

7. Since that date a material change in circumstances has occurred.
8. Prior to and since the date of the Order the Mother has repeatedly denied the Father unimpeded visitation with the Child, including, but not limited to:
 - A. Placing the Child unnecessarily in daycare while the Father is unemployed and at the residence full time;
 - B. Contacting and instructing the Child's daycare and school that the Father is not allowed any contact with the Child;
 - C. Stating several times and taking actions to enforce a mandate that the Father is only allowed supervised visitation with the Child;
 - D. Waking the Child up early in the morning and keeping the Child up late at night to avoid time with the Father;
 - E. Filing, in bad faith, a Motion for a Protective Order alleging the Father has abused the Mother and the Child with full knowledge that no such actions have occurred;
9. On the rare occasion the Mother is unable to prevent the Father from visiting the Child, the Mother engages in harassing and abusive contact with the Father and the Child, thereby disrupting the Father's time with the Child.
10. Prior to and since the date of the Order, the Mother has demonstrated a fundamental lack of understanding or appreciation as to what is in the child's best interest by:
 - A. Placing the Child in an illegal daycare which failed to adequately supervise the Child to a point where the Child was placed in danger of harm;
 - B. Failing to adequately address the Child's special needs as a downs syndrome Child;

C. Failing to address her mental illness and how its manifestation affects the Child's environment.

11. As a result thereof, the Child's relationship with the Father and the Mother has been severely undermined and damaged.

12. The Mother has, by her actions and statements to the Child and in the presence of the Child, attempted to alienate the child from the Father.

13. The Mother's actions, coupled with alienation, have caused, and will continue to cause, great harm to the Child.


14. As a result of the aforesaid, a change of circumstances has occurred pursuant to § 20-108 of the Virginia Code.

15. The Child's best interests require the change of custody, both legal and physical, to the Father, or in the alternative, the parties be granted, *pendente lite*, joint legal and physical custody of the Child.

WHEREFORE, the Father requests this Court to:

1. grant him, *pendente lite*, custody, both legal and physical, or in the alternative, the parties be granted, *pendente lite*, joint legal and physical custody of the Child;
2. pursuant to Virginia Code § 20-103, grant the Father exclusive use of the marital residence *pendente lite*;
3. order, *pendente lite* and permanently, the Mother be restrained and enjoined from any harassing verbal or physical contact with the Father and the Child;
4. order the Mother pay the Father's costs and attorneys' fees;
5. order such further relief as the nature of the case or the goals of equity require.

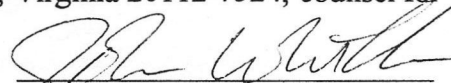
**Respectfully submitted,
WESLEY C. SMITH
by Counsel**



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this pleading was sent via facsimile and first-class mail, this 19 day of March, 2003, to Loretta Vardy, Esquire 12388 Silent Wolf Drive, Manassas, Virginia 20112-7524, counsel for Respondent.


John C. Whitbeck, Jr.

