

# Exhibit 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF KERSHAW

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,

v.

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

Defendants.

Plaintiffs' Motion to Disallow or to Strike  
Defendant Richard Hough's § 15-61-25  
Notice of Interest in Purchasing Property

And, For Expedited Hearing

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Plaintiffs oppose the S.C. Code Ann. § 15-61-25(A) notice filed and served by Defendant Richard Hough and move the Court to expeditiously strike or disallow it as being untimely.

The trial in this partition case has been set for Monday, May 12, 2014. On the afternoon of Friday, May 2, 2014, Defendant Richard Hough filed with the Court and delivered to the Judge and to the other parties and attorneys the attached letter, dated May 2, 2014, notifying the Court and the parties of Richard Hough's interest in purchasing the properties that are the subject of this partition action. (Exhibit A.) The notice was emailed to the Judge at essentially the same time. (Exhibit B.)

The notice was given pursuant to S.C. Code Ann. § 15-61-25(A). Defendant Richard Hough had not previously expressed an interest in buying the property, and in his Answer to Second Amended Complaint, dated April 10, 2014, he admitted that the properties are divisible in kind. (Richard Hough Answer to Second Amended Complaint, ¶ 7). It is also worthy of note that

Defendant Richard Hough's eleventh-hour motion for continuance was denied by Order dated May 1, 2014.

By the terms of the statute, Defendant Richard Hough's notice was untimely given. The statute requires that the Court be notified of a party's interest in purchasing the property "no later than ten days prior to the date set for the trial of the case."<sup>1</sup> South Carolina law provides that the word "day" means a civil day of twenty-four hours, beginning and ending at midnight. . . and that fractions of days are not recognized in our laws." Town of Summerville v. City of North Charleston, 662 S.E.2d 40 (S.C. 2008.) Where the time requirement in a statute does not speak in terms of specific hour periods, the courts will not interpret a day to mean anything other than a calendar day. Id. In the case *sub judice*, the calculation of the ten-day period is made in reverse because of the period is expressed as being "no later than ten days prior . . ."

Courts differ on the time computation for a ten-day period expressed as "no [or not] later than." The general rule is that either of the terminal days may be included and the other excluded. 86 C.J.S. Time § 16. The general rule is to exclude the first day and include the last day. Id. South Carolina law follows this rule.

Rule 6(a), SCRCPP, provides:

**TIME (a) Computation.** In computing any period of time prescribed or allowed by these rules, by order of court, or by **any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included,** unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

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<sup>1</sup> The statute describes the notice period in terms of days and not hours or other fractional parts of days.

The relevant period at issue herein is ten days with the notice period being completed or fully run by midnight May 11. Counting in reverse, the day of the event (trial) after which [prior to] the period begins to run, is May 12. May 12 is the excluded day per Rule 6(A), SCRPC. The tenth day, the “included” terminal day in the period, is Friday, May 2. In other words, May 2 is one of the ten days of the notice period that must follow the giving of notice. In order to satisfy the statute’s requirement of ten days notice prior to the date set for trial ( ten 24-hour days running from midnight to midnight without counting fractions of days), the latest that notice could have been timely given was midnight on May 1, 2014. By giving notice on May 2, 2014, and late in the day at that, Defendant Richard Hough gave only nine days notice prior to the date of trial.


Because of the impending trial date, Plaintiffs move the court to hear and decide this motion on a super-expedited basis, as permitted by Rule 6(d), SCRPC, which gives the Court discretion to hear motions on less than ten-days notice. The undersigned certifies that prior consultation with opposing counsel could not be had in this instance, and that such consultation, if held, would serve no useful purpose.



B. Michael Brackett, #838  
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Attorneys for Plaintiffs

May 5, 2014

**Kathleen McDaniel** – Attorney  
803-404-690  
[kathleenmcdaniel@callisontighe.com](mailto:kathleenmcdaniel@callisontighe.com)

CALLISON  TIGHE

May 2, 2014

**(Via Hand-Delivery)**

The Honorable Joyce McDonald  
Kershaw County Clerk of Court  
Post Office Box 1557  
Camden, SC 29021-1557

**RE: Albert H. Hough, individually, and as the Personal Representative of the Estate of Harold W. Hough and as the Personal Representative of Elizabeth P. Hough, George J. Hough and Angela Hough v. Richard Wesley Hough, Joel Pitts Hough and Mary Louise Robinson  
Case Number: 2011-CP-2800073  
Our Case Number: 11127.003**

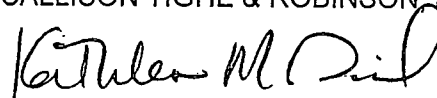
Dear Ms. McDonald:

I am writing on behalf of Richard Wesley Hough, a non-petitioning defendant in the above partition action, to inform the Court that, pursuant to Section 15-61-25 of the South Carolina Code of Laws, Richard Hough is "interested in purchasing the property" that is the subject of this partition action. Please let this letter serve as Richard Hough's notice of such interest in purchasing the property. A trial in this matter is set to begin on May 12, 2014.

I am by copy of this letter serving all parties with a copy of this letter as well as providing a copy to Special Referee John DuBose.

With kind regards, I am

CALLISON TIGHE & ROBINSON, LLC



Kathleen McDaniel

cc: Special Referee John DuBose  
B. Michael Brackett, Esquire  
M. Scott Rankin, Esquire  
Mary Louise Robinson

EX A

## Mike Brackett


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**From:** Kathleen McDaniel <KathleenMcDaniel@callisontighe.com>  
**Sent:** Friday, May 02, 2014 4:49 PM  
**To:** johnd@duboselaw.com; Mike Brackett; scott@scottrankinlawfirm.com; 'marylhough@aol.com' (marylhough@aol.com)  
**Subject:** Hough matter  
**Attachments:** Clerk.010 (interested in purchasing the property (5-2-14)).pdf

Dear Judge DuBose,

Per the attached correspondence, Richard Hough is interested in purchasing the property that is the subject of this partition action pursuant to S.C. Code Ann. § 15-61-25. I am having the attached letter hand-delivered to the Kershaw County Clerk of Court's office, to your office, and to Mr. Rankin's office today. I have hand-delivered a copy this afternoon to Mr. Brackett and will be taking a copy to Mrs. Robinson later this afternoon.

Sincerely,  
Kathleen McDaniel

CALLISON  TIGHE

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**Kathleen McDaniel**  
Callison Tighe & Robinson, LLC  
1812 Lincoln Street  
P.O. Box 1390

**P:** 803.404.6900 **F:** 803.404.6901  
**Email:** [KathleenMcDaniel@callisontighe.com](mailto:KathleenMcDaniel@callisontighe.com)

Columbia, SC 29202-1390

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Ex B  
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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF KERSHAW

Case 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,

**MOTION AND ORDER INFORMATION FORM AND COVER SHEET**

Plaintiff,

v.

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

Defendant.

<p><b><u>Attorneys for Plaintiffs:</u></b>          B. Michael Brackett, Esquire, Bar #838          Moses &amp; Brackett, PC          Post Office Box 100261          Columbia, SC 29202-3261          telephone: 803-461-2312      fax: 803-461-2309</p>	<p><b><u>Attorneys for Defendants:</u></b>          Kathleen M. McDaniel, Esquire          P.O. Box 1390          Columbia, SC 29202          Attorney for Richard Hough</p> <p>M. Scott Rankin, Esquire          P. O. Box 1445          Camden, SC 29021          Attorney for Joel P. Hough</p> <p>Mary Louise Robinson          1100 Gunter Circle          West Columbia, SC 29169 - pro se</p>
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**MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I AND III)  
 **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)  
 **PROPOSED ORDER/CONSENT ORDER** (complete SECTIONS II and III)

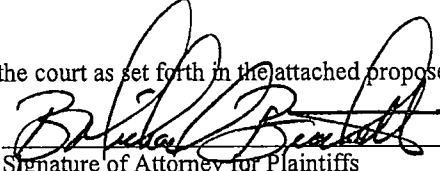
**SECTION I: Hearing Information**

Nature of Motion/Order: \_\_\_\_\_  
 Estimated Time Needed: \_\_\_\_\_      Court Reporter Needed: \_\_\_\_\_

**SECTION II: Motion/Order Type**

Written Motion/Order attached  
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
 Signature of Attorney for Plaintiffs

May 5, 2014  
 Date Submitted

Judge Dubose has been notified.

**SECTION III: Motion/Order Fee**

- PAID - AMOUNT: \_\_\_\_\_
- EXEMPT:  Rule to Show Cause in Child or Spousal Support  
 Domestic Abuse or Abuse and Neglect  
 Indigent Status  State Agency v. Indigent Party  
 Sexually Violent Predator Act  Post-Conviction Relief  
 Motion for Stay in Bankruptcy  
 Motion for Publication  Motion for Execution (Rule 69, SCRCP)  
 Proposed Order submitted at request of the court; or  
reduced to writing from motion made in open court per judge's instruction  
Name of Court Reporter: \_\_\_\_\_
- Other: \_\_\_\_\_

**JUDGE'S SECTION**

- Motion/Order Fee to be paid upon filing of the attached order  
 Other: \_\_\_\_\_

JUDGE \_\_\_\_\_

CODE: \_\_\_\_\_ Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

**DATE FILED**

Collected by: \_\_\_\_\_

MOTION/ORDER FEE COLLECTED: \_\_\_\_\_

CONTESTED - AMOUNT DUE: \_\_\_\_\_

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF KERSHAW

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,

CERTIFICATE OF SERVICE

v.

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

Defendants.

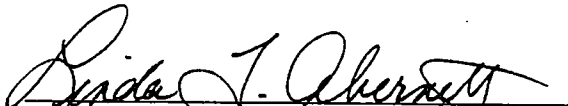
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I, Linda T. Abernethy, Legal Assistant to B. Michael Brackett, Esquire, attorney for the Plaintiffs in the above-captioned matter, do hereby certify that I have served counsel for the Defendant Joel P. Hough and Defendant Richard Hough, and Mary Louise Robinson, pro se with a copy of **Plaintiffs' Motion to Disallow or to Strike Defendant Richard Hough's Section 15-61-25 Notice of Interest in Purchasing Property, and for Expedited Hearing** by United States Mail, postage prepaid and return address clearly indicated on said envelope, on this 5<sup>th</sup> day of May, 2014 at the following addresses:

Kathleen M. McDaniel, Esquire  
P.O. Box 1390  
Columbia, SC 29202  
Attorney for Defendant Richard W. Hough

Mary Louise Robinson  
1100 Gunter Circle  
West Columbia, SC 29169  
pro se

M. Scott Rankin, Esquire  
P.O. Box 1445  
Camden, SC 29021  
Attorney for Defendant Joel P. Hough

  
Linda T. Abernethy