

Loretta Vardy
Attorney At Law
12388 Silent Wolf Drive
Manassas, VA 20112

Telephone: 703-791-6078

Fax: 703-791-7957

F A X

DATE: 6/12/03

NUMBER OF PAGES: 14

(including this cover sheet)

TO: John Whitbeck, Esq.

FAX: 703-777-9079

PHONE: 703-777-1795

Subject: Cheri Smith

actions: _____ Please call and confirm receipt

_____ Please share the faxed information with _____

COMMENTS:

John:

I was unable to get this fax through the other day. I have mailed a copy of the BOC to you.

This is a copy of the Bill of Complaint and Affidavit which I am filing today.

Loretta

This facsimile message may contain privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivery of this message to the intended recipient, you are hereby notified that any review, dissemination, distribution, or copying of this communication is prohibited. If you have received this transmission in error, please notify this office immediately by telephone and return the original to this office via the U.S. Postal Service.

COMMONWEALTH OF VIRGINIA - REPORT OF DIVORCE OR ANNULMENT

Department of Health - Division of Vital Records - Richmond

1.22 ON THIS TO BE LETED BY INER OR VEY AND FILED LERK OF COURT ETITION OR E

1. CIRCUIT COURT FOR CITY OR COUNTY OF <i>Prince William County</i>	STATE FILE NUMBER
--	-------------------

2. FULL NAME <i>Wesley Clay Smith</i>	2A. SOCIAL SECURITY NUMBER <i>369-90 9544</i>
--	--

3. PLACE OF BIRTH <i>Illinois</i>	4. DATE OF BIRTH <i>5/26/65</i>
--------------------------------------	------------------------------------

HUSBAND	5. NUMBER OF THIS MARRIAGE <i>first</i>	6. EDUCATION Elementary or Secondary (Specify only highest grade completed) <i>10-12</i>	College (1-4 or 5-) <i>4</i>
---------	--	--	---------------------------------

7. USUAL RESIDENCE <i>11411 Huntsman Dr Manassas Prince William VA</i>

8. FULL MAIDEN NAME <i>Cheri Jones</i>	8A. SOCIAL SECURITY NUMBER
---	----------------------------

9. PLACE OF BIRTH <i>Utah</i>	10. DATE OF BIRTH <i>2/4/69</i>
----------------------------------	------------------------------------

WIFE	11. NUMBER OF THIS MARRIAGE <i>first</i>	12. EDUCATION Elementary or Secondary (Specify only highest grade completed) <i>10-12</i>	College (1-4 or 5-) <i>5+</i>
------	---	---	----------------------------------

13. USUAL RESIDENCE <i>(street no. or rural route number) (city or town) (county if not independent city) (state)</i>
--

14. PLACE OF MARRIAGE <i>South Jordan Salt Lake Utah</i>	15. DATE OF MARRIAGE <i>11/23/88</i>
---	---

16. NUMBER OF CHILDREN UNDER 18 IN THIS FAMILY <i>1</i>	17. NUMBER OF CHILDREN UNDER 18 IN THIS FAMILY WHOSE PHYSICAL CUSTODY WAS AWARDED TO: Husband _____ Wife _____ Joint (Husband/Wife) _____ Other _____ No Children _____	18. DATE OF SEPARATION <i>9/17/00</i>
--	---	--

19. PLAINTIFF <input type="checkbox"/> HUSBAND <input checked="" type="checkbox"/> WIFE <input type="checkbox"/> BOTH	20. DIVORCE GRANTED TO <input type="checkbox"/> HUSBAND <input type="checkbox"/> WIFE <input type="checkbox"/> BOTH	21. LEGAL GROUND OR CAUSE OF DIVORCE <i>Cruelty / Constructive Desertion</i>
--	--	---

22. INFORMANT'S SIGNATURE <i>Cheri Smith</i>	<input checked="" type="checkbox"/> PETITIONER <input type="checkbox"/> ATTORNEY FOR PETITIONER
---	--

NAME OF INFORMANT <i>(Type or Print)</i>	ADDRESS OF INFORMANT
---	----------------------

NAME OF INFORMANT <i>(Type or Print)</i>	ADDRESS OF INFORMANT
---	----------------------

I CERTIFY THAT A FINAL DECREE OF _____ WAS ENTERED _____ CONCERNING THE ABOVE

(divorce or annulment) (date of divorce or annulment)

MARRIAGE AND WAS NUMBERED _____

(court file number)

(SEAL) SIGNATURE OF CLERK OF COURT OR DEPUTY

NAME OF CLERK OR DEPUTY
(Type or Print)

PREPARE BY TYPED OR PRINTED INK UNFADING INK A PERMANENT RECORD

IF COURT WILL AND FORWARD TO REGISTRAR BY DAY OF MONTH YEAR DATE FINAL IS GRANTED

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM COUNTY

Cheri Smith,
Plaintiff,

v.

Chancery No.: _____

Wesley C. Smith,
Defendant.

BILL OF COMPLAINT

TO: Wesley C. Smith
c/o John Whitbeck, Jr., Esquire
Kazam, Whitbeck, Seck & Kazem, P.L.C.
15-D Loudoun Street, S.W.
Leesburg, VA 20175

Plaintiff, Cheri Smith, respectfully represents as follows:

1. Plaintiff, Cheri Smith, resides at 11450 Huntsman Drive, Manassas, Virginia, 20112.
2. Defendant, Wesley C. Smith, resides at 11411 Huntsman Drive Manassas, Virginia, 20112.
3. Plaintiff and Defendant were married on November 23, 1988 in South Jordan, Utah.
4. Plaintiff is domiciled in and has been a bona fide resident of the Commonwealth of Virginia for more than six months next preceding the commencement of this suit.

Smith v. Smith

5. Plaintiff and Defendant are over the age of 18 years, are of sound mind, and neither of them is in the military service of the United States.

6. Plaintiff's social security number is 529-49-8449.
Defendant's social security number is 369-90-9588.

7. There was one child born of this marriage, namely, Liam Raleigh Smith, six years of age, born on July 22, 1997, whose Social Security Number is 227-79-9743.

8. Plaintiff and Defendant last cohabited at 11411 Huntsman Drive Manassas VA 20112.

9. Plaintiff is employed by SAIC, Inc., 1710 SAIC Drive, McLean, Virginia. Defendant is currently unemployed.

10. The Defendant has been guilty of constructive desertion and cruelty toward the Plaintiff, in that the Defendant has abused, threatened, humiliated, and degraded the Plaintiff and subjected her to his acts of cruelty. The Defendant has attempted to force the Plaintiff out of the marital home. The Defendant by his actions and harassment has caused the Plaintiff to remove herself from their shared bedroom in the marital home and finally from the marital home itself.

Smith v. Smith

11. Beginning around 1996 and continuing intermittently, the Defendant has made untrue allegations that the Plaintiff suffered from mental illness; however, during May 2002, these allegations escalated.

12. During the marriage, the Defendant has behaved aggressively towards the Plaintiff on several occasions.

13. In 1999, the Defendant slapped the Plaintiff in the face.

14. In 2001, the Defendant while attempting to prevent the Plaintiff from leaving a room in the marital home, did bruise the Plaintiff's arm.

15. On or about May 2002, the Defendant began to harass the Plaintiff with untrue allegations that she is mentally ill. This harassment continued and escalated both in frequency and hostility. The Defendant has made these allegations not only to the Plaintiff but also to third parties and to their child, Liam.

16. Since May 2002, the Defendant has insisted that the Plaintiff is mentally ill. The alleged mental illness has not always been specified; however since May 2002, the Defendant has alleged that the mental illness is bi-polar disorder.

17. Since May 2002, Defendant has demanded that the Plaintiff obtain treatment or prove to his satisfaction that she is not mentally ill.

18. Since May 2002, Defendant has tried repeatedly to force the Plaintiff to leave the marital home. He has repeatedly told the Plaintiff that she must leave the house or he will be forced to take their child from the Plaintiff in order to protect the child from her.

19. On or about the first week in June 2002, the Defendant issued an ultimatum to the Plaintiff that she either get treatment or move out of the house.

20. On or about the first week in June 2002, to avoid further harassment and believing it to be necessary for her personal safety, the Plaintiff moved to the guest bedroom in the marital home.

21. Sometime on or around mid-June, the Defendant began locking the door to the master bedroom in the marital home.

22. Beginning in June 2002, and continuing until October 2002, the Defendant threatened to take the parties' minor child to Michigan or Mexico if the Plaintiff did not receive treatment for her alleged mental illness.

23. During the first half of September 2002, the ^{Smith v. Smith} Defendant did on several occasions lock the parties' minor child in a bedroom with himself and refuse to allow the child out unless and until the Plaintiff left the house.

24. On September 16, 2002, after an argument with the Defendant, the Plaintiff did leave the marital home and seek refuge with a neighbor. While the Plaintiff was at the neighbor's house, the Defendant did place the Plaintiff's clothing and other possessions in the driveway of the marital home at 11411 Huntsman Drive. The police were called and the Plaintiff returned to the marital home to retrieve some things for herself and her child.

25. On September 17, 2002, a Preliminary Protective Order granting the Plaintiff exclusive use of the marital home for herself and her son, was issued by the Juvenile and Domestic Relations Court for the County of Prince William, Case Number A42997-01-00.

26. Since September 17, 2002, it has been the intention of the Plaintiff that the parties live separately and apart. The Plaintiff and Defendant have not cohabited since September 17, 2003. They have separated bedrooms, maintain separate bank accounts. The Plaintiff has performed the normal family tasks such as doing laundry, bathing, food shopping and preparation for herself and her son only. Defendant has provided for his needs

27. On October 1, 2002, a Permanent Protective Order was denied by the Juvenile and Domestic Relations Court for the County of Prince William, Case Number A42997-01-00.

28. On or about October 1, 2002, through October 21, 2002, the Defendant refused to remain in the marital home when the Plaintiff was also present in the marital home.

29. On several occasions, during the period from October 1, 2002 through October 21, 2002, the Defendant took the parties' son and left the marital home.

30. On October 21, 2002, a Temporary Custody Order granting custody of the parties' son to the Plaintiff was entered by the Juvenile and Domestic Relations Court for Prince William County, Case Number: J85032-01/02/03-00.

31. On or about November 1, 2002, the Defendant left the marital home without notifying the Plaintiff.

32. On or about December 28, 2002, the Defendant returned to the marital home without prior notification to the Plaintiff.

33. On February 5, 2003, An Agreed Order for Temporary Visitation was entered by the Juvenile and Domestic Relations Court for the County of Prince William. As part of this Agreed

Order, Defendant was granted the exclusive use of the master bedroom and Plaintiff was granted exclusive use of the guest bedroom in the marital home

34. On May 13, 2003 a Temporary Custody Order was entered by the Juvenile and Domestic Relations Court for the County of Prince William, granting Joint Legal Custody of Liam R. Smith to the Plaintiff and Defendant. The Plaintiff was granted Primary Physical Custody and the Defendant was granted the same visitation schedule as was contained in the Order entered on October 21, 2002. This Order allowed the Defendant to provide daycare for the parties' son until he secures employment. none

35. On May 31, 2003, the Plaintiff removed herself and the parties' son from the marital home.

36. Beginning on or around May 31, 2003, the Defendant has neglected to give the Plaintiff copies of School communications which are sent home with the parties' son. In addition, the Defendant attitude and conduct towards the Plaintiff has become more aggressive. His communications with her have become more ascerbic and hostile.

37. There is a current Department of Child Support Enforcement Administrative Order for Support which has been appealed to the Juvenile and Domestic Relations Court for Prince

38. No reconciliation is probable.

39. The best interests of the minor child of the parties require that responsibility for his care and custody be granted to the Plaintiff. Plaintiff's affidavit, pursuant to Section 20-146.20 of the Code of Virginia, is attached as Exhibit "A."

40. The parties have both legal and equitable interests in a variety of assets and debts, which require distribution in accordance with section 20-107.3 of the Code of Virginia.

41. Plaintiff desires to resume use of her maiden name, to wit: Cheri Jones

WHEREFORE, the Plaintiff prays:

1. That she be granted a divorce *a mensa et thoro* pursuant to Section 20-95 of the Code of Virginia, to be later merged into a final decree of divorce;

2. That the Plaintiff be granted custody of their minor child, Liam Raleigh Smith, both *pendente lite* and permanently.

3. That the Plaintiff be granted exclusive use of the marital home until final disposition of the property;

- Smith v. Smith
4. That the Support Order from the Department of Child Support Enforcement be reviewed and amended if appropriate, so that Defendant be ordered to pay reasonable sums for the support and maintenance of the minor child, Liam Smith, and for the Plaintiff, Cheri Smith, both while this suit is pending and following entry of a final decree;
 5. That if Spousal Support for the Plaintiff either *Pendente Lite* or at the entry of the final decree, the Plaintiff's right to Spousal Support be reserved;
 6. That upon entry of a final decree in this matter, the Court grant the Plaintiff all rights and remedies afforded by section 20-107.3 of the Code of Virginia; that the Defendant be enjoined from threatening, harassing, harming, or abusing the Plaintiff in any way, or from entering any premises where the Plaintiff resides or is known to be present;
 7. That the Plaintiff be allowed to resume use of her maiden name, Cheri Jones;
 8. That the Plaintiff be awarded costs and a reasonable attorney fee at the conclusion of this suit; and
 9. That the Plaintiff may have such other and further relief as the nature of this case may require.

Cheri Smith

Cheri Smith

COMMONWEALTH OF VIRGINIA

COUNTY OF Prince William, to-wit:

I, Cheri Smith, the Plaintiff herein, being duly sworn, say that I have read the foregoing Bill of Complaint and know the contents thereof, and that the same is true to the best of my knowledge, information, and belief.

Given under my hand this 9th Day of June 2003.

Cheri Smith

Cheri Smith

Subscribed and sworn to/affirmed before me this 9th of June, 2003 by Cheri Smith.

Cheri J. Cheatham
Notary Public

My commission expires: *June 30, 2004*

Smith v. Smith

Loretta Vardy

Loretta Vardy, Esquire
12388 Silent Wolf Drive
Manassas, Virginia, 20112
Telephone: 703-791-6078
Fax: 703-791-7957
VSB# 22625
Counsel for Plaintiff

CERTIFICATION OF SERVICE

I hereby certify that a true and accurate copy of this pleading was sent via facsimile and first class mail postage prepaid, this 10th day of June, 2003 to John C. Whitbeck, Jr., Esquire, Kazem, Whitbeck, Seck & Kazem, PLC, 15-D Loudoun Street, SW, Leesburg, VA 20175

Loretta Vardy