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**Dec 19 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Joseph Kershaw Spong, Special Referee

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Case No. 2023-CP-32-02327

Appellate Case# 2025-002221

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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.

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**PETITION FOR REHEARING EN BANC WITH SUGGESTION FOR REHEARING**

**EN BANC**

**(Compliant Rules 219 & 221, SCACR)**

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**I. INTRODUCTION**

Pursuant to Rules 219 and 221, SCACR, Appellant respectfully petitions the Court for rehearing of the Orders filed December 3, 2025, and December 9, 2025. This Petition further

includes an express Suggestion for Rehearing En Banc, as required by Rule 219(b), SCACR.

This Petition identifies specific points of law and fact that were overlooked or misapprehended by the panel and demonstrates why rehearing by the full Court is necessary to maintain uniformity of decisions and address questions of exceptional importance.

## **II. STANDARD FOR EN BANC REVIEW**

*(Rule 219(a), SCACR)*

Rehearing en banc is appropriate when necessary to:

1. Secure or maintain uniformity of decisions; or
2. Address questions of exceptional importance.

This case satisfies each of these criteria independently and collectively.

## **III. SUGGESTION FOR REHEARING EN BANC**

*(Rule 219(b), SCACR) This express suggestion is submitted pursuant to Rule 219(b), SCACR, and is intended to remove any ambiguity regarding Appellant's request for rehearing en banc.*

Appellant respectfully suggests rehearing en banc because the panel resolved the appeal on a non-dispositive representation issue while failing to address a preserved jurisdictional challenge under Rule 53(b), SCRCPC, which is antecedent to all other issues.

Failure to address whether the lower court possessed authority to act presents a question of exceptional importance affecting foreclosure proceedings statewide and warrants review by the full Court to ensure uniformity of decisions.

## **IV. JURISDICTIONAL DEFECT UNDER RULE 53(b), SCRCPC (DISPOSITIVE ISSUE NOT ADDRESSED)**

The panel denied relief without addressing Appellant's threshold jurisdictional challenge under Rule 53(b), SCRCPC—a dispositive issue that determines whether the lower court possessed

authority to act at all. Appellant consistently argued that the Order of Reference executed by a Deputy Clerk—without consent, without default, and while dispositive motions were pending—was ultra vires and void ab initio. Because jurisdiction is antecedent to all other questions, failure to resolve this issue leaves the validity of every subsequent proceeding legally indeterminate.

Jurisdictional defects cannot be waived, cured, or bypassed. A court acting without jurisdiction lacks authority to conduct hearings, issue orders, or enter judgment. All proceedings following a void referral are themselves void.

The failure to address this jurisdictional issue leaves unresolved a matter that directly affects the validity of foreclosure proceedings statewide.

#### **V. PANEL RESOLUTION ON NON-DISPOSITIVE GROUNDS**

The panel resolved the appeal on a representation-of-trust rationale, relying on case law addressing non-attorney representation of separate legal entities, without reaching whether the lower court possessed jurisdiction to act at all.

The cited authority presupposes the existence of a lawfully convened court proceeding—an assumption that is disputed and unresolved here.

A court lacking jurisdiction cannot reach issues of representation. Jurisdiction is antecedent to all other questions. By resolving the appeal on a secondary issue while leaving the jurisdictional defect unaddressed, the panel departed from settled principles of appellate review.

#### **VI. ISSUE OF EXCEPTIONAL IMPORTANCE**

This appeal presents issues of exceptional importance, including:

- The scope of clerk authority under Rule 53(b), SCRCF;

- The consequences of ultra vires referrals in foreclosure actions;
- The treatment of jurisdictional challenges when raised by self-represented litigants;
- Uniform application of jurisdictional safeguards in equity proceedings.
- Whether foreclosure judgments entered following ultra vires referrals are void or voidable as a matter of law.

These issues extend beyond the parties and impact foreclosure practice across South Carolina.

## **VII. NEED FOR UNIFORMITY AND CLARIFICATION**

This Court and the Supreme Court of South Carolina have consistently held that jurisdictional defects must be addressed before any merits-based or procedural determinations. Clarification is required to ensure consistent application of Rule 53(b) and to prevent foreclosure judgments entered without lawful authority.

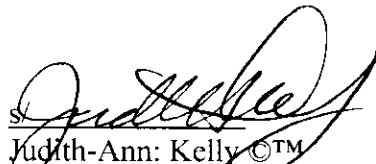
## **VIII. RELIEF REQUESTED**

Appellant respectfully requests that the Court:

1. Grant rehearing en banc;
2. Vacate the panel orders; and
3. Address the preserved jurisdictional challenge under Rule 53(b), SCRPC, before any other issue.

Respectfully submitted,

December 19, 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  
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1221 Main Street, Suite  
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Columbia, SC 29201  
(803) 454-6504  
Attorney for Respondent

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Defendants,

Appellant.

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

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## **AFFIDAVIT OF PROCEDURAL COMPLIANCE**

I, **Judith-Ann Kelly ©™**, being duly sworn, state as follows:

1. I am the Appellant in the above-captioned matter.
2. I timely filed a Petition for Rehearing pursuant to Rule 221, SCACR.

3. The Petition expressly includes a **Suggestion for Rehearing En Banc** pursuant to Rule 219(b), SCACR.
  
4. In response to the Deficiency Notice received by the Clerk dated November 12, 2025, the Appellant immediately responded as required within the 10 days of the date of that letter, and mailed via Certified United States Postal Service (USPS) a complete transcript of the October 22, 2025 hearing. It was served and mailed as evidenced by the attached Proof of Service and USPS tracking #9589 0710 5270 1721 1450 77. It was subsequently delivered on November 17, 2025 at the Front Desk of the Office of Court Administration.  
  
If I may also notate there was an additional full copy mailed via Certified United States Postal Service (USPS) #9589 0710 5270 1721 1450 84, with proof of service and tracking attached, to the opposing counsel of record, even though they are the ones who filed and provided the full copy in the lower court.
  
5. This filing is made in good faith to ensure procedural clarity and compliance with the South Carolina Appellate Court Rules.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 19, 2025.



**Judith-Ann Kelly ©™**

Pro Se Appellant

408 Cannongate Court

Lexington, SC 29073

**FORM 7**  
**PROOF OF SERVICE OF A NOTICE OF APPEAL**

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

**RECEIVED**

**Nov 13 2025**

**SC Court of Appeals**

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Joseph Kershaw Spong, Special Referee

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**Dec 19 2025**

**SC Court of Appeals**

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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 the *Withdrawal of Prior Statement of No Transcript and Request for Transcript (October 22, 2025 Hearing)*, together with a *full printed copy of the transcript*, upon the Office of Court Administration by depositing the same in the United States Mail, Certified Mail No. 9589 0710 5270 1721 1450 77, first-class postage prepaid, addressed as follows, on November 13, 2025:

**Office of Court Administration**

ATTN: Court Reporter Certification Unit  
South Carolina Judicial Department  
1220 Senate Street  
Columbia, South Carolina 29201

November 13, 2025

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

**FORM 7**  
**PROOF OF SERVICE OF A NOTICE OF APPEAL**

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

**RECEIVED**  
**Nov 13 2025**  
**SC Court of Appeals**

APPEAL FROM LEXINGTON COUNTY  
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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 *Withdrawal of Prior Statement of No Transcript and Request for Transcript (October 22, 2025 Hearing)* upon counsel for Respondent by depositing the same in the United States Mail, Certified Mail No. 9589 0710 5270 1721 1450 84, first-class postage prepaid, addressed as follows, on November 13, 2025:

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

November 13, 2025

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

Tracking Number:

Remove X

## 9589071052701721145077

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

### Latest Update

Your item was delivered to the front desk, reception area, or mail room at 12:10 pm on November 17, 2025 in COLUMBIA, SC 29201.

#### Get More Out of USPS Tracking:

**USPS Tracking Plus<sup>®</sup>**

#### Delivered

**Delivered, Front Desk/Reception/Mail Room**

COLUMBIA, SC 29201

November 17, 2025, 12:10 pm

#### Redelivery Scheduled for Next Business Day

COLUMBIA, SC 29201

November 15, 2025, 9:06 am

#### Arrived at USPS Regional Facility

COLUMBIA SC PROCESSING CENTER

November 14, 2025, 12:02 am

#### USPS in possession of item

LEXINGTON, SC 29073

November 13, 2025, 3:24 pm

Hide Tracking History

Feedback

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**Text & Email Updates**



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**USPS Tracking Plus®**



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**Product Information**



**See Less** ^

**Tracking Number:**

**Remove** X

**9589071052701721145084**

**Copy**

**Add to Informed Delivery (<https://informedelivery.usps.com/>)**

## Latest Update

Your item was delivered to an individual at the address at 11:18 am on November 15, 2025 in COLUMBIA, SC 29201.

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**Get More Out of USPS Tracking:**

**USPS Tracking Plus®**

### Delivered

**Delivered, Left with Individual**

COLUMBIA, SC 29201

November 15, 2025, 11:18 am

### In Transit to Next Facility

November 14, 2025

### Arrived at USPS Regional Facility

COLUMBIA SC PROCESSING CENTER

November 13, 2025, 8:43 pm

### USPS in possession of item

LEXINGTON, SC 29073

November 13, 2025, 3:22 pm

**Hide Tracking History**

[What Do USPS Tracking Statuses Mean?](https://faq.usps.com/s/article/Where-is-my-package) (https://faq.usps.com/s/article/Where-is-my-package)

**See More** 

Track Another Package

Enter tracking or barcode numbers

## **Need More Help?**

Contact USPS Tracking support for further assistance.

**FAQs**

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Dec 19 2025

SC Court of Appeals

FORM 7  
PROOF OF SERVICE OF EMERGENCY MOTION FOR  
RECONSIDERATION AND RENEWAL OF STAY PENDING

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

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Joseph Kershaw Spong, Special Referee

Case No. 2023-CP-32-02327

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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 amended *PETITION FOR REHEARING EN BANC WITH SUGGESTION FOR REHEARING EN BANC* upon counsel for Respondent by depositing the same in the United States Mail, first-class postage prepaid, addressed as follows, on December 20, 2025:

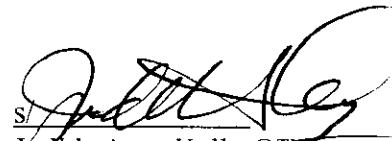
**Other Counsel of Record:**

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

December 20, 2025

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

December 19, 2025

Clerk of Court

South Carolina Court of Appeals

1220 SENATE STREET

COLUMBIA, SC 29201

**RECEIVED**  
**Dec 19 2025**  
**SC Court of Appeals**

**RE: Amended Petition for Rehearing En Banc and Clarification Regarding Transcript Submission**

**Appellate Case No. 2025-002221**

Dear Clerk,

**I. Amended Petition for Rehearing En Banc**

Please accept the enclosed Amended Petition for Rehearing with Suggestion for Rehearing En Banc, submitted to expressly identify and clarify the suggestion required under Rule 219(b), SCACR. This amended filing is intended to supersede prior versions and is submitted in good faith to ensure full procedural compliance with Rules 219 and 221, SCACR.

**II. Clarification Regarding Transcript Submission**

The transcript of the October 22, 2025 hearing was previously ordered by Respondent and filed as a certified transcript in the Court of Common Pleas. In good faith reliance on the official court record, Appellant transmitted the certified, court-filed transcript to the Appellate Court Administration Office in response to the Court's request.

Appellant did not intend to bypass Rule 207, SCACR, and relied upon the existing certified transcript already of record. Proof of service and USPS tracking confirming delivery of the transcript are enclosed.

To the extent the Court requires additional procedural clarification, Appellant respectfully requests that the existing certified transcript be accepted as satisfying the transcript requirement, or alternatively that Appellant be granted leave to cure by filing a Notice of Transcript Order nunc pro tunc.

This submission is made in good faith to cure any perceived procedural deficiency and to ensure full compliance with Rules 207, 219, and 221, SCACR.

Thank you for your assistance.

Respectfully,



Handwritten signature of Judith-Ann Kelly in black ink, featuring a large, stylized initial 'J' and a long horizontal flourish extending to the right.

Pro Se Appellant

408 Cannongate Court

Lexington, SC 29073