part of the appellate record to demonstrate the factual and legal inaccuracies, omissions, and procedural defects contained in the Judgment of Foreclosure and Sale entered October 30, 2025. Each section below addresses specific paragraphs or findings from the Judgment and provides a detailed rebuttal supported by South Carolina law, federal regulations, and due process principles.

### **II. DUE PROCESS AND PROCEDURAL VIOLATIONS**

A. False Statement: “No Defendant appeared at the hearing.”

Rebuttal: Appellant filed multiple motions, including a Motion for Continuance supported by medical documentation, and numerous filings requesting stays and discovery responses prior to the October 22, 2025 hearing. The Court ignored these motions and conducted the hearing without addressing any of them. Appellant’s medical treatment was known to the Court, and failure to accommodate or postpone constitutes denial of procedural due process under the Fourteenth Amendment and Title II of the Americans with Disabilities Act (ADA).

B. False Statement: “Appellant was provided adequate notice and opportunity to be heard.”

Rebuttal: Notice was inadequate and ineffective. Following judicial recusal, there was no proper reassignment order served on Appellant, and notice of the October 22 hearing was received with insufficient time to respond given ongoing medical limitations. Appellant’s opportunity to be heard was rendered meaningless when the Court denied or ignored all pending motions without explanation. This violates Rule 40(b), SCRCPP, and fundamental due process.

### **III. STANDING AND REAL PARTY IN INTEREST**

False Statement: “Plaintiff has legal standing and is the real party in interest under Rule 17(a), SCRCPP.”

Rebuttal: The Assignment of Mortgage from MERS to PennyMac Loan Services, LLC was executed on May 15, 2023, after the alleged default date of January 1, 2023. This breaks the chain of title and demonstrates that PennyMac was not the holder or owner of the Note at the time of default. The Court made no finding that Plaintiff produced the original Note bearing a wet-ink signature, nor that it established possession as required by *Carpenter v.*

Longan, 83 U.S. 271 (1872), and *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011). Consequently, Plaintiff lacked standing to foreclose.

#### **IV. EVIDENTIARY AND RECORD DEFECTS**

A. False Statement: “Plaintiff established default through competent evidence.”

Rebuttal: The only evidence referenced is the affidavit testimony of Stephanie Cejas, a foreclosure supervisor for PennyMac. There is no indication that Ms. Cejas possessed personal knowledge of Appellant’s account or that business records were properly authenticated under Rule 803(6), SCRE. Hearsay affidavits are not competent evidence of default or indebtedness. See *Wachovia Bank v. Taylor*, 335 S.C. 548 (1999). No payment history or servicing records were admitted, and thus the judgment is unsupported by evidence.

B. False Statement: “All pending motions were heard and denied.”

Rebuttal: The record reflects numerous motions—motions to stay, compel discovery, and for continuance—that were never heard. The Judgment falsely claims that all motions were heard and found without merit. This violates Rule 52(a), SCRCF, which requires findings of fact and conclusions of law for each contested issue. The absence of any reasoning constitutes reversible error.

#### **V. FHA SERVICING AND HUD COMPLIANCE FAILURES**

Rebuttal: The Court ignored all FHA and HUD servicing requirements applicable to federally insured loans, including the mandatory face-to-face meeting under 24 C.F.R. § 203.604 and proper loss mitigation review under § 203.605. There is no finding that PennyMac complied with any HUD prerequisites to foreclosure. These omissions violate federal law and case law including *United States v. Stadium Apartments*, 425 F.2d 358 (9th Cir. 1970) and *Fed. Nat’l Mortg. Ass’n v. Pace*, 415 S.E.2d 397 (S.C. Ct. App. 1992).

#### **VI. MISREPRESENTATIONS AND FINDINGS CONTRARY TO THE RECORD**

A. False Statement: “Defendants were properly served.”

Rebuttal: The record shows that Ann Cornell was no longer a valid co-trustee of the Judith Ann Kelly Family Trust at the time of the alleged service, yet the Court continued to identify her as a defendant. Service was defective as to the Trust, and the inclusion of invalid parties constitutes a misrepresentation of fact.

B. False Statement: “Attorney’s fees of \$15,278.50 are reasonable.”

Rebuttal: No billing statements, time records, or affidavits were submitted to substantiate this fee. The Court’s award violates Rule 407, SCACR, Rule 1.5(a), which requires detailed evidence of reasonableness. This unsupported figure further inflates the judgment debt and constitutes an abuse of discretion.

## VII. SUMMARY OF APPEALABLE ERRORS

1. Denial of due process through failure to rule on pending motions and medical accommodation requests.
2. Improper finding that Appellant failed to appear despite documented filings and medical incapacity.
3. Lack of standing and defective assignment from MERS to PennyMac.
4. Reliance on inadmissible hearsay affidavit in violation of evidentiary standards.
5. Failure to ensure HUD/FHA compliance prerequisites prior to foreclosure.
6. Inclusion of invalid co-trustee and misstatement of service.
7. Award of attorney's fees without supporting documentation.
8. Absence of specific findings of fact or conclusions of law on contested motions.

## VIII. CONCLUSION

For the reasons set forth above, Appellant respectfully asserts that the Judgment of Foreclosure and Sale entered on October 30, 2025, is voidable and should be vacated or reversed on appeal. The Judgment is founded upon procedural and factual misrepresentations, lacks evidentiary support, and violates due process and governing FHA requirements.

Dated: October 31, 2025

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Judith-Ann Kelly", written over a horizontal line.

Judith-Ann Kelly  
Trustee of the Judith Ann Kelly Family Trust  
Pro Se Appellant  
408 Cannongate Court  
Lexington, SC 29073

## EXHIBIT B – JUDGMENT OF FORECLOSURE AND SALE

Case No. 2023-CP-32-02327 | Lexington County Court of Common Pleas

PennyMac Loan Services, LLC, Respondent

v.

Judith-Ann Kelly, as Trustee of the Judith Ann Kelly Family Trust, Pro Se Appellant

This Exhibit B attaches the official Judgment of Foreclosure and Sale entered on October 30, 2025, by the Court of Common Pleas for Lexington County in Case No. 2023-CP-32-02327. The Judgment constitutes the order from which Appellant now appeals.

The inclusion of this document provides the appellate record reference for all findings, conclusions, and directives that are rebutted and challenged in Exhibit A – Appellant’s Annotated Rebuttal to Judgment of Foreclosure and Sale.

Dated: October 31, 2025

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Judith-Ann Kelly", with a stylized monogram "JAK" to the right. The signature is written over a horizontal line.

Judith-Ann Kelly  
Trustee of the Judith Ann Kelly Family Trust  
Pro Se Appellant  
408 Cannongate Court  
Lexington, SC 29073

**EXHIBIT C – NOTICE OF SALE**

Case No. 2023-CP-32-02327 | Lexington County Court of Common Pleas

**RECEIVED**

**OCT 31 2025**

**SC Court of Appeals**

PennyMac Loan Services, LLC, Respondent

v.

Judith-Ann Kelly, as Trustee of the Judith Ann Kelly Family Trust, Pro Se Appellant

This Exhibit C attaches the official Notice of Sale filed on October 30, 2025, in the Lexington County Court of Common Pleas, Case No. 2023-CP-32-02327. The Notice of Sale was entered immediately following the Judgment of Foreclosure and Sale, scheduling the judicial sale of the subject property located at 408 Cannongate Court, Lexington, South Carolina 29073.

This document is submitted as part of the appellate record to demonstrate that, despite pending motions to stay and ongoing medical and procedural filings by Appellant, the Court proceeded to authorize and schedule the sale of Appellant's primary residence. The inclusion of this Notice of Sale evidences the immediacy of enforcement actions challenged by the pending appeal.

Dated: October 31, 2025

Respectfully submitted,



Judith-Ann Kelly  
Trustee of the Judith Ann Kelly Family Trust  
Pro Se Appellant  
408 Cannongate Court  
Lexington, SC 29073

October 31, 2025

Clerk of Court

South Carolina Court of Appeals

Edgar A. Brown Building

1205 Pendleton Street, Suite 552

Columbia, SC 29201

**RECEIVED**

OCT 31 2025

SC Court of Appeals

Re: PennyMac Loan Services, LLC v. Judith-Ann Kelly

Appeal from Lexington County Court of Common Pleas, Case No. 2023-CP-32-02327

Hon. William P. Spong, Presiding Judge

Dear Clerk:

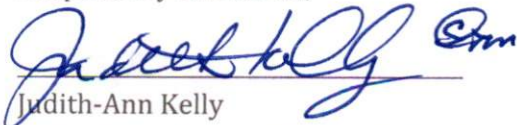
Enclosed please find the following documents for docketing of this appeal:

1. Notice of Appeal
2. Exhibits A-C (as listed below)
3. Docketing Statement
4. ~~Check~~ in the amount of \$ ~~100.00~~ <sup>350</sup> payable to the Clerk of the South Carolina Court of Appeals for the appellate filing fee.

"Enclosed exhibits include the Judgment of Foreclosure and Sale (Exhibit B) and the Notice of Sale (Exhibit C) forming the basis of the appeal."

Please docket this appeal and provide notice of the assigned appellate case number.

Respectfully submitted,



Judith-Ann Kelly  
as Trustee of the Judith Ann Kelly Family Trust  
Pro Se Appellant  
408 Cannongate Court  
Lexington, SC 29073