

Monday, August 13, 2018 10:17 AM

The South Carolina Appellate Court  
1015 Sumter Street STE 5  
Columbia, South Carolina  
29201

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AUG 14 2018  
SC Court of Appeals

Notice to Appeal.

Monday, August 13, 2018 10:04 AM

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Page #2- Required information pertaining to Court, Case numbers, appellants and plaintiffs.

Page #3- Decision received by E-mail from Judge Howe.

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Monday, August 13, 2018 8:41 AM

The South Carolina Appellate Court  
1015 Sumter Street  
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Columbia, S.C. 29201

This is our notice to appeal the following Case numbers.

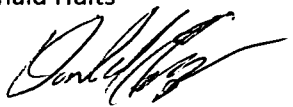
Notice to appeal:

Case #2013-CP-26-8486

Case #2014-CP-26-4605

Though we have not received a copy of the final court orders we are filing this notice to stay within the time constraints of an E-mailed decision from Judge Cynthia Graham Howe.

Donald Hults



Julie Hults



2000 Greens Blvd.  
Unit 25A  
Myrtle Beach, S.C. 29577  
609-319-1727  
856-904-4414

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Subject: Willow Run Condominium HOA v. Donald E. Hults and Julie Lynn Hults (2013-CP-26-8496) (HOA Assessments); Willow Run Condominium HOA v. Donald hults (2014-CP-26-4605) (Barbecuing case)

From: HoweC@HorryCounty.org

To: lom@lawyersatthebeach.com; angeljul1@yahoo.com

Date: Monday, July 16, 2018 07:27:45 PM EDT

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AUG 14 2018

SC Court of Appeals

Dear Mr. McCutchen and Mr. and Mrs. Hults:

After carefully reviewing this matter, including my notes, those of my law clerk, the exhibits, the Clerk's file, the transcript of 13-8496, and any memoranda and/or case law submitted, I have determined to rule as follows:

**HOA case:**

I conclude that judgment should be rendered in favor of the HOA for assessments and fines in the amount of \$14,122.50 (minus any fees that have been paid from escrow since trial). Additionally, I conclude that judgment should be rendered in favor of the HOA for attorney's fees as presented at trial.

Mr. Hults's defense was that the HOA did not appropriately do its job, and accordingly, was not due it HOA assessments. It used sub-par contractors and employees. The work performed passed inspections by the City. Although an "audit" was specified in the HOA's Master Deed/By-Laws, one apparently had never been performed, and to begin one now, would be overly expensive for such a small, fairly middle-of-the-road condominium project (located nowhere near the ocean; instead, it's near Highway 17 Business, several miles from the ocean). Mr. Hults was aware or should have been aware when he purchased at Willow Run that an annual audit had never been performed. However, an annual review has been performed every year, and nothing untoward has been uncovered.

Additionally, Mr. Hults was concerned that the annual HOA meeting was held in December instead of October, when the Master Deed/By-Laws state the meeting is to be held. Except for the first year, the meeting apparently has always been held in December. When Mr. Hults purchased, the meetings were being held in December, and he was put on notice to that effect. He is a resident there, and he did not testify that he has been harmed by the difference in the meeting dates.

Although both of these are technical violations of the rules, the audit being a larger violation than the meeting date, I conclude that the Business Judgment Rule gives the HOA comfort here.

**BBQ case:**

# The South Carolina Appellate Court

Monday, July 30, 2018 3:25 PM

1015 Sumter Street  
STE 5  
Columbia, South Carolina  
29201

Notice to appeal.

Court  
Master in Equity - Judge Cynthia Graham Howe  
1301 Second Avenue  
Conway, S.C. 29526  
County of Horry, SC

Docket number 2013-CP-26-8496  
Docket number 2014-CP-26-4605

Appellant  
Donald E. Hults  
Julie Lynn Hults  
2000 Greens Blvd. unit 25A  
Myrtle Beach, SC 29577  
609-319-1727

Opposing Lawyer  
Luther McCutchen  
4610 Oleander Drive, Suite 203  
Myrtle Beach, SC 29577  
843-449-3411  
Representing the Homeowners Association of Willow Run Condominiums  
2000 Greens Blvd.  
Myrtle Beach, SC 29577

I conclude that judgment should be rendered in favor of the HOA for fines against Mr. Hults in the amount of \$6000 (minus any fines which were included in the HOA case for barbecuing improperly), as well as \$3,751.24 in attorney's fees. (Mr. Hults, however, is not to be assessed for a hearing which had to be continued because a court reporter did not appear)

Mr. Hults admitted that he and his wife grilled out two dozen times in the summer and fall of 2013, but believes that the rules against barbecuing were passed to harass him specifically and not as a result of the earlier fire at Willow Rule and an insurance requirement. Additionally, he believes that the fines were assessed against him to harass him. I conclude that the barbecue rules were passed as a safety issue, and the fact that Mr. Hults disobeyed the rules had nothing to do with harassment.

Mr. Hults should be required to abide by the HOA barbecuing area rules.

Mr. McCutchen, please provide a proposed order pursuant to my ruling above and send Mr. Hults a copy when you send the proposed order to me for my review.

With warm regards, I am

Very truly yours,

Cynthia Graham Howe | Master in Equity

**Horry County Government**

1301 Second Avenue

Conway, South Carolina 29526

Tel 843.915.7852 | Fax 843.915.6310

[howec@horrycounty.org](mailto:howec@horrycounty.org) | [www.horrycounty.org](http://www.horrycounty.org)

\*\*\*\*

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Luther McCutchen

Monday, August 13, 2018 8:18 AM

4610 Oleander Drive  
Suite 203  
Myrtle Beach, S.C. 29577

Please, upon receipt of this notification, send me all the pertinent information on what company recorded the transcripts of the trials # 2013-CP-26-8496 and #2014-CP-26-4605.

Thank you,

Donald Hults  
Julie Hults

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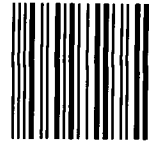
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