

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

JAN 31 2018

SC Court of Appeals

ORDER

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.

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The Honorable Edward W. Miller  
Presiding Judge, 13<sup>th</sup> Judicial Circuit

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.

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December \_\_\_\_\_, 2017  
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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