

RECEIVED
Dec 01 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Joseph Kershaw Spong, Special Referee

Case No. 2023-CP-32-02327

Appellate Case# 2025-002221

PennyMac Loan Services, LLC,

Respondent,

v.

Judith A. Kelly; Judith-Ann Kelly as co-trustee of Judith Ann Kelly Family Trust; Ann Cornell as cotrustee of Judith Ann Kelly Family Trust; and South Brook Community Association, Inc.,
Defendants,

of which Judith-Ann Kelly as co-trustee
of Judith Ann Kelly Family Trust,

Appellant.

APPELLANT'S REQUEST FOR IMMEDIATE APPELLATE RULING

(Pursuant to the Court's November 10, 2025 Order)

Appellant respectfully submits this Request for Immediate Appellate Ruling under this Court's Order dated **November 10, 2025**, stating:

"This Court will consider Appellant's motion to stay pending before this Court upon receipt of the Special Referee's order ruling on the motion to stay and trust representation issue."

1. This Court's Prerequisite Has Been Satisfied

On **November 17, 2025**, Appellant filed the **Notice of Filing of Special Referee's Order**, attaching the written order entered by the Special Referee on **November 14, 2025**, addressing:

1. Appellant's Motion to Stay
2. The trust-representation issue

A Certificate of Service confirming delivery to Respondent's counsel was simultaneously filed. Therefore, every directive set forth in the Court's November 10 order has been completed.

2. Pending Appellate Motions Are Now Ripe for Consideration

With the Special Referee's written order now in the appellate record, the following motions are before the Court and ready for adjudication:

- Motion to Stay Pending Appeal
- Motion for Writ of Supersedeas
- Emergency Motion for Reconsideration
- Jurisdictional challenge under Rule 53(b)
- Challenges to the validity of proceedings conducted after the void Order of Reference

These motions require no further factual development and are procedurally ripe.

3. Appellant's Chapter 13 Filing (Nov 26, 2025) Does *Not* Moot this Appeal

On **November 26, 2025**, Appellant filed a voluntary **Chapter 13 bankruptcy**, triggering an automatic stay under 11 U.S.C. § 362.

However, **this bankruptcy stay does not moot the issues on appeal**, because:

A. The foreclosure judgment remains the foundation of PennyMac’s proof of claim

Fed. R. Bankr. P. 3001 & 3007 permit challenges to a secured creditor’s claim **based on defects in the judgment**, including:

- lack of standing,
- invalid or uncertified judgment,
- void judgment,
- chain-of-title defects,
- defective allonge or note authenticity.

Thus, this appeal is **legally relevant to the administration of the bankruptcy**.

B. Rule 53(b) jurisdictional violations are NOT moot

Actions taken without subject-matter jurisdiction are **void ab initio** and may be vacated at any time.

C. The appellate issues involve judicial authority and due process.

These are structural errors, not sale-related issues.

Structural errors **cannot be mooted** by a subsequent bankruptcy filing.

These principles are well-established in federal bankruptcy jurisprudence, and courts consistently hold that defects in note ownership, standing, and chain-of-title render a creditor’s claim unenforceable.

Numerous federal authorities confirm that defects in a foreclosure judgment remain directly relevant to a debtor’s rights even after a bankruptcy filing. See *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011) (creditor must demonstrate actual possession of the original note to enforce a claim); *In re Hayes*, 393 B.R. 259 (Bankr. D. Mass. 2008) (failure to prove note ownership

renders claim unenforceable); *In re Parrish*, 326 B.R. 708 (Bankr. N.D. Ohio 2005) (lack of standing requires claim disallowance); *In re Kemp*, 440 B.R. 624 (Bankr. D.N.J. 2010) (post-hoc allonge invalid and insufficient to establish standing).

These authorities reinforce that the validity of the foreclosure judgment—and the standing of PennyMac at the time the action was filed—remain essential questions that are directly impacted by this appeal.

These authorities make clear that this Court’s ruling on the underlying foreclosure judgment remains essential to the proper administration of the pending Chapter 13 case.

Therefore, Appellant respectfully requests that this Court proceed to consider the pending motions.

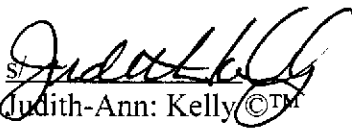
4. Relief Requested

Appellant respectfully requests that this Court:

1. Take the pending motions under consideration; and
2. Issue rulings on those motions at the Court’s earliest convenience.

Respectfully submitted,

November 28, 2025


Judith-Ann: Kelly ©™
c/o 408 Cannongate Ct
Lexington, South Carolina 29073
(678) 790-8425
Appellant

Other Counsel of Record:

Sean M. Foerster, Esq.
John J. Hearn, Esq.
Rogers Townsend, LLC
1221 Main Street, 14th Floor
Columbia, South Carolina 29201

M. Todd Carroll

Levi W. Wright
WOMBLE BOND DICKINSON (US) LLP
1221 Main Street, Suite
1600
Columbia, SC 29201
(803) 454-6504
Attorney for Respondent

FORM 7
PROOF OF SERVICE
of
APPELLANT'S REQUEST FOR IMMEDIATE APPELLATE RULING

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

RECEIVED

Dec 01 2025

SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Joseph Kershaw Spong, Special Referee

Case No. 2023-CP-32-02327

Appellate Case# 2025-002221

PennyMac Loan Services,
LLC,

Respondent,

v.

Judith A. Kelly; Judith-Ann Kelly as co-trustee of Judith Ann Kelly Family Trust; Ann Cornell as cotrustee of Judith Ann Kelly Family Trust; and South Brook Community Association, Inc., Defendants,

of which Judith-Ann Kelly as co-trustee of Judith Ann Kelly Family Trust,

Appellant.

PROOF OF SERVICE

I certify that I have served a copy of this ***APPELLANT'S REQUEST FOR IMMEDIATE APPELLATE RULING*** upon counsel for Respondent by depositing the same in the United States Mail, Certified Mail No. 9589 0710 5270 1721 1451 07 & 9589 0710 5270 1721 1450 91, first-class postage prepaid, addressed as follows, on November 28, 2025:

Sean M. Foerster, Esq.
John J. Hearn, Esq.
Rogers Townsend, LLC
1221 Main Street, 14th Floor
Columbia, South Carolina 29201

M. Todd Carroll
Levi W. Wright
WOMBLE BOND DICKINSON (US) LLP
1221 Main Street, Suite 1600

Columbia, SC 29201

November 8, 2025

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

Judith Ann Kelly
408 Cannongate Ct
Lexington, South Carolina 29073
(678) 790-8425 Appellant