

The South Carolina Court of Appeals

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 is the Appellant.

Appellate Case No. 2025-002221

ORDER

On October 30, 2025, the special referee issued an order of foreclosure and sale. On October 31, 2025, Appellant filed a notice of appeal from the order of foreclosure and sale and a motion to stay the October 30, 2025 order. Respondent filed a return, indicating Appellant had filed a motion to stay with the special referee and a hearing had been scheduled on the motion for November 13, 2025. Appellant filed a reply. After careful consideration, this court remanded to the special referee for consideration of (1) the motion to stay currently pending before the special referee and any bond pursuant to section 18-9-170 of the South Carolina Code (2014) and (2) whether the Judith Ann Kelly Family Trust is properly represented in the matter.

On November 14, 2025, the special referee issued an order. On November 17, 2025, Appellant provided the special referee's November 14, 2025 order to this court, which found trustee Judith Ann Kelly, as a non-attorney, was not permitted to represent the Judith Ann Kelly Family Trust and denied the motion to stay. It further set the amount of the bond in the event Judith Ann Kelly retained counsel for the Judith Ann Kelly Family Trust and pursued a similar motion; however, it provided that the order of foreclosure and sale "shall not be stayed unless" a bond

in the amount of \$66,000.00 with two good and valid sureties was filed or \$66,000.00 was deposited with the Lexington County Clerk of Court no later than November 26, 2025. Finally, the order provided that if no party filed the bond or deposited its cash equivalent by November 26, 2025, the enforcement of the judgment of foreclosure and sale, including the December 1, 2025 foreclosure sale, may proceed.

After careful consideration, Appellant's motion to stay, filed in this court on October 31, 2025, is denied.

Further, our court has held that a trust cannot be represented by someone not authorized in the practice of law. *See Real Est. Unlimited, LLC v. Rainbow Living Tr.*, Op. No. 2004-UP-019 (S.C. Ct. App. filed Jan. 15, 2004) (holding a non-attorney trustee cannot represent the trust in the court of common pleas). Accordingly, Appellant shall, within thirty days of the date of this order, provide the court with the name of the attorney who will be representing the trust in this matter. Failure to provide this information within the time allotted will result in this appeal being dismissed.


FOR THE COURT

Columbia, South Carolina

cc:
Judith-Ann Kelly
Sean Matthew Foerster, Esquire
John Judson Hearn, Esquire
Matthew Todd Carroll, Esquire

FILED
Dec 03 2025