

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF PRINCE WILLIAM

CHERI SMITH
Plaintiff

v.

WESLEY C. SMITH
Defendant

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Chancery No. 53360-00

PENDENTE LITE ORDER

THIS MATTER came for hearing on September 10, 2003, upon the Cross Motions for *Pendente Lite Relief* filed by the Plaintiff, Cheri Smith, and Defendant, Wesley C. Smith.

WHEREUPON, In accordance with the standards and requirements set forth in sections 20-124.1 through 20-124.6 of the Code of Virginia, 1950, as amended, as well as consideration of the evidence presented, the testimony of witness and the arguments of counsel, and finding it to be in the best interests of the minor child of the parties herein, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

NOTICES AND INFORMATION:

Pursuant to §20-60.3, Code of Virginia, the parties are hereby notified of the following provisions of Virginia law and the parties hereby represent to this Court that the information provided below is true information:

1. Support payments may be withheld as they become due pursuant to §20-79.1 or §20-79.2, from income as defined in §63.2-1900, without further amendments of this Order or having to file an application for services with the Department of Social Services.
2. Support payments may be withheld pursuant to Chapter 19 (§63.2-1900, et seq.) of Title 63.2 without further amendments to the order upon application for services with the Department of Social Services.
3. A duty of support is owed for the following child of the parties:

<u>Name</u>	<u>Date of Birth</u>	<u>Social Security Number</u>	<u>Resides With</u>
Liam Raleigh Smith	July 22, 1997	227-79-9743	Plaintiff, Cheri Smith

4. The following is true information regarding the parties:

Person responsible for paying child support is the Father, Wesley C. Smith:

Mother: Name: Cheri Smith DoB 2/4/69 SSN: 529-49-8449
Driver's License # 529-49-8449 - State: VA
Residence: 10238N Manassas Mill Road
Manassas, VA 20110
Telephone # 703-880-8837

Employer: SAIC, INC.
1710 SAIC Drive,
McLean, VA 22102
Telephone #: 703-676-4709

Father: Name: Wesley C. Smith DoB 5/26/65 SSN: 369-90-9588
Driver's License # 369-90-9588 - State: VA
Residence: 11411 Huntsman Drive,
Manassas, VA 20112
Telephone #: 703-368-8544

Note: If any of above information is not provided because of an exception pursuant to § 20-60.3.4, state the exception: NONE.

5. A petition may be filed for the suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business or occupation issued by the Commonwealth of Virginia to a person responsible for support as provided in §63.2-1937, upon a delinquency for a period of ninety days or more or in an amount of \$5,000 or more.

Neither party holds any such license, certificate, registration or authorization issued by Virginia to engage in the profession, trade, business or occupation..

6. The Order of this Court as to the amount and terms of the child support and spousal support are set forth in the support provisions of this Order.

7A. The Orders of this Court as to health care coverage for children, spouse or former spouse and any policy information are set forth in the health care provision of this Order.

B. This Order contains provisions for extraordinary medical expenses to be paid by or reimbursed to a party pursuant to subsection D and G 3 of § 20-108.2, and those provisions are set forth in the child support provisions of this Order.

8. The Order of this Court as to the amount and terms of any arrearages in support are set forth in the arrearage provision of this Order.

9. If child support payments have been ordered, then, unless the Court orders otherwise for good cause shown, the parties shall give each other and this Court at least thirty days' advance written notice of any change in address, and shall give notice of any change of telephone number within thirty days after the change. The parties shall give these notices to each other and, when payments are to be made through the Department of Social Services (DSS), to the DSS.

10. If child support payments are ordered to be paid through the (DSS), the obligor shall keep the DSS informed of his or her current employer's name, address and telephone number. If payments are made directly to the obligee then the obligor shall keep this Court informed of his or her current employer's name, address and telephone number.

11. The separate amounts due to each person under this Order for child support, for spousal support or for a unitary award, or the affirmation of a separation agreement, are set forth in the support provision of this Order.

12. In determination of a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law.

13. The Department of Social Services may, pursuant to Chapter 19 (§ 63. 2-21900 et seq.) of Title 63.2 and in accordance with § 20-108.2 and § 63.2-1921, initiate a review of the amount of support ordered by any court.

14. Support shall be paid for any child until the child reaches the age of eighteen, and shall continue to be paid for a child who is: (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of nineteen or graduates from high school, whichever occurs first, or (iii) until further order of the court.

It is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

1. TEMPORARY SPOUSAL SUPPORT:

- A. At this time, the Plaintiff, Cheri Smith, waives her right to *pendente lite* spousal support while reserving her right to future spousal support.
- B. Defendant's, Wesley C. Smith, Motion for *pendente lite* spousal support is denied.

2. TEMPORARY CHILD CUSTODY:

- A. The Plaintiff, Cheri Smith, shall have **SOLE LEGAL** and **PRIMARY PHYSICAL TEMPORARY CUSTODY** of the parties' minor child, Liam Smith

3. TEMPORARY CHILD VISITATION:

The Defendant, Wesley C. Smith, is hereby awarded reasonable visitation as follows:

- 1. **Weekend Visitation:**
Beginning on Friday, September 19, 2003, the Defendant, Wesley C. Smith, shall have visitation on alternate weekends starting after school. on Friday and ending at 7:00 P.M. on Sunday.
- 2. **Monday Holidays:**
When the Monday following the Defendant's weekend visitation is a holiday and the child is out of school, the weekend visitation is to be extended until 7:00 P.M. on Monday.
- 2A. **Weekday Visitation:**
Starting on September 16, 2003 the Defendant is to have visitation with the child on Tuesday evening beginning at 7:00 P.M. and ending Wednesday morning when he shall return the child to school.
- 3. **Spring Break:**
The parties shall alternate Spring Break. The Defendant shall have visitation over Spring Break in 2004 and every even year thereafter. The Plaintiff shall have Spring Break in the year 2005 and every odd year thereafter. Spring Break shall be defined as beginning at 7:00 P.M. on the last day of school until 7:00 P.M. the day before school restarts.
- 4. **Summer Vacation:**

The parties are to have four (4) weeks with the child during the summer, these weeks are to be divided into two two-week (2) periods. These are to be uninterrupted visits, not alternating weeks. The parties are encouraged to plan their vacations with the child and spend this time with him. The Defendant is to have from 7:00 P.M. on the second Friday in July until 7:00 P.m. on the fourth Friday in July and from 7:00 P.M. on the second Friday in August until 7:00 P.M. on the fourth Friday in August. The Plaintiff is to have the period from 7:00 P.M. on the third Friday in June until 7:00 P.M. on Friday two weeks thereafter and from 7:00 P.M. on the fourth Friday in July until 7:00 P.M. on the second Friday in August.

5. **Fall/Thanksgiving:**

The parties shall alternate the Thanksgiving holiday weekend. The Thanksgiving weekend is defined as the period from 7:00 P.M. on the last day of school until 7:00 P.M. on the day before school resumes. In 2003 and in every odd year thereafter, the Plaintiff shall have the Thanksgiving holiday. In 2004 and in every even year thereafter, the Defendant shall have the Thanksgiving holiday.

6. **Winter/Christmas Vacation:**

The winter/Christmas break shall be divided into two parts. The first part shall begin at 7:00 P.M. on the last day of school until 1:00 P.M. on Christmas Day, December 25th. The second part shall begin at 1:00 P.M. on Christmas Day and end at 1:00 P.M. on New Year's Day (January 1st).

The parties shall alternate these two time periods each year. In 2003, and in every odd year thereafter, the Plaintiff shall have the first part and the Defendant shall have the second part of the Christmas vacation. In 2004, and in every even year thereafter, the Defendant shall have the first part and the Plaintiff shall have the second part of the Christmas vacation.

7. **Father's Day/Mother's Day:**

The Defendant is to have visitation for the weekend that includes Father's Day and the Plaintiff shall have the weekend that includes Mother's Day.

8. **Child's Birthday:**

The Defendant is to have visitation with the child on the child's birthday from 7:00 P.M. until 9:00 P.M.

9. **Telephone Calls:**

The child may call either parent at anytime. The Defendant may call the child on Sundays between 7:00 P.M. and 8:00 P.M. The child is to be available to receive the call. The parties are not to listen in or interfere with these calls. The Parties may telephone each another, at reasonable hours, at his /her home. The Parties are not to call one another's place of work unless it is an emergency.

10. **Transportation:**

The Defendant is to pick the child up at the beginning of the visits and the Plaintiff is to pick the child up at the end of the visit. The child must be ready to go and the exchange must be prompt and peaceful.

Unless agreed in advance, if the Defendant is one hour late, the visitation shall be canceled and there shall be no automatic make up visitation.

11. **Missed Visitation:**

When the Defendant cannot make the visitation, he must give 48 hours advance notification to the Plaintiff and the Defendant shall not be automatically entitled to make up the visit.

12. **Additional Visitation:**

Additional visitation shall be permitted as agreed by the Parties with the Plaintiff having the final decision.

13. **General Provisions:**

A. The Parties shall continue to cooperate to make sure the child's needs are met; the Parties are to keep the child's best interest first.

B. **Exchange of Information:**

Neither parent shall be denied any access to medical, school or hospital records.

i. **Educational:** Within 48 hours of receipt, the Plaintiff shall provide the Defendant with copies of school papers, report cards, notices of IEP meetings, Parent/Teacher Conferences, or other educational information.

i.i. **Medical:** The Plaintiff must provide the Defendant with copies of medical information in order that he may utilize the insurance while the child is visiting. The Plaintiff shall also provide any medications the child may need during visitation.

i.i.i. **Relocation:** The Parties are to provide one another with their current address and phone numbers. The Parties shall give the court and each other thirty (30) days written notice whenever they relocate or change address or telephone number. The notification should be sent by postage paid mail.

C. Efforts to limit the effects on the child: Parties shall keep the peace and not harass or interfere in one another's private lives. Parties shall not discuss the issues of child support, visitation or custody in the presence of the child. Parties shall not say or do anything that will demean the other party or diminish the respect the child may have for either parent.

D. The Parties shall attend a parenting class within 120 days of entry of the order.

14. **Precedence:**

The holiday and vacation visitation schedule shall take precedence over the regular weekend visitation rotation.

4. **TEMPORARY CHILD SUPPORT:**

Starting on November 1, 2003, and on the 1st of every month thereafter until further Order of the Court, the Defendant is to pay \$823.00 per month to the Plaintiff

5. **HEALTH CARE COVERAGE:**

A. For the Child:

The Plaintiff, Cheri Smith, shall provide health care insurance coverage for the child who is subject of this Order.

B. For the Spouse :

The Plaintiff, Cheri Smith, shall provide health care insurance coverage for the Defendant, Wesley C. Smith *Pendent Lite*

C. Information Regarding Policy:

The health insurance carrier which provides the coverage applicable to this Order is Mamsi. This policy is provided all or in part as a benefit of the employment of Cheri Smith by her employer, SAIC, Inc.,

D. Health Costs/Uncovered Expenses:

The Plaintiff is to provide medical co-pays and cost of \$100.00 or less. Health Costs which are over \$100.00 shall be divided proportionately according to the Child Support Guidelines. The Defendant shall pay 66% and the Plaintiff shall pay 34%.

E. Arrearages:

There are no arrearages at this time.

F. Termination:

Support shall be paid for any child until the child reaches the age of eighteen, and shall continue to be paid for a child who is: (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of nineteen or graduates from high school, whichever occurs first, or (iii) until further order of the court.

6. MARITAL RESIDENCE

- A. The Defendant is hereby awarded exclusive use and possession of the marital residence at 11411 Huntsman Drive, Manassas VA 20112 .
- B. The Defendant is to maintain the interior and exterior and cooperate with listing the house for sale.
- C. The Plaintiff may list the house for sale at \$340,000.00 or an amount determined by a realtor.
- D. The Parties are to take steps to preserve the marital home from foreclosure and preserve the marital assets.
- E. The Parties must cooperate to settle the Condemnation Proceedings with Virginia Department of Transportation.

7. MOTION FOR MENTAL HEALTH EVALUATION is denied.

8. MOTION FOR ATTORNEY FEES is denied, however the issue is reserved for the final Equitable Distribution Hearing.

ENTERED THIS 26th DAY OF SEPTEMBER, 2003 .

Judge

Court Findings and Factors Used in Determining Support:

1. The Court finds that:

Father's imputed monthly gross income is: \$ 9,916.00. (Imputed annual income of \$119,000.00 divided by 12.)

Mother's gross income is: \$ 5,200.00

Combined monthly gross income: \$15,116.00

Plaintiff's portion is 34%; Defendant's portion is 66%.

The number of children to be supported pursuant to this Order is: 1.

The Custody/Principal Residence is: 10238N Manassas Mill Road, Manassas, VA 20110

The applicable guideline is: sole custody

The work-related child care costs are: \$ 0.

The applicable extraordinary medical costs are: \$ 0.

The cost of health insurance for the children is: \$ 74.00.

2. The presumptive support, pursuant to the support guideline of §20-108.1 and §20-108.2 is: \$1,247.00. This amount has been calculated as follows:

\$1014.00 (support guideline amount for \$10,000.00 gross monthly income(GMI)),

+ \$159.00, (per support guideline, 3.1% of the GMI exceeding \$10,000)

\$1163.00 Child Support per guidelines

+ \$74.00 Monthly Health Insurance Premium for the child

\$1,247.00. Total Monthly Child Support Amount

Plaintiff's Share: 34% X \$1,247.00 = \$424.00

Defendant's Share 66% X \$1,247.00 = \$823.00

3. The Court awards support of \$ 823.00 per month payable by DEFENDANT to PLAINTIFF.

Judge

Date: _____