

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM CHARLESTON COUNTY

The Honorable T.J. Rode
The Honorable Dale E. Van Slambrook
Civil Action No. 2025-CP-10-03716

Appellate Case No. 2026-001122

RECEIVED

Jul 22 2026

SC Court of Appeals

Colonial Savings, F.A.,

v.

Respondent,

Elizabeth M. Dimler and Oak Bluff Homeowners
Association, Inc.,
of which Elizabeth M. Dimler is the Appellant.

Defendants

**APPELLANT'S RETURN AND MEMORANDUM IN OPPOSITION TO RESPONDENT'S
MOTION TO DISMISS APPEAL**

INTRODUCTION

Respondent asks the Court to dismiss this appeal in its entirety. The motion should be denied because it combines separate orders, separate appellate timelines, and separate questions of present appealability, and because its description of Appellant's June 2, 2026 filing is contradicted by the Court of Appeals' own written acknowledgment and stamped records.

Appellant clarifies at the outset that her Rule 59(e) Motion was directed to the March 27, 2026 substitution order, not to the January 30 or February 17 sanctions orders. Appellant therefore does not contend that the Rule 59(e) Motion tolled the time to appeal the sanctions order. The Rule 59(e) Motion is relevant to the March 27 order and to the June 24 order that disposed of that motion.

Appellant also clarifies that a real-party-in-interest issue does not constitute subject-matter jurisdiction under *Bardoon Properties, N.V. v. Eidolon Corp.*, 326 S.C. 166, 171, 485 S.E.2d 371, 374 (1997). Appellant's present argument is narrower: the March 27 order granted substitution under Rule 25(c), SCRCP, and thereby determined that Selene Finance, LP could proceed as substituted plaintiff based upon an alleged transfer of interest. That transfer determination directly affects which party may prosecute the foreclosure claim and whether the substitution was legally authorized.

At minimum, Respondent has not established a basis to dismiss every part of the appeal. If this Court concludes that any particular order is not presently appealable, dismissal should be limited to that order, without an adjudication of the underlying merits and without prejudice to review after final judgment to the extent authorized by S.C. Code Ann. § 14-3-330(1).

RELEVANT PROCEDURAL RECORD

1. On January 30, 2026, Judge T.J. Rode entered a Form 4 order addressing eleven identified motions and imposing a filing restriction requiring a \$500 bond or attorney signature before Appellant could file additional motions. The Form 4 stated that it did not end the case and that a more complete order would follow.
2. A more detailed order was entered February 17, 2026. Appellant states she received written notice of that order on February 25, 2026.
3. On March 27, 2026, Judge Dale E. Van Slambrook granted Plaintiff's Motion to Substitute Selene Finance, LP as party plaintiff. The order expressly limited itself to the narrow grounds germane to substitution and stated that it did not end the case.
4. Appellant received written notice of the March 27 order on or about April 1, 2026. On April 1, Appellant personally presented her Rule 59(e) Motion, together with her SCCA/405CP application, to the Charleston County Clerk of Court. The Clerk declined to accept the filing under the January 30 filing restriction. The Rule 59(e) Motion's certificate of service is dated April 1, 2026.
5. On May 7, 2026, Judge Rode directed the Clerk to file Appellant's Rule 59(e) materials without a filing fee and to deem the filing effective as of the April 11, 2026 postmark. Judge Rode expressly left timeliness, propriety, and merit to the judge who entered the March 27 order.
6. On May 28, 2026, the Court of Appeals directed Appellant to serve and file a motion to amend under Rule 240, SCACR, and to file a notice of appeal substantially in the format of Form 1.
7. On June 2, 2026, the Court of Appeals acknowledged receipt of Appellant's filing under the subject line: 'Motion to Amend Notice of Appeal and Amended Notice of Appeal — Colonial Savings, F.A. v. Elizabeth M. Dimler — Appellate Case No. 2026-001122 — Rule 240, SCACR.' The Court wrote, 'The Court has received your filing. A stamped copy is attached for your records.' The Court returned stamped copies of the Amended Notice of Appeal and the three attached orders.
8. On June 24, 2026, Judge Van Slambrook denied the Motion to Alter, Amend, and/or Reconsider without oral argument, stating that it was decided on the record and briefs. The order further stated that Appellant's arguments concerned the merits of the foreclosure case, which the court had specifically not addressed.
9. On July 6, 2026, Appellant filed a Second Amended Notice of Appeal to add the June 24 order.

ARGUMENT

I. RESPONDENT'S DESCRIPTION OF THE JUNE 2 FILING IS CONTRADICTED BY THE COURT OF APPEALS' OWN RECORDS.

Respondent asserts that Appellant failed to file a Rule 240 motion and that her June 2 filing merely added a reference to Form 1. The Court of Appeals' written acknowledgment proves otherwise. The subject line expressly identifies both a 'Motion to Amend Notice of Appeal' and an 'Amended Notice of Appeal' under Rule 240, SCACR. The Court then confirmed receipt of 'your filing' and returned the stamped filing documents.

The stamped Amended Notice was not a bare reference to Form 1. It identified the three orders, stated the dates Appellant received written notice, identified the parties and counsel, listed the appellate issues, contained Appellant's signature, and included a certificate of service. The three orders attached as Exhibits A, B, and C each bear the Court of Appeals' June 2 received stamp.

Rule 240(c), SCACR, requires a written motion stating its grounds, a certificate of service, a supporting memorandum with authorities, and supporting documents when the facts relied upon are not already contained in the record. Whether the combined June 2 motion-and-amended-notice filing satisfied every formal element of Rule 240(c) is a question for this Court. Respondent's categorical factual assertion that Appellant filed no Rule 240 motion is refuted by the Court's acknowledgment under the exact Rule 240 subject line.

Appellant timely responded to the May 28 deficiency instruction before the stated deadline. If the Court determines that a separate motion document or additional Rule 240(c) content was required, Appellant respectfully requests leave to cure that formal defect rather than dismissal of the entire appeal.

II. THE RULE 59(e) MOTION WAS DIRECTED TO THE MARCH 27 ORDER, AND THE JULY 6 FILING WAS TIMELY AFTER THE JUNE 24 DISPOSITION.

At the time relevant here, Rule 59(e), SCRCP, required a motion to alter or amend to be served not later than ten days after receipt of written notice of entry of the order. Appellant received the March 27 order on or about April 1, 2026. She presented and served the Rule 59(e) Motion on April 1, and Judge Rode later directed that it be filed effective April 11, 2026. Under Rule 6(a), SCRCP, the day of receipt is excluded; April 11 was within the ten-day period, and because April 11 was a Saturday, the period did not expire before the next business day.

Judge Van Slambrook subsequently considered and denied the Motion to Alter, Amend, and/or Reconsider. The June 24 order states that the motion was decided on the record and briefs without the necessity of oral argument. Thus, the post-order motion was disposed of by a written order.

Rule 203(b)(1), SCACR, provides that when a timely Rule 59 motion has been made, the time for appeal runs from receipt of written notice of the order granting or denying that motion. Appellant filed the Second Amended Notice on July 6, 2026, within thirty days of the June 24 disposition. This establishes timely action concerning the June 24 order and the March 27 substitution ruling, subject to the separate question whether those orders are presently appealable.

III. THE RULE 59(e) MOTION DID NOT TOLL THE JANUARY/FEBRUARY SANCTIONS ORDER, BUT THAT ISSUE DOES NOT SUPPORT DISMISSAL OF THE ENTIRE APPEAL.

Respondent correctly identifies a separate timeliness question concerning the January 30 and February 17 sanctions orders. Appellant's Rule 59(e) Motion challenged the March 27 substitution order; it did not challenge or toll the sanctions orders. The sanctions timeline therefore must be analyzed separately.

Appellant preserves the alternative argument that, even as to the January 30 and February 17 sanctions orders, the appellate clock did not begin until February 25, 2026. The January 30 Form 4 expressly checked the box "See attached order (formal order to follow)" and confirmed the order did not end the case. Rule 203(b)(1), SCACR provides that when a form or short order indicates a more complete order is to follow, a party need not appeal until receipt of written notice of that more complete order. The February 17, 2026, formal order was mailed February 18, 2026, and received by Appellant on February 25, 2026. The 30-day appellate deadline on the sanctions order therefore ran from February 25, 2026. Respondent's own footnote 1 concedes this rule may apply.

Respondent nevertheless overreaches by asking the Court to dismiss the appeal in its entirety. Even if the Court concludes that appellate review of the sanctions order was not timely invoked, that conclusion would concern that order only. It would not establish that the June 2 filing was nonexistent, that the July 6 filing was untimely, or that the March 27 and June 24 orders must be dismissed on the same ground.

Respondent characterizes the filing restriction as 'analogous' to contempt and as 'arguably' an injunction. The January 30 order, however, was entered as a Rule 11 sanction, did not adjudicate contempt, and expressly stated that it did not end the case. If the order is treated as an intermediate order involving the merits under § 14-3-330(1), immediate appeal is permitted but not invariably required; the statute expressly allows later review, after final judgment, of an intermediate order necessarily affecting that judgment. See *Lancaster v. Fielder*, 305 S.C. 418, 421, 409 S.E.2d 375, 377 (1991). If the Court instead treats the filing restriction as an immediately appealable injunction under § 14-3-330(4), any dismissal on timeliness grounds should be confined to that order and should not adjudicate the merits of the remaining issues.

IV. THE MARCH 27 SUBSTITUTION ORDER INVOLVES THE MERITS OF THE TRANSFER-OF-INTEREST ISSUE; ALTERNATIVELY, ANY DISMISSAL MUST BE WITHOUT PREJUDICE TO REVIEW AFTER FINAL JUDGMENT.

Rule 25(c), SCRCP, applies '[i]n case of any transfer of interest' and authorizes substitution of the person to whom the interest was transferred. By granting substitution, the March 27 order necessarily determined, for purposes of Rule 25(c), that Selene Finance, LP could proceed as the alleged transferee. That determination changed the party prosecuting the foreclosure and rejected Appellant's objection to substitution.

An intermediate order involves the merits when it finally determines a substantial matter forming the whole or part of a cause of action or defense. *Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 334–35, 426 S.E.2d 777, 780 (1993); *Jefferson by Johnson v. Gene's Used Cars, Inc.*, 295 S.C. 317, 318, 368 S.E.2d 456, 456 (1988). Appellant's objection was that no legally valid transfer of an enforceable interest had been established. The substitution order finally determined that objection for the purpose of deciding who would prosecute the action. It therefore involves the merits of the transfer-of-interest dispute within § 14-3-330(1).

Respondent argues that Appellant may raise enforcement and real-party-in-interest defenses later. The June 24 order confirms that the foreclosure merits were not adjudicated. That confirmation does not erase the legal effect of the substitution order; it establishes that the broader merits remain unresolved.

Alternatively, if this Court determines that the March 27 and June 24 orders are interlocutory and not presently appealable, the proper disposition is a limited dismissal without prejudice to review after final judgment. Section 14-3-330(1) expressly authorizes review, on appeal from final judgment, of intermediate orders necessarily affecting that judgment and not previously appealed. Such a disposition must not be treated as an adjudication of the validity of the assignments, entitlement to enforce the Note, real-party-in-interest status, or the pending trial-court motions addressing those subjects.

V. THE JUNE 24 ORDER DID NOT ADJUDICATE THE FORECLOSURE MERITS.

The June 24 order denied reconsideration but expressly stated that Appellant's arguments had bearing on the merits of the case and that those merits were specifically not addressed. The order also repeated the March 27 limitation that nothing in the substitution ruling should be construed as speaking outside the narrow grounds germane to substitution.

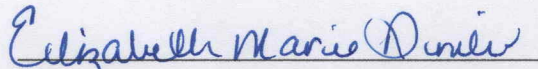
Accordingly, dismissal of this appeal cannot be used to characterize the underlying standing, enforcement, assignment, or chain-of-title issues as decided. The December 10, 2025, Motion to Strike Plaintiff's Exhibit A and the December 12, 2025, Motion to Dismiss/Motion for Summary Judgment were not among the eleven motions expressly identified in Judge Rode's January 30 Form 4, and the June 24 order states that the foreclosure merits remained unaddressed.

RELIEF REQUESTED

WHEREFORE, Appellant respectfully requests that the Court:

1. deny Respondent's request to dismiss the appeal in its entirety;
2. reject Respondent's factual assertion that Appellant failed to submit a Rule 240 motion-and-amended-notice filing on June 2, 2026;
3. recognize that the Court of Appeals acknowledged receipt of the June 2 filing and stamped the Amended Notice of Appeal and the three attached orders;
4. recognize that the Rule 59(e) Motion was directed to the March 27 substitution order and was disposed of by the June 24 order, after which Appellant filed the July 6 Second Amended Notice within thirty days;
5. if the Court determines that review of the January/February sanctions order was untimely, limit any dismissal to that order;
6. if the Court determines that the March 27 or June 24 orders are not presently appealable, dismiss only those portions without prejudice to review after final judgment and without adjudicating the underlying merits; and
7. grant Appellant leave to cure any formal deficiency the Court identifies in the June 2 or July 6 amendment filings.

Respectfully submitted,



Elizabeth Marie Dimler, Sui Juris

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North Charleston, South Carolina 29406

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Date: July 22, 2026

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Appellant's Return and Memorandum in Opposition to Respondent's Motion to Dismiss Appeal was served upon the following parties on July 23, 2026, by United States Certified Mail, return receipt requested:

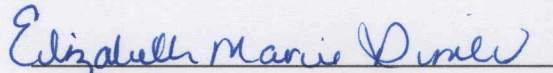
M. McMullen Taylor, Esquire
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Elizabeth Marie Dimler, Sui Juris

Date: July 22, 2026

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