

STATE OF SOUTH CAROLINA  
COUNTY OF KERSHAW  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-28-00073



Albert H. Hough, etc., et al.

Richard Wesley Hough, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: John K. DuBose, III, Special Referee

Attorney for :  Plaintiff  Defendant  
-or-  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX)**  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

Order On Plaintiffs' Motion to Strike Defendant Richard Hough, S.C. Code Ann. §15-61-25 Notice

FILED FOR RECORD  
2014 MAY -7 AM 11:28  
RECEIVED  
MAY 08 2014  
SC Court of Appeals

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

~~Circuit Court Judge~~ John K. DuBose, III  
Special Referee

ATTEST True, 5/07/2014 Certified  
Judge Code Date  
Copy of Original on File in this Court

*Clara W. ...*  
Clerk of Court Page 1  
Kershaw County



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF KERSHAW )

IN THE COURT OF COMMON PLEAS  
  
C/A No. 2011-CP-28-073

Albert H. Hough, individually and )  
as Personal Representative of the Estate )  
of Harold W. Hough and as Personal )  
Representative of the Estate of Elizabeth )  
P. Hough; George J. Hough and )  
Angela Hough, )

Plaintiffs, )

vs. )

Richard Wesley Hough, Joel Pitts )  
Hough, and Mary Louise Robinson, )

Defendants. )

ORDER ON PLAINTIFFS' MOTION  
TO STRIKE DEFENDANT RICHARD  
HOUGH'S S.C. CODE ANN. §15-61-25  
NOTICE

**RECEIVED**

MAY 08 2014

**SC Court of Appeals**

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JOYCE McDONALD  
CLERK OF COURT  
KERSHAW COUNTY, S.C.

Under a common reading of the matter of time computation, and application of statutory and case law referenced in memoranda and arguments by both counsel for Plaintiffs and counsel for Defendant Richard Hough, I find that Defendant Richard Hough's notice pursuant to S.C. Code Ann. §15-61-25(A) was timely.

1. Despite finding that notice pursuant to S.C. Code Ann. §15-61-25(A) was timely, I find that the notice has no impact on the present proceedings.

2. S.C. Code Ann. §15-61-25(A) is applicable to actions for partition by sale and not actions for partition in kind.

3. Partition in kind is favored when it can be fairly made without injury to the parties. Smith v. Pearson, 210 S.C. 524, 43 S.E.2d 479 (1947). The party seeking a partition by sale carries the burden of proof to show that partition in kind is not practicable or expedient.

ATTEST True, Correct & Certified  
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Court

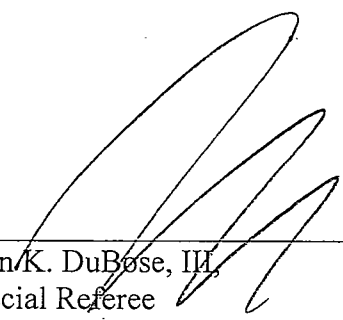
*Joyce McDonald*  
Clerk of Court Kershaw County

Smith v. Pearson, 43 S.E.2d at 482. Defendant Richard Hough admitted in his Answer to Second Amended Compliant that the property is capable of being partitioned in kind.

4. The Court finds that partition in kind can be fairly made without injury to the parties.

5. Trial of the case will proceed on May 12, 2014 as currently noticed.

IT IS SO ORDERED.

  
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John K. DuBoise, III,  
Special Referee

Camden, South Carolina  
May 7, 2014

