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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

14708

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

RECEIVED

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John K. DuBose, III, Special Referee

SC Court of Appeals

Trial Court Case No. 2011-CP-28-073
Appellate Case No. 2014-001012

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 Respondents,

v.

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

Of whom Richard Wesley Hough is the Appellant,

And

Joel Pitts Hough and Mary Louise Robinson are Respondents.

Respondents Albert Hough's, George Hough's and Angela Hough's
Return to Appellant's Motion to Strike Items from Respondents'
Corrected Designation of Matter for the Record on Appeal
And
Alternatively, Motion to Amend Designation and Initial Brief

Appellant's motion seeks to strike four designated items from Respondents' Corrected Designation and Initial Brief because they "were not presented to the special referee at any time during the proceedings before the special referee," (Motion, p. 2, l. 11-13) and are therefore in violation of Rule 210(c), SCACR, and Rule 209(b), SCACR.

1. The first objection is to the Standing Order in All Partition Actions issued by the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, dated December 20, 2007. It reads:

This court is now regularly seeing partition actions in which the purpose of the action is contemplated sale of the real estate contained therein. Therefore, pursuant to Section 15-61-25, 1976 SC Code of Laws, as Amended, (2007 Supp.), this court shall require Notice of the requirements of this statute to be served upon all parties in the action and upon all joint tenants or tenants in common.

The cited Order is a published, public record, general administrative Order that was not issued in, and is not limited to, any particular case or legal proceeding. It is a form of legal authority, the same as citations to cases and statutes. Rule 208(b)(1)(D) and (b)(2), SCACR, provide that arguments in appellate briefs may contain "citations of authority." The Standing Order was cited in the Argument portion of Respondents' Initial Brief, p. 9-10, on the issue of the operation of S.C. Code Ann. §15-61-25, the statute that is front and center in this appeal. The undersigned acknowledges that copies of statutes and cases cited in appellate briefs are not normally included as designated items in the Record on Appeal, and including the Standing Order in the Record on Appeal in this case was for the Court's convenience. Just as with cited authorities in any appeal, the weight to be given to the Standing Order, if any, in deciding the issues on appeal in this case is for the Court of Appeals to decide. (the designated Standing Order is attached as **Exhibit A**.)

If the Court determines that the Standing Order need not be included in the Record on Appeal, it can nonetheless be cited in the Argument as a citation to authority, and it should not be

ordered stricken from the Respondents' Initial Brief.

2. Objections 2, 3 and 4 are directed to deposition excerpts. The excerpts are cited only in the "Statement of the Facts" portion of the Respondents' Initial Brief (p. 3, second paragraph, eight lines) to give the Court some context for the nature and history of the case. They are not cited in the Argument portion of the brief. Rule 208(b)(1)(D) and (b)(2) expressly permits the statement of the facts portion of the brief to include contested matters; however, Respondents cannot imagine that the factual context can be genuinely disputed. Appellant does not challenge the accuracy of the facts addressed in the citations to the depositions.

As to excerpts from Albert Hough's deposition, his deposition transcript was submitted to the Court by Appellant's attorney at a hearing on April 7, 2014. Appellant's attorney was putting into evidence matters that were alleged to be relevant to Appellant's motion for contempt. The hearing transcript confirms that Albert Hough's deposition transcript was "put. . . into evidence." (Transcript of April 7, 2014 hearing, p. 7, l. 20-25.) The transcript of the April 7, 2014 hearing is attached hereto as **Exhibit B**. Accordingly, Albert Hough's deposition transcript had been presented to the trial court and was a part of the trial court's file.

The one and only Angela Hough deposition excerpt is cited in support of the fact that after 2006, Respondents Albert and Angela Hough have spent substantial amounts of time tending their cattle on the farm property. This is a very direct and succinct statement of fact that can be found in other source materials before the Court. In Albert Hough's deposition transcript, under questioning by Appellant's attorney, Mr. Hough testified that he moved to Kershaw County in 2006 and before then his parents had unregistered cattle on the farm and he [Albert] had registered cattle on his parents' cattle farm, going back for thirty years; he would come to the cattle farm on weekends to

“do maintenance and repair and worked the cattle.” (Albert Hough deposition transcript, p. 6, l. 11 to p. 8, l. 18.) The cited pages from the Albert Hough deposition transcript are attached hereto as **Exhibit C**.

The first hearing in this case was held on February 1, 2011 on the continuation of a temporary restraining order as a temporary injunction. At that hearing Respondent Albert Hough testified that the parties’s father accumulated approximately 1,265 acres since 1940 and used approximately 275 acres of a 428 acre parcel of land for “raising cattle.” The parents had cattle on the land at the time of the hearing, and Albert was then responsible for the day-to day operations of the cattle farm, without getting paid, including his parents’ cattle and his own cattle. (Transcript of February 1,2011 hearing, p. 6, l. 13 to p. 7, l. 12; and p. 56, l. 4 to p. 59, l. 3.) The cited pages of the transcript of the February 1,2011 hearing are attached hereto as **Exhibit D**.

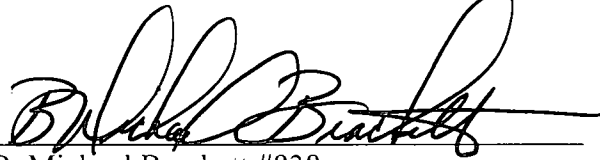
With respect to the one and only excerpt from Appellant’s deposition transcript, Appellant testified that he has lived in Charlotte, NC continuously since 1981. Without that citation, the fact asserted would be changed to state that Appellant has lived in Charlotte, NC since at least November 23, 2010. (Second Amended Complaint, Exhibit E, and Appellant’s Answer to Second Amended Complaint, ¶ 20.)

Motion to Amend Designations and Initial Brief

Alternatively, in the event that any designation is stricken, these Respondents move for leave to file an amended Designation and Initial Brief to include alternate citations to the record as addressed hereinabove.

Conclusion

For the reasons stated, the Appellant's motion should be denied. Alternatively, if the motion is granted in any respect, Respondents should be given the opportunity to file and serve an Amended Initial Brief to incorporate the amendments and alternate citations noted hereinabove.



B. Michael Brackett #838

Adam T. Silvernail #80219

Moses & Brackett, PC

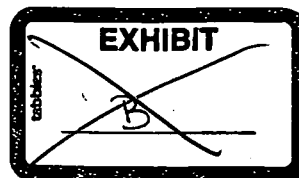
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Attorneys for Respondents Albert H. Hough,
Individually and as Personal Representative of the
Estate of Harold W. Hough and as Personal
Representative of the Estate of Elizabeth P.
Hough; George J. Hough and Angela Hough

January 6, 2015



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE MASTER IN EQUITY COURT
FOR CHARLESTON COUNTY

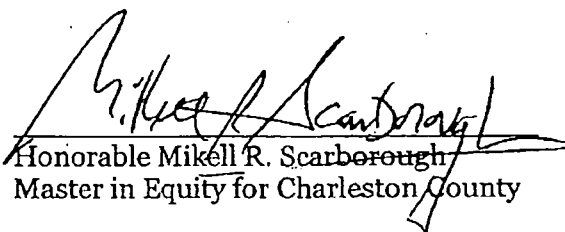
STANDING ORDER IN ALL PARTITION ACTIONS

This court is now regularly seeing partition actions in which the purpose of the action is the contemplated sale of the real estate contained therein. Therefore, pursuant to Section 15-61-25, 1976 SC Code of Laws, as Amended, (2007 Supp.), this court shall require Notice of the requirements of this statute to be served upon all parties in the action and upon all joint tenants or tenants in common. This statute states:

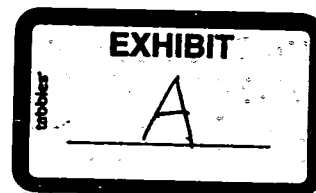
"The Court shall provide for the non-petitioning joint tenants or tenants in common who are interested in purchasing the property to notify the Court of that interest no later than ten (10) days prior to the date set for the trial of the case. The non-petitioning joint tenants or tenants in common shall be allowed to purchase the interests in the property as provided in this section whether default has been entered against them or not." 1976 SC Code of Laws, Section 15-61-25 (A).

This notice shall be served upon all parties and the required tenants in common at the time the Notice of Hearing is served herein. Proof of service of the Notice of Hearing and this Order providing Notice to the tenants of their rights in the property shall be required at the time of the hearing.

IT IS SO ORDERED!


Honorable Mikell R. Scarborough
Master in Equity for Charleston County

December 20, 2007
Charleston, South Carolina



STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF KERSHAW
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. CASE NO. 2011-CP-28-00073

RICHARD WESLEY HOUGH, JOEL PITTS
HOUGH AND MARY LOUISE ROBINSON,
Defendants.

CONTEMPT HEARING BEFORE THE HONORABLE
JOHN K. DUBOSE, III, SPECIAL REFEREE

DATE: April 7, 2014

TIME: 9:37 A.M.

LOCATION: Kershaw County Courthouse
Courtroom 102
1121 Broad Street
Camden, SC

REPORTED BY: LORI S. MORTGE,
Certified Court
Reporter, CCR

A. WILLIAM ROBERTS, JR., & ASSOCIATES
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1 APPEARANCES OF COUNSEL:
2 ATTORNEYS FOR THE PLAINTIFFS
3 ALBERT H. HOUGH, INDIVIDUALLY AND AS
4 PERSONAL REPRESENTATIVE OF THE ESTATE OF
5 HAROLD W. HOUGH AND AS PERSONAL
6 REPRESENTATIVE OF THE ESTATE OF
7 ELIZABETH P. HOUGH; GEORGE J. HOUGH AND
8 ANGELA HOUGH:
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ALSO PRESENT:
Albert H. Hough
Angela Hough
Richard Wesley Hough
Mary Louise Robinson

1 THE COURT: We're here for Richard
2 Wesley Hough's motion for contempt and sanctions.
3 Everybody state their names.

4 MS. MCDANIEL: Kathleen McDaniel,
5 Callison Tighe & Robinson for Defendant Richard
6 Hough.

7 MR. BRACKETT: Mike Brackett, attorneys
8 for the Plaintiffs.

9 THE COURT: We also have present in the
10 courtroom Mary Louise Robinson and Scott Rankin as
11 guardian ad litem for Joel.

12 Ms. McDaniel, I'll hear from you on your
13 motion now.

14 MS. MCDANIEL: Thank you, Your Honor.
15 May it please the Court.

16 Your Honor, we're here today on Richard
17 Hough's motion for contempt against the Plaintiffs,
18 Albert and Angela Hough. This motion has three
19 bases. The first is for the damage occurring to the
20 soil because of bulldozer activity on the property.
21 The second is for the -- in one case the erection of
22 certain fencing and in the other case the cutting of
23 fencing on the property. And the third basis is for
24 impeding access for Richard Hough to go onto a
25 certain portion of the property which, for purposes

1 of this hearing, we'll call the 5.8 acres. That is
2 a portion of the property that -- appears that the
3 ownership is somewhat in dispute and that there is a
4 gate leading onto that property that has been
5 locked.

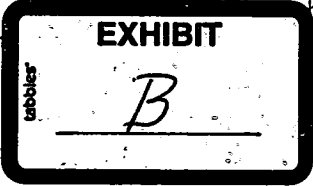
6 I have filed a motion with multiple
7 exhibits and I would draw the Court's attention to
8 Exhibit 1 which shows that the damage to the
9 property --

10 MR. BRACKETT: Objection. There's no
11 evidentiary foundation for any of those exhibits to
12 be considered by the Court.

13 THE COURT: Ms. McDaniel, as much as
14 there -- are you going to lay an evidentiary
15 foundation for these exhibits?

16 MS. MCDANIEL: Your Honor, they are --
17 well, beyond the fact that they are submitted as
18 exhibits and that they were taken by my client, we
19 don't have an affidavit authenticating them today.
20 We didn't submit an affidavit authenticating them
21 with the motion. However, he is present in the
22 courtroom if -- and I could question him as to the
23 authenticity of these photographs and whether he
24 took them and when, to lay that certain foundation.

25 MR. BRACKETT: It's contrary to



1 customary motion practice, Your Honor. We hear
2 these things on affidavits. And now to come over
3 here and offer live testimony, turn this into a
4 full-fledged examination and cross-examination that
5 could go on for a while, this is just a little out
6 of the ordinary and I would object.

7 MS. MCDANIEL: Your Honor --

8 MR. BRACKETT: I submitted an affidavit.
9 I don't know why he couldn't. I did.

10 MS. MCDANIEL: In addition to that, Your
11 Honor, in the Plaintiff's response to the motion and
12 in their response of affidavits, they certainly
13 don't deny that any of these pictures are -- were
14 taken on the property. So --

15 MR. BRACKETT: I don't --

16 MS. MCDANIEL: -- to the extent that
17 there needs to be authentication, it's for the
18 protection of the process to ensure that there is
19 no -- nothing has been manipulated in the
20 photographs. And the affidavits of the Plaintiffs
21 certainly would accede to the fact that those
22 photographs are what they purport to be.

23 MR. BRACKETT: I don't have the burden
24 of proof, Your Honor. I don't have to prove they're
25 not authentic. They have to prove they are.

1 MS. MCDANIEL: Finally, Your Honor, the
2 admission of evidence is within the Court's
3 discretion. And I think in order to have this
4 matter properly heard it would be in the best
5 interest of all to admit these.

6 THE COURT: I'll go ahead and take them
7 into consideration in hearing this motion for
8 contempt, noting your objection --

9 MR. BRACKETT: Thank you.

10 THE COURT: -- Mr. Brackett.

11 MS. MCDANIEL: Thank you, Your Honor.
12 So we turn first to Exhibit 1. You'll note that
13 there are multiple areas of property that has
14 been -- the dirt has been disturbed significantly --

15 MR. BRACKETT: Objection. Counsel can't
16 testify about --

17 THE COURT: Sustained.

18 MR. BRACKETT: -- what it shows.

19 MS. MCDANIEL: Well, Your Honor, I would
20 simply draw your attention to the photographs. The
21 order from June 17, 2013 prohibits the Plaintiffs
22 from damaging, destroying, removing ditches, berms
23 and other features of the real property, and we
24 would assert that the pictures in Exhibit 1
25 demonstrate damage to the property.

1 In addition, we have Exhibit 2 that
2 supports that there has been damage to the fixtures
3 on the property, which the barb wire would certainly
4 be considered a fixture which has been cut.

5 And then as to the erection of two sets
6 of fencing, Exhibits 3 and 4 document that and,
7 again, the Plaintiff's own affidavit and response to
8 this motion admit that the fencing was put in place.

9 Finally, we have the 5.8 acre issue. We
10 have submitted the plat of that acreage as well as
11 the deposition -- an exhibit to the deposition of
12 Albert Hough.

13 If you look at Exhibit 5, you would note
14 that Mr. Hough has drawn -- he, himself, has drawn
15 the location of this 5.8 acre spanning not only
16 property that his mother owned in her name only, but
17 also into property -- the 110-acre portion which is
18 believed to be jointly owned by Albert, Richard and
19 others.

20 And, Your Honor, if I may, we have an
21 excerpt from the transcript of Albert Hough's
22 deposition that I would like to submit for the
23 Court's consideration. I'd like to put this
24 deposition transcript into evidence.

25 MR. BRACKETT: No objection.

1 MS. MCDANIEL: So, Your Honor, out of
2 Mr. Hough's deposition I questioned him extensively
3 about the ownership of this 5.8 acre parcel.
4 Starting on Page 29 he answered, Line 12 to 14:
5 Like I said, it straddles it. That means it's --
6 part of it is on one side of the lot and part is on
7 the other.

8 So not only does his drawing document
9 spanning the two subparcels, his testimony does as
10 well.

11 If you turn to Page 30, Line 11, asked
12 him: So you're telling me that the eastern boundary
13 is, in fact, inside of the 110 acre portion shown on
14 your Exhibit 2? That's correct.

15 Question: Now, at the time that your
16 mother made that gift, who owned those 110 acres?

17 Answer: It would be Albert -- Angela
18 and Albert, Richard, George and my mother and
19 father. Excuse me.

20 Question: So how did your mother -- did
21 she gift just her interest in this property to you?

22 Answer: Yeah, it would be her portion.

23 Then Question at Line 22: So, in fact,
24 you don't own all of the 5.8 acres. You share a
25 portion of that ownership with the other owners of

1 the 110 parcel; is that correct?

2 Answer: Yeah, and my mother was an
3 owner.

4 So, Your Honor, this would document that
5 Albert Hough -- even he recognizes that Richard
6 Hough may have some ownership interest in this
7 property, that the ownership is in dispute. And I
8 would explain to the Court that the Plaintiffs have
9 served the second amended complaint, that our answer
10 is due and we do intend to include a counterclaim
11 for -- to determine the ownership and partition of
12 this 5.8 acre parcel.

13 So, in conclusion, Your Honor, we
14 believe that the property has been damaged by the
15 Plaintiffs' actions in disturbing the soil, cutting
16 the fencing, putting up additional fencing and also
17 impeding Richard Hough's access to the property.
18 Thank you.

19 THE COURT: It's your turn,
20 Mr. Brackett.

21 MR. BRACKETT: Judge, I don't know where
22 to start. This is such -- there is no evidence in
23 the record of any damage caused to any land.
24 There's no evidence that under the circumstances if
25 existing the bulldozer track -- if it's on the land

1 at all, I don't know where -- you can't tell from
2 any showing made by the -- by the Defendant where
3 that bulldozer is or where the tracks are located.
4 But, in any event, if we assume for purposes of
5 argument that there's a bulldozer track out there in
6 the land, there's no evidence that it has damaged
7 the land. That's just a -- sort of a conclusion
8 they want you to draw out of thin air.

9 The order, the injunction order, doesn't
10 say that the Plaintiffs can't aid the utility
11 company who has an easement on the property.
12 Doesn't say that. There's so many ways that this
13 is -- this is just a -- well, never mind.

14 The fencing. No evidence that any
15 alteration to the fencing out there has damaged the
16 property. Again, that's just something they want
17 you to conclude out of thin air.

18 My clients operate a cattle operation.
19 The order -- the order doesn't tell them you can't
20 operate your cattle operation, you can't maintain
21 control over your cattle. The result being that the
22 order would permit any reasonable activity that does
23 not destroy or damage the land. Again, no evidence
24 that anything we've done, my clients have done out
25 there, is destructive of the land.

1 And then third, this idea of impeded
2 access. They look to a hand-drawn map taken during
3 a deposition and come in here and seriously argue
4 that that somehow translates into a claim to title.
5 The chain of title documents, the official records
6 that establish title to property, say otherwise.
7 Mr. Hough has testified on no fewer than three
8 times, under oath, that my client is the exclusive
9 owner. But because a handwritten, hand-drawn map
10 touches two property lines where they don't really
11 exist, that somehow impedes his access. He can't
12 even look the Court in the eye. He sits there and
13 stares at the floor because he knows the silliness
14 of that argument.

15 I don't have anything further, Your
16 Honor.

17 THE COURT: What other -- are there
18 other access points out here on the property,
19 jointly owned? Is this the only gate onto this
20 whole tract?

21 MR. BRACKETT: No, it's not, Your Honor.

22 MS. MCDANIEL: Your Honor, it's not.
23 It's the only access onto the 5.8 parcel. And if I
24 may respond quickly.

25 The title documents, the deed,

1 references a survey prepared by Daniel Riddick.
2 That is Exhibit 6 to our motion. The survey
3 supports the position that Mr. Hough is a part owner
4 of the 5.8 acres. If you notice to the south of the
5 carved out parcel, the ownership is known as Albert
6 H. Hough, et al. Richard Hough is included in that
7 group ownership. If this parcel had been completely
8 owned by Elizabeth Hough at the time that she
9 transferred her interest in it to Albert and Angela,
10 the name at the bottom of that portion would be
11 Elizabeth Hough, not Albert and Angela.

12 Your Honor, that indicates that the
13 portion owned jointly, including my client, extends
14 into the 5.8 acres.

15 MR. BRACKETT: It would be nice if
16 Mr. Riddick had given an affidavit to say that; all
17 right? All we have, again, is argument of counsel.
18 Argument of counsel is not evidence. There is no
19 evidence that Albert H. Hough, et al. includes
20 Richard Hough. None.

21 MS. MCDANIEL: Well, it's clear that it
22 does not include Elizabeth Hough alone. And, Your
23 Honor, that is what would be necessary for her to
24 have been able to deed that portion entirely to the
25 Plaintiffs.

1 Then, finally, the fencing -- we're not
 2 saying it caused damage to the property, cutting the
 3 fencing or putting up the fencing. Cutting the
 4 fencing is a fixture. They were prohibited from
 5 damaging fixtures, and cutting the fence damaged a
 6 fixture. Thank you, Your Honor.
 7 THE COURT: Anything further,
 8 Mr. Brackett?
 9 MR. BRACKETT: No, Your Honor. There's
 10 no sense just to keep beating on this.
 11 MS. ROBINSON: May I speak also?
 12 THE COURT: This isn't your motion,
 13 Ms. Robinson.
 14 MS. ROBINSON: Concerning the ownership
 15 of the 5.8 acres I would have relevant information.
 16 THE COURT: What information do you have
 17 about that interest?
 18 MS. ROBINSON: The purpose of the
 19 property, the house being built, who had made
 20 payment for that house.
 21 THE COURT: I guess my question is what
 22 is your understanding, just so we have a complete
 23 record, of who has ownership interest in that 5.8
 24 acres?
 25 MS. ROBINSON: The 5.8 acres was

1 intended to be a house for my brother Joel and for
 2 parents, Harold and Elizabeth Hough. They -- they
 3 became physically too disabled prior to the
 4 completion of the house for them to -- to live
 5 there. For that reason, the original intent of the
 6 5.8 acres, with the property being partially owned
 7 otherwise, was -- was also so that it could be -- it
 8 was meant to be a family home for the parents and
 9 the brother with access by all other siblings to
 10 that property and to the parents.
 11 THE COURT: Okay. I'll note -- I'll
 12 note that for the record to the extent I can
 13 consider it.
 14 I find as to these issues that there
 15 isn't contemptuous conduct. I believe this
 16 bulldozer issue could very well be incidental to the
 17 operation of the cattle operation and apparently
 18 distracting a utility truck that was stuck. These
 19 fences, while they're out there, I don't know
 20 that -- the evidence that I've heard, cutting and
 21 erection of those fences, is incidental to an
 22 ongoing business operation out there. I'll note for
 23 the record that one of these injunctive orders, in
 24 fact, mentions that Richard has a business interest
 25 in those properties and, in fact, mentions that his

1 interest shall be taken into consideration in
 2 further hearings. That's part of the reason that
 3 the last time we were here there was a contempt
 4 going the other way.
 5 I just find that this fence issue, this
 6 damages soil incidental to the operations out there,
 7 I don't see that it is real damage to the property,
 8 either one.
 9 As far as the impeding access, presently
 10 that 5.8 acres is not in dispute as far as any
 11 pleadings before the Court and I find that there's
 12 no evidence by form of affidavit in the record to
 13 consider whether there is any dispute. Nonetheless,
 14 there's access to the property from other points of
 15 ingress. I mean, there's other ways to get out
 16 there.
 17 I guess the public record will bear out
 18 what the ownership of that 5.8 acres is. If there's
 19 an issue with access and there truly is disputed
 20 access and that comes before the Court, when it's
 21 properly before the Court then we'll deal with it at
 22 that point. But I rule there's no contempt on any
 23 of these three grounds.
 24 Just incidentally, as I've stated
 25 throughout, I've encouraged all of us to try to get

1 along until we get to this hearing a month from now.
 2 I don't know that it's a very efficient use of
 3 y'all's time or my time to come up here on contempt
 4 orders every three weeks, four weeks. That's it.
 5 MR. BRACKETT: We're still on for May
 6 the 12th, I believe?
 7 THE COURT: Yes.
 8 MR. BRACKETT: Will it be in this
 9 courtroom?
 10 THE COURT: I'll try to secure this
 11 courtroom. It might be one of the courtrooms on the
 12 second floor, perhaps.
 13 ANGELA HOUGH: The man at the gate told
 14 me, one of the security people, there is one
 15 upstairs. I think the golden room?
 16 MR. BRACKETT: This is the gold room.
 17 ANGELA HOUGH: Oh, okay. The gold room.
 18 THE COURT: I don't know exactly which
 19 space we secured with the Clerk of Court, but we can
 20 follow up with everybody to make sure people know
 21 the correct courtroom. All right. Thank you.
 22 MR. BRACKETT: Do you want to do a form
 23 order or do you want me to submit an order?
 24 THE COURT: If you'll submit an order.
 25 (The preceding was concluded at 9:58 a.m.)

CERTIFICATE OF REPORTER

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I, Lori S. Mortge, Certified Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 9th day of April, 2014 at West Columbia, Lexington County, South Carolina.

Lori S. Mortge
Certified Court
Reporter, CCR
My Commission expires
December 13, 2016

1 Naval architect.

2 Q: All right. Have you been there -- did you
3 retire from there ---

4 A: No.

5 Q: --- or have you had any other jobs?

6 A: No, I did not.

7 Q: Okay.

8 A: I moved several times since then and retired
9 from Naval Facilities Systems Engineering
10 Command in North Charleston.

11 Q: All right. When did you retire?

12 A: In 19 -- 2005.

13 Q: Okay. When did you move to Kershaw County or
14 back to Kershaw County?

15 A: We moved back to Kershaw County in 2006.

16 Q: All right. And why did you move back?

17 A: Because my wife had relocated and had a
18 teaching position at Richland District Two as
19 a teacher ---

20 Q: Okay.

21 A: --- and I was retired so I moved back. We
22 built a house over in Lugoff.

23 Q: Do you still live in that house?

24 A: Yes, we do.

25 Q: All right. When did you -- tell me a little



1 bit about your involvement with the farm that
2 we've really got at issue here.

3 A: Basically, my thing is the cattle. I've always
4 had -- ever since I was young I've always liked
5 cattle and have purchased cattle since --
6 registered cattle is mainly what I'm in to --
7 since the 1980's and because my parents had the
8 cattle out there -- he mostly has a commercial
9 cow/calf operation and so on weekends I came up
10 and helped him do maintenance and repair and
11 worked the cattle.

12 Q: Okay.

13 A: And I always had a few registered cattle that
14 I kept at -- and I enjoy doing the genetics on
15 them.

16 Q: All right. Tell me about that.

17 A: The genetics?

18 Q: Yes.

19 A: You'll have to be -- to clarify what you're ---

20 Q: Okay.

21 A: --- asking because I'm ---

22 Q: All right.

23 A: --- not sure.

24 Q: When you say registered cattle, how are those
25 different than normal cattle?



1 A: They have pedigree, is that clear?

2 Q: So you mean you can trace where they're --
3 their family lines ---

4 A: Yes.

5 Q: --- where as with other cattle you can't; is
6 that correct?

7 A: That's correct.

8 Q: Okay. So for all of your registered cattle
9 that you have on the farm now, you can trace
10 all of their blood lines?

11 A: I can ---

12 Q: Is that correct?

13 A: --- to the 1800's, yeah.

14 Q: Okay. And how many total cattle are on the
15 farm now?

16 A: I would say in the neighborhood of 150.

17 Q: And how many are registered?

18 A: About 25.

19 Q: Okay. All right. So before we get too deep
20 into these confusing maps and everything, I
21 want to talk to you -- let's see if we can get
22 some agreement on how to refer to these
23 properties. In my preparation for this case
24 I've referred to them a little bit different
25 than we talked about them on Friday with Mr.



STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
County of Richland)	11-CP-28-073
)	
)	
Albert H. Hough,)	
George J. Hough, and)	
Angela Hough,)	
Plaintiffs)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
Richard Wesley Hough,)	
)	
Defendant)	

February 1, 2011
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE.

APPEARANCES:

William Tetterton, Esq.
Robert Cook, Esq.
Attorneys for the Plaintiffs

Jocelyn Newman, Esq.
Charles J. Webb, Esq.
Attorneys for the Defendant

KAREN TRACY
Official Court Reporter



1 Q And your brother Joel?

2 A My brother Joel is a disabled military veteran. He
3 receives a military disability check.

4 Q He lives in Columbia?

5 A No, sir. He lives in Lugoff, South Carolina also
6 with us.

7 Q And your brother George?

8 A My brother George is a tow truck operator, and he works
9 in Camden, South Carolina. He lives --

10 Q And your brother Richard?

11 A Richard is employed by Duke Engineering and lives in
12 Charlotte, North Carolina.

13 Q Okay. Mr. Hough, the property we're talking about
14 is a tract of land consisting of approximately 437 acres;
15 is that correct?

16 A Yes, sir.

17 Q Since 1940, your father has put together a larger
18 tract of -- several tracts comprising of about how many
19 acres?

20 A About 1265.

21 Q 1265 acres?

22 A Yes, sir.

23 Q And the piece of property we're talking about is out
24 on Highway 34 known as Pine Farms?

25 A That's correct.

1 Q And what has that property been primarily used for
2 since 1948, basically? Can you tell us?

3 A It's mainly pasture land, and my father is -- and
4 grandfather used it for raising cattle.

5 Q Do your mother and father still have some cattle out
6 there?

7 A Yes, sir, they do.

8 Q About how many cattle do they have?

9 A Currently, they own about half the herd, which would
10 be about 75 cows.

11 Q And who is responsible for taking care of those?

12 A I do, day-to-day operations.

13 Q Does George help you sometimes?

14 A Occasionally, yes, sir.

15 Q Does Richard ever help take care of your mother and
16 daddy's cattle?

17 A No, sir.

18 Q Now, you have prepared for me a Chain of Title. I'm
19 just going to get this -- I'm going to lead you a little
20 bit about it.

21 Over the years, your mother and daddy have given
22 you children different fractional parts of that
23 property; is that correct?

24 A Yes, sir.

25 Q Now, actually, the 437 acres we're talking about,

1 recall the plaintiff.

2 MR. TETTERTON: Albert?

3 THE COURT: Yes.

4 (Albert Hough retakes the witness stand).

5 THE COURT: Mr. Hough, I want to find out a little
6 bit about this herd. You said approximately 50 percent
7 of the herd is owned by your mother?

8 THE WITNESS: That's correct; yes, sir.

9 THE COURT: And how many cattle is that?

10 THE WITNESS: We have 150, so it would be about 75.

11 THE COURT: Okay. You have a total of 150. I thought
12 you meant that your mother owned 150 and then it would
13 have made it 300?

14 THE WITNESS: No, sir, 150.

15 THE COURT: All right. And how is -- this follows
16 up with Ms. Newman's questions. How is that returned on,
17 and whose return, tax returns, report the activities of
18 the herd?

19 THE WITNESS: They're on my -- have been my mother's
20 returns the last...

21 THE COURT: Just on hers?

22 THE WITNESS: Yes, sir.

23 THE COURT: Well, why wouldn't 100 percent of the herd
24 be returned on hers?

25 THE WITNESS: Because the females I bought are -- were

1 young females, and they didn't produce calves.

2 THE COURT: All right.

3 THE WITNESS: They're young -- I bought them as
4 calves --

5 THE COURT: Well, she asked you --

6 THE WITNESS: -- and it takes them two to three years
7 to --

8 THE COURT: Well, she asked you about profits.

9 THE WITNESS: Yes, sir.

10 THE COURT: I'm going to ask you about losses.

11 THE WITNESS: Yes, sir.

12 THE COURT: And who takes the loss?

13 THE WITNESS: My mother does.

14 THE COURT: Does she have other income --

15 THE WITNESS: Yes, sir.

16 THE COURT: -- from which to offset it?

17 THE WITNESS: Yes, sir.

18 THE COURT: So your mother is using the property
19 to -- for her agricultural purposes, that is to maintain
20 her herd. I assume you don't get paid to help her.

21 THE WITNESS: That's correct.

22 THE COURT: But she is using property or land, this
23 437 acres that doesn't belong to her?

24 THE WITNESS: That's incorrect. In the years that
25 we filed the tax return, it did -- portions do belong to

1 her.

2 THE COURT: Still?

3 THE WITNESS: Not presently, no, sir.

4 THE COURT: Well, the cattle are still there, aren't
5 they?

6 THE WITNESS: Yes, sir.

7 THE COURT: And whatever -- so you -- under oath,
8 you're saying you get no benefit from that herd being there?

9 THE WITNESS: No. I do get a benefit, yes, sir,
10 because my cattle are growing there, yes, sir.

11 THE COURT: Your cattle?

12 THE WITNESS: Yes, sir. The ones that I own are on
13 that property also, yes, sir.

14 THE COURT: Oh, oh. So she has 150. How many do you
15 have?

16 THE WITNESS: I'm sorry. She has the 75, and I have
17 near --

18 THE COURT: You have 75?

19 THE WITNESS: Actually, the numbers aren't quite
20 that but...

21 THE COURT: Well, that's all right.

22 THE WITNESS: If you need an accounting, I'll be
23 glad --

24 THE COURT: Okay.

25 THE WITNESS: Mine are registered. Mine are

1 registered. I have papers on them.

2 THE COURT: And hers are not?

3 THE WITNESS: That's correct.

4 THE COURT: So with your herd, we'll say --

5 THE WITNESS: Yes, sir.

6 THE COURT: -- you take the profits or losses --

7 THE WITNESS: Yes, sir.

8 THE COURT: -- as --

9 THE WITNESS: As they come up.

10 THE COURT: As they come up?

11 THE WITNESS: Yes, sir.

12 THE COURT: Now, why would not you, Richard, and
13 George -- shouldn't there be some compensation to Richard
14 for the use of his share of the land --

15 THE WITNESS: It --

16 THE COURT: -- during -- for this cattle operation
17 even just considering your 75 head? I mean, do you see
18 where I'm driving at?

19 THE WITNESS: Yes, sir, I understand, but this deed
20 took place in 2009. Of course, they had been -- the
21 cattle had been there for 50 years.

22 THE COURT: But yours haven't?

23 THE WITNESS: Yes, sir. Mine had been there for near
24 30 years.

25 THE COURT: Thirty years?

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

John K. DuBose, III, Special Referee

RECEIVED

JAN 07 2015

SC Court of Appeals

Trial Court Case No. 2011-CP-28-073
Appellate Case No. 2014-001012

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 Respondents,

v.

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

Of whom Richard Wesley Hough is the Appellant,

And

Joel Pitts Hough and Mary Louise Robinson are Respondents.

Certificate of Service

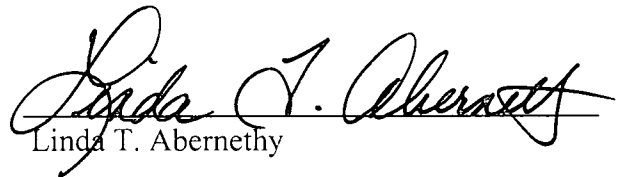
I, Linda T. Abernethy, Legal Assistant to B. Michael Brackett Esquire, attorney for the Respondents
in the above-captioned matter, do hereby certify that I have served Appellant and Respondents Joel
Pitts Hough and Mary Louise Robinson with copies of Respondents Albert Hough's, George
Hough's and Angela Hough's Return to Appellant's Motion to Strike Items from Respondents'
Corrected Designation, and alternatively, Respondents' Motion to Amend Designation and Initial

Brief by United States Mail, postage prepaid and return address clearly indicated on said envelope,
on this 6th day of January, 2015 at the following address:

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

MOSES & BRACKETT, PC

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Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.com

January 6, 2015

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RECEIVED

JAN 07 2015

SC Court of Appeals

Re: Hough, et. al. v. Hough, et. al.
Trial Court Case No: 2011-CP-28-073
Appellate Case No: 2014-001012
MB file no.: 12518.2

Dear Ms. Kitchings:

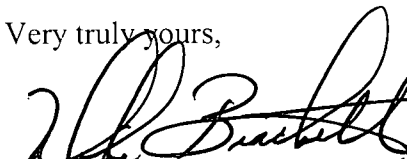
Enclosed for filing are the following:

- 1) Original (unbound) and six copies of Respondents Albert Hough's, George Hough's and Angela Hough's Return to Appellant's Motion to Strike Items from Respondents' Corrected Designation, and alternatively, Respondents' Motion to Amend Designation and Initial Brief;
- 2) Certificate of Service; and
- 3) A check in the amount of \$25.00 for the required motion fee.

By copy of this letter, a copy of the enclosed Return/Motion is being served on all parties/attorneys of record as reflected on the Certificate of Service. Please return a clocked copy of page 1 of the Return using the envelope provided.

Thank you for your courtesy and assistance.

Very truly yours,



B. Michael Brackett

BMB/lta
Enclosures

Page 2

January 6, 2015

cc. Mr. and Mrs. Albert H. Hough
Kathleen M. McDaniel, Esquire
M. Scott Rankin, Esquire
Mary Louise Robinson

MOSES & BRACKETT, PC
Attorneys & Counselors-At-Law
P.O. Box 100261
Columbia, SC 29202-3261

12518.2

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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