

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

LOP Capital, LLC, Appellant,

v.

COSIMO, LLC; Capital Investment Funding, LLC, and
CIF Property Holdings, LLC, Respondents.

Appellate Case No. 2012-207046

Appeal From Spartanburg County
Gordon G. Cooper, Master-in-Equity

Unpublished Opinion No. 2013-UP-274
Heard February 13, 2013 – Filed June 19, 2013

APPEAL DISMISSED

Nelson S. Chase, of Mount Pleasant, for Appellant.

George Brandt, III, of Henderson, Brandt, & Vieth, PA,
of Spartanburg, for Respondent COSIMO, LLC, and
Stanley T. Case, of Butler, Means, Evins, & Brown, PA,
of Spartanburg, for Respondents Capital Investment
Funding, LLC, and CIF Property Holdings, LLC.

PER CURIAM: LOP Capital, LLC, (LOP) appeals the trial court's dismissal of its action against COSIMO, LLC, Capital Investment Funding, LLC, and CIF Property Holdings, LLC (Respondents). It asserts the trial court erred in dismissing the action due to LOP's failure to answer Respondents' purported counterclaims, arguing no counterclaim was asserted. LOP also argues the court erred in dismissing the action due to LOP's failure to name Strategic Lending Solutions, LLC, as a real party in interest under Rule 17(A), SCRCP.

After the trial court dismissed LOP's present action, LOP and Strategic Lending Solutions, LLC, filed a new action (Second Action) against Respondents similar to LOP's amended complaint in the present action. Respondents acknowledged the present action was dismissed without prejudice and the trial court's dismissal will have no preclusive effect in the Second Action. A decision by this court would have no practical legal effect upon the existing controversy. Accordingly, we find LOP's appeal is moot. *See Byrd v. Irmo High Sch.*, 321 S.C. 426, 431, 468 S.E.2d 861, 864 (1996) (noting an issue becomes moot when a decision, if rendered, will have no practical legal effect upon the existing controversy).

APPEAL DISMISSED.

HUFF, WILLIAMS, and KONDUROS, JJ., concur.