

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Mikell Scarborough  
Master-in-Equity

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**RECEIVED**  
MAY 15 2019  
SC Court of Appeals

Appellate Case No. 2019-000575  
Charleston County Case No. 2010-CP-10-7838

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Ditech Financial, LLC.....Respondent,

v.

Kevin G. Snyder, individually and  
As Personal Representative of the  
Estate of Mary Snyder ..... Appellant.

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**MEMORANDUM ON APPEALABILITY**

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Appellant Kevin G. Snyder, individually and as Personal Representative of the Estate of Mary Snyder, submits the following in response to the Clerk of Court's May 6, 2019 letter:

**I. The question of appealability is now moot.**

On April 23, 2019, the Master-in-Equity issued his Order and Judgment of Foreclosure and Sale. On April 30, 2019, Snyder served an amended notice of appeal that includes this final order, which is immediately appealable. S.C. Code § 14-3-330(1). Assuming, *arguendo*, that the Master-in-Equity's March 27, 2019, order was interlocutory, it may be reviewed upon the appeal of the April 23, 2019 order. Id.; Cox v.

Woodmen of the World Ins. Co., 347 S.C. 460, 556 S.E.2d 397 (Ct. App. 2001).

**II. The Master-in-Equity's March 27, 2019, order was immediately appealable.**

Generally speaking, an order that affects an interest in property is immediately appealable, especially if there exists a risk that the underlying property could be lost. See Lebovitz v. Mudd, 289 S.C. 476, 347 S.E.2d 94 (1986) (order dissolving lis pendens immediately appealable); Va.-Carolina Chem. Co. v. Wilkins, 105 S.C. 291, \_\_\_, 89 S.E. 659, 661 (1916) (order dissolving an attachment to lumber immediately appealable); Kay v. Meadors, 216 S.C. 483, 486, 58 S.E.2d 893, \_\_\_ (1950) (order refusing to dissolve an attachment to automobile immediately appealable). Similarly, without an immediate appeal of the March 27, 2019 order, and the consequential automatic stay, the property at issue in this residential foreclosure could be lost at judicial sale and an appeal would not reinstate ownership.<sup>1</sup>

Assuming, *arguendo*, the March 27, 2019, order was not final, it does, however, affect a substantial right, as it effectively strikes Defendant's cause of action for civil compensatory contempt, and does strike the Estate of Mary Snyder's defense of the Attorney Preference Statute. See S.C. Code § 14-3-330(2). Snyder was unable to fully contest Ditech's case at the final hearing; a substantial right was affected. See McLaughlin v. Strickland, 279 S.C. 513, 309 S.E.2d 787 (Ct. App. 1983); see also Breland v. Love Chevrolet Olds, Inc., 339 S.C. 89, 529 S.E.2d 11 (2000) (immediate

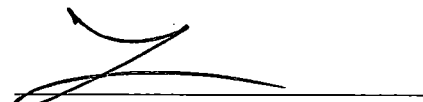
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<sup>1</sup> This fact distinguishes this case from Link v. Sch. Dist. of Pickens County, 302 S.C. 1, 393 S.E.2d 176 (1990), which did not involve a property interest. Ashenfelder v. City of Georgetown, 389 S.C. 568, 698 S.E.2d 856 (Ct. App. 2010), did involve an interest in real property, but there was no reasonable risk of the real property being lost after a final order.

appeals under section 14-3-330(2) have been allowed in situations where the substantial right could not be vindicated on appeal after the case).

**Accordingly**, Snyder asks this Court to allow this appeal to proceed and allow any questions on the immediate appealability of the March 27, 2019, order be determined on the merits after briefing or in Snyder's contemplated petition for a writ of supersedeas.<sup>2</sup>

Dated: 5/13/19



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Attorney for Appellant

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<sup>2</sup> On May 2, 2019, Snyder filed his application to the lower court as required by Rule 241, SCACR. A decision on that application is pending.

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13 May 2019

V. Claire Allen  
Deputy Clerk of Court  
S.C. Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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SC Court of Appeals

Re: *Ditech Financial, LLC v. Snyder*, 2019-000575

Dear Ms. Allen:

Please find enclosed a memorandum on appealability, as requested by your May 6, 2019 letter.

Please do not hesitate to contact me with any questions.

With Highest Regards,



Jason Scott Luck

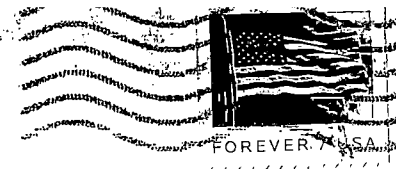
/JSL  
Enclosures

cc: Jonathan Schulz, Attorney for Respondents (via U.S. Mail) (w/enc)

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CHARLESTON SC 294

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