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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
The Honorable James E. Chellis
Master in Equity for Dorchester County

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Appellate Case No. 2026-000306

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Reliance First Capital, LLC, Respondent,

v.

Nikia Renee Noisette and Arbor Oaks Homeowners Association, Defendants,

of which Nikia Renee Noisette is the Appellant and Real Party in Interest.

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**MOTION FOR RECONSIDERATION OF ORDER DENYING EMERGENCY STAY OF ENFORCEMENT**

Appellant and Real Party in Interest, Nikia Renee Noisette, respectfully moves this Honorable Court to reconsider its Order filed May 29, 2026 denying Appellant's Emergency Motion for Stay of Enforcement.

This Motion is limited to the denial of emergency stay relief.

I. **GROUNDS FOR RECONSIDERATION**

This appeal arises from the denial of Appellant's Rule 60(b)(4), SCRCP motion challenging the jurisdictional validity of the Judgment of Foreclosure and Sale entered May 23, 2024.

Rule 60(b)(4), SCRCP, provides relief from a judgment where "the judgment is void." A void judgment is not merely erroneous or voidable; it is a nullity. South Carolina courts have recognized that "[a] void judgment is one that, from its inception, is a complete nullity and is without legal effect." Thomas & Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995).

The issue presented in this appeal is whether the lower court acquired personal jurisdiction over the Real Party in Interest before entering the May 23, 2024 Judgment.

Appellant and Real Party in Interest maintains that service of process was not accomplished, that she did not receive the summons and complaint, that she did not receive notice sufficient to appear and defend before entry of the May 23, 2024 Judgment, and that the Judgment was entered in her absence before she had a meaningful opportunity to contest Respondent's standing, authority, jurisdictional foundation, accounting, evidence, and claims asserted against her property rights and protected property interests.

## II. THE ORDER MISAPPREHENDS THE SCOPE OF THE STAY REQUESTED

The Court's May 29, 2026 Order states that orders arising from Rule 60(b) motions are automatically stayed by appeal and concludes that Appellant's request was moot.

Respectfully, the automatic stay referenced in the Order applies to the January 14, 2026 Order denying Rule 60(b)(4) relief.

The automatic stay of the January 14, 2026 Order does not preserve the Real Party in Interest from continued enforcement, effect, transfer, dispossession, distribution, or reliance upon the May 23, 2024 Judgment of Foreclosure and Sale.

Appellant did not seek emergency stay relief merely to stay the January 14, 2026 Order denying Rule 60(b)(4) relief.

Appellant sought emergency stay relief directed to the May 23, 2024 Judgment of Foreclosure and Sale because that Judgment is the judgment challenged as void for lack of personal jurisdiction.

The distinction is material.

The May 23, 2024 Judgment is not merely background to this appeal. It is the judgment whose jurisdictional validity is presently before this Court.

## III. STEARNS BANK CONFIRMS THE NEED FOR EXTRAORDINARY RELIEF WHERE THE UNDERLYING JUDGMENT REMAINS ENFORCEABLE

The Court's Order cites Stearns Bank National Association v. Glenwood Falls, L.P.

Stearns Bank recognizes that a Rule 60(b) motion "does not affect the finality of a judgment or suspend its operation." Stearns Bank Nat'l Ass'n v. Glenwood Falls, L.P., 373 S.C. 331, 644 S.E.2d 793 (2007).

That principle supports Appellant's request for reconsideration.

The Order recognizes that, absent extraordinary relief, the underlying judgment may remain enforceable while the Rule 60(b) appeal proceeds.

That is precisely why Appellant sought emergency stay relief.

The underlying May 23, 2024 Judgment remains the operative instrument affecting the Real Party in Interest's property interests while this Court reviews whether that Judgment is void under Rule 60(b)(4), SCRCP.

Accordingly, the stay request was not moot as to enforcement, effect, transfer, dispossession, distribution, or reliance upon the May 23, 2024 Judgment.

## IV. THE APPEAL CONCERNS A VOID JUDGMENT CHALLENGE, NOT ORDINARY ERROR

This appeal does not present an ordinary challenge to the merits of the foreclosure.

This appeal concerns whether the May 23, 2024 Judgment was entered before service of the summons and complaint was accomplished upon the Real Party in Interest.

Rule 4, SCRCP, governs service of process. Rule 4(d)(1), SCRCP, provides that service upon an individual may be made by delivering the summons and complaint personally, by leaving copies at the individual's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein, or by delivering copies to an agent authorized by appointment or law to receive service of process.

Rule 4(g), SCRCP, requires proof and return of service. Where service is made by a person other than the sheriff or deputy, the person serving process must make an affidavit of service. The proof of service must state the date, time, and place of service and, if known, the name and address of the person actually served; if not known, the proof must state the date, time, and place of service and a description of the person actually served.

South Carolina law recognizes that Rule 4 serves at least two purposes: it confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action. Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995).

South Carolina law also recognizes that a judgment is void where a court acts without personal jurisdiction and that a court generally obtains personal jurisdiction by service of a summons. BB&T v. Taylor, 369 S.C. 548, 551, 633 S.E.2d 501, 503 (2006).

The plaintiff bears the burden to establish that the court has personal jurisdiction over the defendant. Moore v. Simpson, 322 S.C. 518, 523, 473 S.E.2d 64, 66 (Ct. App. 1996).

The Real Party in Interest maintains that service of process was not accomplished before entry of the May 23, 2024 Judgment.

The Real Party in Interest maintains that she did not receive the summons and complaint.

The Real Party in Interest maintains that she did not receive notice sufficient to appear and defend before entry of the May 23, 2024 Judgment.

The Real Party in Interest was absent when the May 23, 2024 Judgment was entered and was thereby deprived of a meaningful opportunity to contest Respondent's standing, authority, jurisdictional foundation, accounting, evidence, and claims asserted before adjudication of her property interests.

The Real Party in Interest further maintains that the factual basis asserted to support service of process was specifically challenged and rebutted, and that the affiant whose return supplied the jurisdictional foundation for the Judgment was unavailable for examination after that return was challenged.

After the jurisdictional challenge was raised, Respondent submitted a later affidavit attempting to alter or rehabilitate the description of the alleged recipient as an "unknown male." That later filing cannot retroactively supply jurisdictional facts necessary to support a Judgment already entered on May 23, 2024.

The issue is not whether Respondent may file a later affidavit. The issue is whether the original jurisdictional record established service of process before the court adjudicated the property rights and protected property interests of the Real Party in Interest. It did not.

Accordingly, the question before this Court is not whether the lower court committed ordinary legal error. The threshold question is whether the lower court possessed personal jurisdiction before adjudicating the property interests of the Real Party in Interest.

## V. DUE PROCESS AND PROPERTY INTERESTS

The Fourteenth Amendment to the United States Constitution prohibits a State from depriving any person of life, liberty, or property without due process of law.

Article I, Section 3 of the South Carolina Constitution likewise provides that no person shall be deprived of life, liberty, or property without due process of law.

Due process requires notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present objections. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950).

The United States Supreme Court has recognized that a judgment entered without constitutionally adequate notice violates due process. Peralta v. Heights Medical Center, Inc., 485 U.S. 80, 84–86 (1988).

Where protected property interests are at stake, due process requires notice reasonably calculated to apprise interested parties before those interests are affected. Mennonite Bd. of Missions v. Adams, 462 U.S. 791, 795–800 (1983).

The May 23, 2024 Judgment directly affected the property interests of the Real Party in Interest.

Because Appellant challenges whether personal jurisdiction was acquired before that Judgment was entered, the validity of the Judgment itself remains the threshold issue before this Court.

The absence of service of the summons and complaint, the absence of notice sufficient to defend, the entry of Judgment in the absence of the Real Party in Interest, and the deprivation of the opportunity to contest standing, authority, jurisdiction, accounting, evidence, and the claims asserted are not collateral matters. They go directly to due process and to whether the May 23, 2024 Judgment may stand as a valid exercise of judicial authority.

## VI. ENFORCEMENT OF THE CHALLENGED JUDGMENT

The Judgment of Foreclosure and Sale was entered on May 23, 2024.

Bankruptcy proceedings delayed enforcement of that Judgment.

The record establishes that the foreclosure sale occurred on May 6, 2025 pursuant to the authority of the May 23, 2024 Judgment.

Accordingly, the foreclosure sale and subsequent enforcement activity derive from the same Judgment whose jurisdictional validity is presently under appellate review.

The Judgment whose enforcement, effect, transfer, dispossession, distribution, or reliance is at issue is the very Judgment presently challenged as void under Rule 60(b)(4), SCRCP.

## VII. PRESERVATION OF MEANINGFUL APPELLATE REVIEW

Rule 62(g), SCRCP, provides that Rule 62 does not limit the power of the appellate court to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

Rule 241, SCACR, recognizes that appellate relief may be necessary to preserve jurisdiction of the appeal or prevent a contested issue from becoming moot.

Rule 241(c)(2), SCACR, states that in determining whether an order should issue, the court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.

Rule 241(c)(3), SCACR, further recognizes that where a stay or supersedeas is insufficient to afford complete relief, the court may order other affirmative relief upon such terms as deemed appropriate.

The Supreme Court of South Carolina has recognized that the purpose of supersedeas is to preserve the jurisdiction of the court or prevent a contested matter from becoming moot by preserving the status quo. Melton v. Walker, 209 S.C. 330, 40 S.E.2d 161 (1946).

The contested issue here is whether the May 23, 2024 Judgment is void under Rule 60(b)(4), SCRCP.

The Judgment whose enforcement, effect, transfer, dispossession, distribution, or reliance is at issue is the same Judgment whose validity is presently before this Court.

If the May 23, 2024 Judgment is ultimately determined void, the Court must retain the ability to afford meaningful and effective relief.

Continued enforcement, effect, transfer, dispossession, distribution, or reliance upon a Judgment challenged as void risks impairing meaningful appellate review before this Court determines whether personal jurisdiction was ever acquired.

## VIII. RECONSIDERATION IS WARRANTED

Reconsideration is warranted because the Emergency Motion for Stay of Enforcement was not directed toward the January 14, 2026 Order denying Rule 60(b)(4) relief alone.

The Motion was directed toward enforcement, effect, transfer, dispossession, distribution, or reliance upon the May 23, 2024 Judgment while this Court reviews whether that Judgment is void for lack of personal jurisdiction.

The automatic stay referenced in the Order does not preserve the subject matter of this appeal because the May 23, 2024 Judgment remains capable of enforcement, effect, transfer, dispossession, distribution, or reliance while its jurisdictional validity is under appellate review.

The Order denying emergency stay relief does not address this distinction.

The Order permits continued reliance upon a Judgment while the jurisdictional validity of that Judgment remains the subject of appellate review.

Because Rule 60(b)(4), SCRCP concerns void judgments, and because South Carolina law recognizes that a void judgment is without legal effect from its inception, reconsideration is warranted to preserve this Court's ability to afford meaningful appellate relief.

WHEREFORE, Appellant and Real Party in Interest respectfully requests that this Court:

1. Reconsider its Order filed May 29, 2026 denying emergency stay relief;
2. Stay further enforcement, effect, transfer, dispossession, distribution, or reliance upon the May 23, 2024 Judgment of Foreclosure and Sale pending resolution of this appeal;
3. Preserve this Court's ability to afford meaningful and effective relief should the May 23, 2024 Judgment be determined void under Rule 60(b)(4), SCRCP;
4. Preserve the property interests of the Real Party in Interest pending determination of the jurisdictional issues before this Court; and
5. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Nikia Renee Noisette
Appellant and Real Party in Interest

**Date**: June 5, 2026

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**CERTIFICATE OF SERVICE**

I certify that on this 5th day of June 2026, I served a true and correct copy of the foregoing Motion for Reconsideration of Order Denying Emergency Stay of Enforcement upon all parties or counsel of record by the following method:

[✓] U.S. Mail
[✓] Email

Served upon:

James M. Page, Esq.
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Nikia Renee Noisette
Appellant and Real Party in Interest

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Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

**Re: Reliance First Capital, LLC v. Nikia Renee Noisette**
**Appellate Case No. 2026-00306**

Dear Clerk of Court:

Please file the enclosed Motion for Reconsideration of Order Denying Emergency Stay of Enforcement in the above-referenced matter.

The $50.00 money order for the motion filing fee has been placed in the mail today.

Respectfully submitted,

Nikia Renee Noisette
Appellant and Real Party in Interest
Date: June 5, 2026