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January 22, 2018

Via facsimile: 803.734.1839 and U.S. Mail
The Honorable Jenny Abbott Kitchings, Clerk
The Honorable V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
JAN 22 2018
SC Court of Appeals

Re: *William F. Tomz v. Capital Funding, et al*
C/A No. 2008-CP-23-3665
Appellate Case No. 2013-002676

Dear Ms. Kitchings and Ms. Allen:

I write once again to respond to the letter dated January 19, 2018 from Attorneys Stanley T. Case and George Brandt, III in the captioned matter addressed to Deputy Clerk Allen. My letter of the same date informed you that the issues pending on the appeal are not settled. Messrs. Case and Brandt disagree in their letter. Therefore, I thought it would be helpful to write once again.

First, I represent the Appellant in the appeal and not in the underlying case, although both are part of the same civil action number and are inextricably linked together. Micah Caskey is the Appellant's attorney in the effort to achieve full and final settlement upon which a number of hearings have been held in the court below and upon which a settlement of the issues on appeal remain unresolved, to the extent as already explained in my January 19, 2018 letter.

Second, Messrs. Brandt and Case imply that that the December 1, 2017 Order, which has not been appealed, is a final Order subject to appeal. However, Judge Miller issued another Order dated December 21, 2017. Evidence that the December 1st Order is not final includes, but is not limited to, the statement on page 6:

This Court shall not rule on this matter at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

(Ex. A)

The Honorable Jenny Abbott Kitchings
The Honorable V. Claire Allen
January 22, 2018
Page two

The South Carolina Court of Appeals made this clear in its Order of January 25, 2017 in Appellate Case No. 2017-000108, where an appeal in this case was dismissed as interlocutory. (Ex. B) Finally, Judge Miller's Order of December 21, 2017 has statements that indicate it is not a final order:

The Court has directed both parties, as named insureds under the policy, to obtain that information from State Farm as soon as possible. Once obtained, the parties are to provide the Court with unredacted complete copies. The Court will reconvene a hearing at that time, if necessary.
(Ex. C)

The lower court then set another hearing on January 8, 2018 which was postponed due to the fact that Mr. Field's counsel, Mr. Caskey, is a member of the Legislature and Chief Justice Beatty's Order of May 19, 2017 protects Mr. Caskey from appearing from the first Tuesday in January until July 31. (Ex. D).

Judge Miller then circulated an email in which he stated that he plans to monitor the Legislative schedule and call the case once again "...during the first week that the legislature is not called to Columbia." (Ex. E)

Therefore, the issues pending in this appeal (including that the lower court judge should be recused) are not settled. The filing of a Notice of Appeal at this time from either the December 1, 2017 Order or the December 21, 2017 Order is not necessary because neither is a final Order as to all issues in the pending appeal. I write once again in order to fully explain the status of this matter at this time. I would be happy to answer any questions the Court may have.

Sincerely,



Bradford N. Martin

BNM/pm

cc: George Brandt, Esq. via facsimile: 864.582.2927 and US Mail
Stan Case, Esq. via facsimile: 864.585.2034 and US Mail
Micah Caskey, Esq. via email and U.S. Mail
The Hon. Edward W. Miller via facsimile: 864.233.4173 and US Mail

Ex. A
ELECTRONICALLY FILED - 2017 Dec 01 10:36 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

RECEIVED
ORDER
JAN 22 2018
SC Court of Appeals

This matter comes before me upon to address several motions and matters currently pending before the Court. By and through its court-appointed receiver ("Receiver"), Capital Investment Funding, LLC ("CIF") has filed the following motions:

1. Plaintiffs' Motion to Approve Class Settlement and ratify the Global Settlement Agreement (GSA) by the Class ("Motion To Approve GSA") dated 3/8/2017;
2. Plaintiffs' Amended Motion to Defendant Arthur Field Compelling Compliance To The Terms of the Global Settlement Agreement ("Motion To Comply-Field (Restitution)"), filed August 18, 2017. This motion alleged that Defendant Field (hereinafter "Defendant Field") has failed to fulfill his obligation under the terms of the GSA to schedule a hearing to modify his restitution and parole terms ("Restitution Hearing") and sought this Court to direct Defendant Field to have the Restitution Hearing promptly, or in the alternative, find that Defendant Field has willfully failed to comply with the material terms of the GSA and sanction him accordingly.
3. Plaintiffs' Motion As To Allyson Field, Kathryn Taillon & Arthur Field To Comply With The Terms of the Global Settlement Agreement ("Motion To Comply-Field (Insurance)"), filed July 26, 2017. This motion alleged the property located at 310 Thornblade Blvd., Greer, South Carolina ("Thornblade Property"), which is a material component of the GSA, incurred damaged from a hail storm that occurred in March 2017, and sought this Court to: (a) declare these parties are responsible for restoring the Thornblade Property to the condition existing at the time the GSA was executed; (b) order repairs to the Thornblade Property be conducted with this Court's oversight to ensure proper conduct, with due haste to minimize any additional consequential damages; (c) order the named parties to immediately deliver all insurance proceeds to CIF counsel, to be held in escrow, and require all receipts and disbursements of insurance proceeds related to such damage and repairs be conducted with this Court's oversight to ensure proper application of funds; and (d) declare that CIF is not

responsible for paying any deductible amount of the insurance policy; and sought appropriate sanctions and attorney fees; and

4. Plaintiffs' Motion to Kirsten White To Comply with the Terms of the Global Settlement Agreement Executed on February 24, 2017 ("Motion To Comply-White"), filed July 26, 2017. This motion sought to compel Kirsten White to comply with the Global Settlement Agreement ("GSA") regarding the insurance, inspection and sale of her residence and sought appropriate sanctions and attorney fees.

Each of these matters were addressed in a hearing held by this Court on November 27, 2017. The following counsel appeared on behalf of the following parties:

Capital Investment Funding:

George Brandt, III, Esq.

Stanley T. Case, Esq.

Rodney F. Pillsbury, Esq.

Arthur M. Field, Jr.:

Micajah P. Caskey, Esq.

Bradford Martin, Esq.

Allyson Field

Luke Burke, Esq.

Kathryn Taillon

Jeffrey P. Dunlaevy, Esq.

Regarding the Motion To Approve GSA

Upon its approval, the GSA settles all matters, claims and litigation recited therein between and among the parties to the agreement. By its terms the GSA also resolves matters pending in this case relate to multiple complaints as to Arthur Field's willful violations of the terms of the original Mediated Global Settlement Agreement, memorialized by order of this Court on August 24, 2009, including:

1. Orders and Rules to Show Cause dated 4/1/2013, 8/19/2013 and 10/1/2013 and rulings thereon, and appeal therefrom pending in the South Carolina Court of Appeals (Appellate #2013-002676);
2. Order and Rule to Show Cause dated 9/8/2016 and proceedings thereon;
3. Order to Produce Records dated 12/15/2016 and Supplemental Order dated 1/12/2017 and any and all subsequent proceedings thereon; and
4. Defendant Arthur Field's Motion to Dismiss all prior or pending Orders relating to Rules to Show Cause by Defendant Field dated 3/10/2017 and all subsequent proceedings thereon.

Counsel for CIF noted to this Court that a similar hearing on these matters was held by this Court on September 5, 2017. At that time, this Court:

1. Directed Defendant Field to request a hearing to take place on his motion to modify his restitution in the pending criminal case: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (Ct of General Sessions, Anderson County, SC);
2. Ordered Defendants Arthur Field, Kathryn Tailon and Allyson Field to complete all requirements regarding the 310 Thornblade Blvd. property; and
3. Ordered Defendant Kirsten White to comply with all outstanding the terms and obligations that pertained to her and her residence at 5 Aldgate Way, Greer, SC.

Counsel for CIF then updated the Court on the status of compliance with the GSA and with previous orders of this Court. The restitution hearing took place before Judge Cordell Maddox on November 1, 2017. The parties to that proceeding reached an agreement that was put on the record. This Court then confirmed that Judge Maddox had this day signed a written order memorializing those terms. Counsel for CIF then proffered an addendum to the GSA that reflects and incorporates the changes to the GSA affected by the matters agreed to in Judge Maddox's order. [Exhibit 1, Addendum] Upon inquiry of this Court, there were no objections to the Addendum.

This Court finds and concludes that, in accordance with the requirements of South Carolina law, the "Addendum to the Global Settlement Agreement" ("Addendum") presented to this Court at the hearing on November 27, 2017, properly incorporates the matters addressed by Judge Maddox in the above-referenced order. This Court further finds that the Addendum modifies the GSA solely to the issue of restitution order to be paid by Arthur Field in the matter: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (State Grand Jury of South Carolina), and does not affect any other party to the GSA other than Arthur Field. This Court further finds the amendments to the GSA as set forth in the Addendum are acceptable.

Ex. A

ELECTRONICALLY FILED - 2017 Dec 01 10:36 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

This Court notes that in the hearing of the Motion to Approve the GSA held on March 27, 2017, this Court took the matter under advisement and deferred a decision thereon. Since then, over the course of the last seven months, this Court has reflected and deliberated over the many comments made by Class members, who lost significant sums of money from their investment in CIF, and over the Receiver's testimony and recommendations. With the amendments to the GSA as set forth in the Addendum, this Court now concludes and finds that approval of the GSA is in the best interest of the Class. **Accordingly, this Court hereby approves the GSA as amended by the Addendum, and Orders that all parties to the GSA have been and shall continue to be duty bound to fulfill obligations set forth therein.**

This Court also reminds all parties to the GSA that this Court found and stated, in its Order dated October 25, 2017 the following:

1. The language of the GSA is clear, concise, specific, and unambiguous.
2. Section 14.I.vi. of the GSA specifically binds all parties to cooperate with each other fully, timely and without delay.
3. Section 14.I.vii. states emphatically that **TIME IS OF THE ESSENCE.**

This Court further reminds all parties to the GSA that, pursuant to Section 14.I.ii. of the GSA, this Court retains sole and exclusive jurisdiction relating to all matters of enforcement or non-performance of the GSA. This Court hereby notifies all parties to the GSA that this Court will enforce strict and timely adherence and performance by all parties to the GSA.

This Court further orders that all parties to the GSA sign the Addendum. **Due to the time deadlines set forth within the GSA, the Court directs all parties (or their counsel) to execute an original signature and their initials to the Addendum and to deliver such to CIF Attorney Rodney Pillsbury no later than 5:00 PM (EST) Thursday, November 30, 2017; provided however, that if any party is unable to deliver the original executed Addendum by that date and time, then such party shall scan/email or fax the executed Addendum to CIF Attorney**

Rodney Pillsbury [email: Rodney@pillsburyfirm.law] or [fax: 864-370-0599] by such time and then deliver the original executed Addendum to CIF Attorney Rodney Pillsbury's office: Pillsbury Law Firm, LLC, 25 Mills Ave., Greenville SC 29605 no later than 5:00 PM (EST) Wednesday, December 6, 2017.

Regarding Plaintiffs' Motion To Comply-Field (Restitution)

Counsel for CIF noted that, while this Court heard this Motion on September 5, 2017 and issued its Order on October 25, 2017 mandating Defendant Field to schedule the restitution hearing, this Court did not address Plaintiff's specific requests contained in the Motion seeking sanctions and attorney fees as a result of the Defendant Field's unreasonable delays and failure to timely schedule the restitution hearing as required under the GSA. This Court shall not rule on this request at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

Regarding Plaintiffs' Motion To Comply-Field (Insurance)

Counsel for CIF noted that, while this Court heard this Motion on September 5, 2017 and issued its Order on October 25, 2017 mandating delivery of insurance information to CIF and cooperation between all parties, this Court did not address Plaintiff's specific requests contained in the Motion seeking sanctions and attorney fees as a result of the defendants' unreasonable delays and failure to act as required under the GSA. Counsel for CIF further noted that the matter of the insurance proceeds is still unresolved as the defendants are still holding the insurance proceeds. Upon this Court's inquiry, Mr. Luke Burke, representing defendant Allyson Field, acknowledge that his firm did hold the insurance proceeds in its escrow account and has not delivered these funds to CIF because CIF has not demanded the funds. Counsel for CIF noted that no demands are necessary because the GSA explicitly states that all insurance proceeds are to be paid to CIF.

Upon further inquiry of the insurance matter, Field's counsel voluntarily proffered Defendant Arthur Field to give testimony on the matter.

Once sworn, Defendant Field provided a timeline of events. Other persons present took issue with the sequence and substance of Defendant Field's compliance with section 14 of the GSA as it pertains to naming CIF as an additional insured; his submitting a claim for property damage from a hail storm; his depositing of the insurance proceeds in his own bank account; and his subsequently transferring those funds to Allyson Field's counsel in two separate installments.

The Court is concerned about the veracity of the sworn testimony provided by Arthur Field on this matter. This Court ordered from the bench that the defendants' counsel obtain all of the insurance records from the insurance company and deliver such information to this Court by noon, on Monday, December 4, 2017. This Court shall review this insurance information and compare the information to the testimony provided by Defendant Field. This Court shall not rule on this matter at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

Regarding Plaintiffs' Motion to Compel Kirsten White

On July 26, 2017 Plaintiffs filed a motion to compel Kirsten White to comply with the terms and obligations of the GSA. Since executing the GSA in February 2017, Defendant White has failed to make her home available for inspection and has failed to contract with a real estate agent to list her house for sale, despite her explicit obligations to do so under the terms of the GSA. At the September 5, 2017 hearing, the Court examined Ms. White about her non-compliance. The Court rejected her excuses and explanations and ordered her to comply with the GSA – namely, to make the house available inspection; to provide the Receiver with all documentation related to homeowner's insurance coverage and, if applicable, all documentation related to

insurance claims for repairs; and to execute an agreement to sale the home with a licensed real estate agent of her choosing.

At the hearing on November 27, 2017, counsel for CIF informed the Court that every attempt to contact Defendant White via telephone, email, letter and text have has been ignored. Despite receiving notice of the hearing,¹ Defendant White failed to appear.

As a threshold matter, the Court grants Plaintiffs' motion to compel filed on July 26, 2017. Pursuant to Rule 37(a)(4) of the South Carolina Rules of Civil Procedure, the Court orders that Defendant White shall pay the attorney's fees and costs associated with the filing of Plaintiffs' motion. The Court directs counsel for Plaintiffs to file a petition for fees within ten (10) days of entry of this order, and the court will schedule a hearing at the appropriate time. Any fees and costs awarded shall be deducted from any sums otherwise due to Defendant White from the proceeds of the sale of the 5 Aldgate Way property, as set forth in the GSA.

In addition, based upon the Court's direct inquiry with Defendant White and her deliberate refusal to comply with the terms of the GSA which she freely and voluntarily negotiated and executed on her on accord, the Court finds Defendant White to be in willful contempt of her obligations of the GSA and of the orders of this Court, as memorialized in the order entered October 25, 2017. It should be noted that Defendant White has admitted in a prior hearing that she provided false and misleading deposition testimony regarding to the disappearance of the original noteholder files.

In the September 5, 2017 hearing, Defendant White indicated she would cooperate fully with CIF's counsel to facilitate the inspection and sale of the home. CIF's counsel reports that despite numerous attempts via every means possible, Defendant White has refused to respond, much less cooperate. The Court finds Defendant White to be in willful contempt of this court.

¹Arthur Field testified under oath that he sent a text to Kirsten White on November 26, 2017, reminding her about the hearing held on November 27, 2017.

Section 14 of the GSA addresses the exchanges of title and mortgages among the parties. Under Section 14(D)(viii)(d), Defendant White is scheduled to receive 80% of the net proceeds after satisfying CIF's mortgage and all other liens and expenses identified therein. Defendant White may purge herself of the finding of contempt with the payment of 10% of the net proceeds. Thus, under Section (D)(viii)(d), if Defendant White wishes to clear the finding of contempt, Defendant White will receive 70% of the net proceeds. The remaining 30% will go to CIF.

If Defendant White elects not to dissolve the contempt finding in this matter, or if this obligation is not settled within five (5) business days of the closing, the Court will hold a separate hearing to determine other penalties and/or punishments.

It is so ordered, this ____ day of November, 2017.

The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit

Ex. A
ELECTRONICALLY FILED - 2017 Dec 01 10:36 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665



Greenville Common Pleas

Case Caption: William F Tornz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

s/ Edward W. Miller

Ex. B

The South Carolina Court of Appeals

William F. Tomz and Francis W. Tomz, individually and
as class representatives, Respondents,

v.

Capital Investment Funding, Arthur M. Field, Appellants.

Appellate Case No. 2017-000108

ORDER

This appeal arises out of circuit court orders directing Appellant Arthur M. Field to produce a privilege log regarding documents he claims contain privileged communications. We dismiss this appeal as interlocutory. *See Tucker v. Honda of S.C. Mfg., Inc.*, 354 S.C. 574, 577, 582 S.E.2d 405, 406 (2003) ("[A]n order compelling discovery does not ordinarily involve the merits of the case and may not be appealed."). The remittitur will be sent pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.


_____, J.
FOR THE COURT

Columbia, South Carolina

cc:

Micajah Pickett Caskey, IV, Esquire

George Brandt, III, Esquire

Stanley T. Case, Esquire

Bradford Neal Martin, Esquire

FILED

January 25, 2017

Ex. C

ELECTRONICALLY FILED - 2017 Dec 21 10:07 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

ORDER

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JAN 22 2018

SC Court of Appeals

This order memorializes all rulings from the bench regarding the Hearing on December 7, 2017 in the above-captioned matter:

By order entered December 1, 2017, this Court has granted Plaintiffs' motion to approve the settlement of the Global Settlement Agreement ("GSA"), filed March 8, 2017. The GSA has been approved and its terms are now an order of the Court. Accordingly, all deeds shall be immediately recorded. All monies and payments due under the GSA shall be made and transferred in accordance with the respective terms of the GSA. CIF represented to the Court that it discharged its *lis pendens* on the St. Augustine property as required by the GSA. The appropriate orders of dismissal shall be filed in the respective courts as it pertains to the parties of the GSA.

Attorney for Allyson Field had tendered the insurance proceeds from State Farm Insurance for the roof damage claim at the Thornblade property. However, counsel for Ms. Field conditioned acceptance of the insurance funds. The court finds those conditions to be invalid. CIF's Receiver may deposit those funds into the CIF account without condition or limitation.

Insurance Claim Documentation for Thornblade Property

At the November 27, 2017 hearing, the Court ordered Mr. Field's counsel to obtain the records from the insurance company regarding the damages claim filed this spring to verify the statements Mr. Field gave under oath about that claim and the handling of insurance matters. Both

counsel for CIF and counsel for Mr. Field reported that the insurance carrier (State Farm) had not produced the requested information.

The Court has directed both parties, as named insureds under the policy, to obtain that information from State Farm as soon as possible. Once obtained, the parties are to provide the Court with unredacted complete copies. The Court will reconvene a hearing at that time, if necessary.

Contempt of Court for Kirsten White

In its December 1, 2017 order, the Court found Ms. White to be in contempt of court for her deliberate refusal to comply with the terms of the GSA. Ms. White appeared at the December 7, 2017 hearing. She acknowledged that she had received notices of the November 27, 2017 hearing. She provided no acceptable excuse for not attending it.

At the December 7, 2017 hearing, she acknowledged that she is obligated to vacate the premises on or before December 31, 2017.

Ms. White has been under obligation to permit CIF to inspect the premises since March 2017. Thus far, she has willfully refused to cooperate in permitting this to happen. At the hearing, these parties agreed that the inspection will occur on December 15, 2017 at 10:00 AM. Should the court learn that Ms. White has in any way obstructed this inspection from moving forward, the Court admonished Ms. White that a sheriff's deputy will be sent to bring her to court to explain why.

CIF stated that the few checks it had received from Ms. White for her monthly payment obligation under the GSA could not be negotiated because Ms. White made them out jointly to CIF and Kathryn Taillon. The Court orders that any amount Ms. White owes for the monthly payment obligations under the GSA will be deducted from her net proceeds she might otherwise be due from the sale of the house (in addition to the attorney's fees and penalties set forth in this

Court's order of December 1, 2017). The Court will address the amount of these fees and costs at its next hearing. CIF is directed to file its petition within ten (10) days of entry of this order.

Miscellaneous Items:

Regarding the entertainment royalty agreement, Arthur Field and CIF presented proposed agreements to each other. As of the hearing, no agreement had been finalized. The Court directs these parties to finalize an agreement on or before December 31, 2017. If additional time is needed, either party may file a request with the Court.

Also, under the terms of the GSA, Arthur Field understands that he is obligated to appear in this Court to testify under oath about the financial statement he has provided to CIF. Mr. Field is responsible for his own expenses and costs associated with traveling to the hearing. If the parties cannot agree to a time and date for this hearing, either party may notify the court about scheduling issues.

Any signatures missing from the Addendum attached to the December 1, 2017 order shall be provided to CIF no later than December 13, 2017. If any signatures have not been received by CIF by that time, CIF is instructed to notify this Court of such so that the matter may be dealt with accordingly.

It is so ordered, this ____ day of December, 2017.

The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit

Ex. C
ELECTRONICALLY FILED - 2017 Dec 21 3:07 PM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	C.A. No.: 2008-CP-23-3665
COUNTY OF GREENVILLE)	
)	
William F. Tomz and Francis W. Tomz, Individually and as Class Representatives Plaintiffs,)	CERTIFICATION OF CONSULTATION
)	
vs.)	
)	
Capital Investment Funding, LLC, and Arthur M. Field, Defendants.)	
)	
)	
)	

Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, counsel certifies that consultation would serve no useful purpose.

BUTLER, MEANS, EVINS & BROWN, PA

/s/ Stanley T. Case
Stanley T. Case
SC Bar No. 001158
P.O. Drawer 451
Spartanburg, SC 29304
Office: 864-582-5630
Facsimile: 864-585-2034
scase@butlemeans.com

HENDERSON, BRANDT & VIETH, PA.

/s/ George Brandt, III
George Brandt, III
SC Bar No. 00855
360 E. Henry St., Suite 101
Spartanburg, SC 29302
Office: 864-583-5144
Facsimile: 864-582-2927
gbrandt@hbvlaw.com

Attorney for Plaintiffs

December _____, 2017
Greenville, South Carolina

Ex. C ELECTRONICALLY FILED - 2017 Dec 21 3:07 PM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

s/ Edward W. Miller



South Carolina
JUDICIAL DEPARTMENT

Ex. D

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2017-05-19-01

The Supreme Court of South Carolina

RE: Lawyer-Legislator Protection During the Legislative Session

ADMINISTRATIVE ORDER

On May 18, 2017, an Administrative Order regarding "Lawyer-Legislator Protection during the Legislative Session" was issued. That order is withdrawn and this order is substituted in its place.

This order supersedes the April 21, 2010 and June 21, 2013 orders issued by the Chief Justice concerning lawyers who serve as members of the General Assembly and who at times are unable to appear in any court, deposition, or administrative hearing during the legislative session.

I find that lawyers who serve as members of the General Assembly provide a great service to the citizens of this State and, at times, are unable to appear for trials, hearings, or depositions during the legislative session. I further find that these lawyer-legislators are often threatened with sanctions for their inability to appear when requested.

I further find that the uncertainty of the availability of lawyer-legislators is disruptive to the orderly and efficient use of court time and resources. I further find that the inflexible insistence that lawyer-legislators be available whenever the court or lawyers request their presence is not only detrimental to the clients of the lawyer-legislators but also creates unnecessary angst for all concerned.

Therefore, IT IS ORDERED that lawyers who are members of the General Assembly are granted absolute protection from being called to a deposition, or a trial or hearing in any court of this State or any administrative tribunal of this State from the first Tuesday in January until July 31. This protection extends to those times when the General Assembly votes on vetoes of the General Appropriation bill. Further, lawyer-legislators are similarly protected during any special or called session after the regular session ends. Hearings, trials, or depositions may be scheduled during these time periods if the lawyer-legislator consents to the hearing, deposition, or trial being set and is given proper notice. A decision to waive protection to appear at a particular hearing shall not be interpreted as a general waiver of the absolute protection granted herein for that case or any cases or hearings.

This matter will be continuously monitored for compliance and any necessary adjustments.

This order takes effect immediately and remains in effect unless amended or rescinded by the Chief Justice.

s/Donald W. Beatty
Donald W. Beatty
Chief Justice of South Carolina

May 19, 2017
Columbia, South Carolina

Ex. E

From: Miller, Edward W. [mailto:emiller@sccourts.org]
Sent: Monday, January 8, 2018 2:30 PM
To: micah@caskeylawfirm.com
Cc: Jerry Saad <jerrysaad@saadandmanios.com>; Buck Brandt <gbrandt@hbvlaw.com>; 'scase@butlermeans.com' <scase@butlermeans.com>; Rodney Pillsbury (Rodney@PillsburyFirm.law) <Rodney@PillsburyFirm.law>; Bruce Bannister (bbannister@bannisterwyatt.com) <bbannister@bannisterwyatt.com>; jeff@stephensonmurphy.com; Thomas L. Stephenson (tom@stephensonmurphy.com) <tom@stephensonmurphy.com>; Brad Martin <bmartin@bnmlaw.com>; Miller, Edward W. Law Clerk (Rebecca Jennings) <emillerlc@sccourts.org>
Subject: Tomz v. CIF hearing of 1/8/18

Mr. Caskey and all others copied on this mail,

I have been provided with e-mail exchanges concerning today's aborted hearing in the above matter.

I find it inexcusable that notice of assertion of the blanket protection provided to "Lawyer-Legislators" by the SC Supreme Court Administrative Order, dated May 19, 2017, was not provided until 7:50 a.m. on today's date. It is particularly disturbing in light of the e-mail communications between counsel concerning document exchange, dated December 29, 2017 and January 5, 2018.

The purpose of the Administrative Order is to protect those individuals from court appearances which would conflict with legislative duties. I set the hearing today to avoid any such conflict, the legislature has not been convened for 2018. The Order is intended as a shield and it is not intended to be used to avoid court obligations which do not conflict with the legislative session.

I will monitor the Legislative schedule and I will set this hearing during the first week that the legislature is not called to Columbia.

Edward W. Miller

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

# BRADFORD NEAL MARTIN & ASSOCIATES, PA

ATTORNEYS AT LAW

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## RECEIVED

JAN 22 2018

SC Court of Appeals

# Fax

**To:** The Hon. Jenny Abbott Kitchings  
The Hon. V. Claire Allen  
South Carolina Court of Appeals  
Facsimile 803.734.1839

**From:** Bradford N. Martin, Esq.

---

**cc:** The Hon. Edward W. Miller  
Facsimile: 864.233.4173

George Brandt, III, Esq.  
Facsimile 864. 582.2927

Stan Case, Esq.  
Facsimile 864.585.2034

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**Date:** January 22, 2018

---

**Phone:** **Pages:** 20 including cover

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**Re:** Appeal of Tomz v. Capital Investment Funding  
C/A No.: 2008-CP-23-3665  
Tracking No. 2013-002676

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