



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPERIOR COURT

OMNIBUS CALENDAR ASSIGNMENT FORM

154585

<input type="checkbox"/> Providence/Bristol County <input checked="" type="checkbox"/> Kent County <input type="checkbox"/> Washington County <input type="checkbox"/> Newport County	
The Washington Trust Company	CASE NUMBER KC2016-0415
VS. IHLEFELD PROPERTIES, et. al.	
CALENDAR TYPE MUST BE SELECTED FOR SCHEDULING PURPOSES	
<input type="checkbox"/> FORMAL SPECIAL CAUSE CALENDAR <input checked="" type="checkbox"/> BUSINESS CALENDAR <input type="checkbox"/> DISPOSITIVE MOTION CALENDAR	

FORMAL SPECIAL CAUSE AND BUSINESS CALENDAR

- ☐ AGENCY APPEAL
- ☐ ASSESSMENT OF DAMAGES
- ☐ APPOINTMENT OF A SPECIAL MASTER
- ☐ CONFIRM ARBITRATION
- ☐ DECLARATORY JUDGMENT
- ☐ ENTRY OF JUDGMENT
- ☐ EVIDENTIARY HEARING
- ☐ FIRST AND FINAL REPORT
- ☐ FORECLOSURE OF RIGHT OF REDEMPTION
- ☐ FRIENDLY SUIT
- ☐ APPOINTMENT OF PERMANENT RECEIVER
- ☐ MOTION TO ATTACH
- ☐ MOTION FOR ATTORNEYS FEES
- ☐ MOTION TO COMPEL RECEIVER
- ☐ MOTION TO DEFAULT
- ☐ MOTION FOR ENTRY OF FINAL JUDGMENT
- ☐ MECHANIC'S LIEN
- ☐ MOTION FOR APPROVAL
- ☐ MANDATORY INJUNCTION
- ☐ MOTION TO ADJUDGE IN CONTEMPT
- ☐ OTHER FORMAL MATTER (EXPLAIN) _____

- ☐ MOTION FOR PROTECTIVE ORDER
- ☐ MOTION TO RECONSIDER
- ☐ ORAL PROOF OF CLAIM
- ☐ PETITION TO ALLOW SECURED CLAIM
- ☐ PETITION TO APPOINT TEMPORARY RECEIVER
- ☐ PROOF OF CLAIM
- ☐ PETITION TO ENFORCE
- ☐ PETITION FOR INSTRUCTIONS
- ☐ PRELIMINARY INJUNCTION
- ☐ APPOINTMENT OF PERMANENT SPECIAL MASTER
- ☐ PETITION TO RECLAIM
- ☐ PARTITION PROCEEDINGS
- ☐ PETITION TO SELL
- ☒ RECEIVERSHIP PROCEEDINGS
- ☐ SHOW CAUSE HEARING
- ☐ SUPPLEMENTARY PROCEEDINGS
- ☐ TITLE PROCEEDINGS
- ☐ TEMPORARY RESTRAINING ORDER
- ☐ TRUSTEE PROCEEDINGS
- ☐ VACATE ARBITRATION
- ☐ WRIT OF MANDAMUS
- ☐ WRIT OF REPLEVIN

☒ OTHER BUSINESS MATTER (EXPLAIN) Secured
Party's Motion to Allow Secured Claim

RECEIVED
SECRETARY OF STATE
CORPORATIONS DIV
JUN - 8 AM 11:30

If you require witnesses, state the estimated time frame of said hearing and attach a witness list and expected testimony to this form.

DISPOSITIVE MOTION CALENDAR

- | | |
|--|--|
| <input type="checkbox"/> MOTION TO DISMISS, UNDER RULE 12 | <input type="checkbox"/> MOTION FOR PARTIAL SUMMARY JUDGMENT |
| <input type="checkbox"/> MOTION FOR ENTRY OF JUDGMENT ON PLEADINGS | <input type="checkbox"/> MOTION FOR SUMMARY JUDGMENT |
| <input type="checkbox"/> OTHER DISPOSITIVE MOTION (EXPLAIN) _____ | |

HEARING DATE: June 18, 2018 at 9:30 a.m.

APPROVED BY: Already assigned to calendar

Failure to fill out this form properly may result in your hearing date not being approved.

Signature of Attorney or Self-represented Litigant
/s/ Americo M. Scungio

Address:
167 Main Street, Westerly, RI 02891

Rhode Island Bar Number: 2771

Office Telephone Number: 401-596-0151

Date: 6/7/18

HEARING DATE: June 18, 2018 AT 9:30 A.M.

STATE OF RHODE ISLAND
KENT, SC.

SUPERIOR COURT

THE WASHINGTON TRUST COMPANY

vs.

KC2016- 0415

**IHLEFELD PROPERTIES, LLC,
DONALD F. IHLEFELD as TRUSTEE
OF THE DONALD F. IHLEFELD REVOCABLE TRUST,
DONALD F. IHLEFELD as TRUSTEE OF THE
BEVERLY A. IHLEFELD FAMILY TRUST,
THE DONALD FL IHLEFELD REVOCABLE TRUST &
THE BARBARA A. IHLEFELD FAMILY TRUST**

**THE WASHINGTON TRUST COMPANY'S MOTION TO ALLOW SECURED CLAIM
TO ESTABLISH PRIORITY OF LIEN, FOR ORDER TO ALLOW CREDIT BIDDING
AND FOR ORDER DIRECTING DISBURSEMENT OF PROCEEDS**

Now comes The Washington Trust Company, ("WTC"), a secured claimant in the above-referenced Receivership Estate and states as follows:

1. WTC has filed with the Receiver a Proof of Secured Claim in the amount of Four Hundred Fifty-Six Thousand Four Hundred Fifty-Three and 93/100, (\$456,453.93) Dollars as of December 15, 2016. The proof of claim describes in detail the amounts owed by the Defendants and the properties of the Defendants, located at 2077 and 2083 Elmwood Avenue, Warwick, Rhode Island to WTC pursuant to the loan obligations which were secured by certain Mortgage Deeds, Security Agreements and Assignments of Leases and Rents. The Collateral Interests being evidenced by the following collateral documents:

- a. Mortgage, Security Agreement and Assignment of Leases and Rents from Ihlefeld Properties, LLC to The Washington Trust Company in the amount of \$375,000.00 recorded in the City of Warwick, Rhode Island Land Evidence Records in Book 6468 at page 1 on January 30, 2007 at 2:49 p.m., as to the property located at 2077 Elmwood Avenue, Warwick, Rhode Island.

- b. Assignment of Leases and Rents from Ihlefeld Properties, LLC, to The Washington Trust Company to secure the guaranty of the obligations of Alhambra Building Co. Inc. in the amount of \$350,000.00 recorded in the Land Evidence Records of the City of Warwick, Rhode Island in Book 6468 at page 19, on January 30, 2007 at 2:49 p.m. as to property located at 2077 Elmwood Avenue, Warwick, Rhode Island.
- c. A Uniform Commercial Code Financing Statement from Ihlefeld Properties, LLC to The Washington Trust Company in and to all personal property of Ihlefeld Properties, LLC to secure the obligations of Ihlefeld Properties, LLC recorded in the City of Warwick, Rhode Island Land Evidence Records in Book 6468 at page 33 on January 30, 2007 at 2:49 p.m.
- d. Mortgage from Ihlefeld Properties, LLC to The Washington Trust Company secure the guaranty of the obligations of Alhambra Building Co. Inc. in the amount of \$350,000.00 recorded in the City of Warwick, Rhode Island Land Evidence Records in Book 6468 at page 35 on January 30, 2007 at 2:50 p.m. as to property located at 2077 Elmwood Avenue, Warwick, Rhode Island, and;
- e. Mortgage from Donald F. Ihlefeld, Trustee of the Donald F. Ihlefeld Revocable Trust and Donald F. Ihlefeld as Trustee of the Barbara A. Ihlefeld Family Trust to The Washington Trust Company to secure the limited guaranties of the obligations of Ihlefeld Properties, LLC in the amount of \$375,000.00 and the obligations of Alhambra Building Co., Inc. in the amount of \$350,000.00 recorded in the Land Evidence Records of the City of Warwick, Rhode Island in Book 8293 at page 181 on December 22, 2014 at 12:50 p.m. as to the property located at 2083 Elmwood Avenue, Warwick, Rhode Island.

All of the above documents are hereinafter referred to as the " Exhibit A Collateral Documents" Copies of all collateral documents are attached hereto in the Exhibit labeled "Exhibit A Collateral Documents".

2. As set forth in the Proof of Claim WTC asserts that the Defendants real estate and fixtures located at both 2077 and 2083 Elmwood Avenue, Warwick, Rhode Island are collateral security for the obligations of the Defendants to WTC in the sum of Four hundred Fifty-Six Thousand Four Hundred Fifty-Three and 93/100, (\$456,453.93) Dollars as of

December 15, 2016, plus accruing interest and costs (including attorney's fees).

3. WTC has attached to this motion as Exhibit B true copies of the following documents which are secured by the Collateral Documents and which form the basis of its secured claim:

- a. Promissory Note in the amount of \$375,000.00 of Ihlefeld Properties, LLC to The Washington Trust Company.
- b. Line of Credit Promissory Note in the amount of \$350,000.00 of Alhambra Building Co., Inc., dated January 30, 2017 in favor of The Washington Trust Company and the Guaranty of Ihlefeld Properties, LLC of the obligations of Alhambra Building Co, Inc. pursuant to the promissory note.
- c. Forbearance Agreement among The Washington Trust Company, Alhambra Building Co, Inc., Ihlefeld Properties, LLC and Donald F. Ihlefeld as to both the above referenced \$375,000.00 and the \$350,000.00 loans and the Limited Guaranty of both the Donald F. Ihlefeld Revocable Trust and of the Barbara A. Ihlefeld Family Trust.

4. WTC has procured a title examination of the properties located at 2077 Elmwood Avenue and 2083 Elmwood Avenue, Warwick, Rhode Island which evidences the first mortgage, first security interest and assignment of leases and rents of WTC concerning the \$375,000.00 obligation and the second mortgage interest of WTC concerning the \$350,000.00 in and to the real estate and fixtures located at 2077 Elmwood Avenue, Warwick, Rhode Island and which evidences the first mortgage, first security interest and assignment of leases and rents interest in favor of WTC concerning both the \$375,000.00 and the \$350,000.00 obligation in and to the property located at 2083 Elmwood Avenue, Warwick, Rhode Island. A copy of the title examinations have been provided to the Receiver.

WHEREFORE, WTC prays that this Court: (a) approve WTC's secured claim in full as set forth in the Proof of Claim as a secured claim of a first mortgage, a first security interest in all fixtures and assignment of leases and rents and a second mortgage as to the property of the Estate located at 2077 Elmwood Avenue, Warwick, Rhode Island, and (b) as a first mortgage, first security interest in all fixtures and assignment of leases and rents as to the property of the Estate located at 2083 Elmwood Avenue, Warwick, Rhode Island, subject to the claims of any municipal taxing authorities to the extent the same have priority over the collateral interests and the Collateral Documents of the Secured Creditor; (c) authorize WTC to credit bid up to the full amount of its secured claim in connection with any proposed sale of the Collateral, as provided under applicable law; (d) authorize the Receiver, in her discretion, to turnover proceeds to The Washington Trust Company as monies become available on account of WTC's secured claim, and; (e) grant such other and further relief as this Court deems just and appropriate.

The Washington Trust Company

By its attorney:

/s Americo M. Scungio

Americo M. Scungio, Esq. #2771

Scungio & Priolo

167 Main Street

Westerly, RI 02891

401-596-0151

June 7, 2018

HEARING DATE: June 18, 2018 AT 9:30 A.M. the matter already having been assigned for hearing on said date.

CERTIFICATE OF SERVICE

I hereby certify that, on the 7th day of June, 2018;

☒ I filed and served this document through the electronic filing system on the following parties: Linda Rekas Sloan, Esq. & Peter G. Berman, Esq.
The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I served this document through the electronic filing system on the following parties:

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☒ I mailed or ☐ hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, to all the parties listed on the attached list of creditors at the addresses set forth therein.

/s/ NAME/s/ Americo M. Scungio

**The Washington Trust Co. v.
Ihlefeld Properties, LLC, et al
KC-2016-0415**

LIST OF CREDITORS

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City of Warwick
Attn: Tax Collector
3275 Post Road
Warwick, RI 02886

City of Warwick
Attn: Tax Assessor
3275 Post Rd
Warwick, RI 02886

Cleri Construction Corp.
105 Peck Hill Road
Johnston, RI 02919

R.I. Dept. of Environmental Mgmt
Legal Department
235 Promenade Street
Providence, RI 02908

Kent County Water Authority
1072 Main Street
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West Warwick, RI 02893-0192

Interbay Funding, LLC
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Coral Gables, FL 33146

Internal Revenue Service
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Boston, MA 02203

Internal Revenue Service
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Providence, RI 02903

Atlas Land Surveying, LLC
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Warwick, RI 02886

Internal Revenue Service
Insolvency Unit
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R.I. Secretary of State
Corporations Division
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Providence, RI 02904-2615

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Envelope 1575331
Reviewer Lindsay Z

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