

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. On November 4, 2025, Appellant filed an "Emergency Motion for Writ of Supersedeas and Stay of Foreclosure Sale Pending Appeal."

On November 10, 2025, 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. Appellant petitioned for reconsideration of this court's November 10, 2025 order, a panel denied this petition on December 9, 2025.

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.

On December 1, 2025, Appellant filed a request for immediate appellate ruling on her (1) October 31, 2025 motion to stay, (2) "motion for a writ of supersedeas" filed November 4, 2025, (3) petition for reconsideration of this court's November 10, 2025 order, (4) jurisdictional challenges, and (5) challenges to the validity of the lower court's proceedings after the order of reference.

On December 3, this court denied Appellant's motion to stay, filed October 31, 2025, and explained a trust cannot be represented by someone not authorized in the practice of law and ordered Appellant, within thirty days of the date of the order, to provide this court with the name of the attorney who will be representing the trust in this matter or the appeal would be dismissed. On December 9, 2025, the court denied the petition for reconsideration of this court's November 10, 2025 order.

Because Appellant has failed to provide the court with the name of an attorney who would be representing the trust in this matter within thirty days of the December 3, 2025 order, we dismiss the appeal.¹ *See Brown v. Coe*, 365 S.C. 137, 142, 616 S.E.2d 705, 708, order clarified, 365 S.C. 664, 620 S.E.2d 323 (2005) (finding a person "not admitted to the practice of law, cannot represent [an] estate in court"); *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). The remittitur will be sent as required by Rule 221(b) of the South Carolina Appellate Court Rules.

¹ Additionally, the November 4, 2024 motion for supersedeas is moot because the court ruled on this motion when it addressed the October 31, 2025 motion to stay in its December 3, 2025 order. The court has addressed all outstanding motions in this matter. To the extent Appellant seeks a ruling on the merits prior to briefing in her December 1, 2025 request for immediate appellate ruling, that request is denied.

Kishluter

J.

FOR THE COURT

Columbia, South Carolina

cc:

Judith-Ann Kelly

Sean Matthew Foerster, Esquire

John Judson Hearn, Esquire

Matthew Todd Carroll, Esquire

FILED
Jan 06 2026
