

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,

Complainant,

v.

WESLEY C. SMITH,

Defendant.

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Chancery No. 53360

PETITION FOR RULE TO SHOW CAUSE

COMES NOW the Defendant, Wesley C. Smith ("Mr. Smith"), by counsel, and under oath, requests this Honorable Court issue a Rule against the Complainant, Cheri Smith ("the Complainant") requiring her to appear and show cause why she should not be held in contempt of this Court for failing to abide by the terms of the *Pendente Lite* Order entered October 2, 2003 ("the Order"), and states as follows:

1. The Complainant and Mr. Smith are married, living separate and apart, and have one minor child, namely Liam R. Smith ("the child").
2. The child is a special needs child and has been diagnosed with Downs' Syndrome.
3. Section 3(13) of the Order provides:

"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.
4. Since the entry of the Order, the Complainant has refused to send Mr. Smith copies of the aforesaid required "Educational" materials several times.
5. In addition, Mrs. Smith has removed the child's school notebook she maintains

for teachers to advise her of the child's progress to intentionally deprive Mr. Smith of the information contained therein.

6. As a result thereof, Mr. Smith has missed several important items of information, parent/teacher conferences, performances of the child and at least two social events he would have participated in had he known of their scheduling.

7. The Complainant's actions are willful and part of an ongoing effort to alienate the child from Mr. Smith.

8. Section 3(13) of the Order further provides:

“...ii. 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....”

9. The Complainant has failed to provide medical information and prescription medication for the child during the past several visitation times.

10. In addition, the Complainant refused to allow Mr. Smith to see the child during a medical procedure at a local hospital during Mr. Smith's court ordered visitation time.

11. Section 3(5) of the Order provides:

“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...”

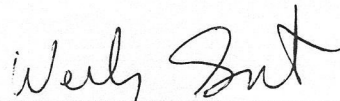
12. Section 3(2A) of the Order provides:

“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...”

13. During Thanksgiving 2003, the Complainant failed to return the child to Mr. Smith for his visitation time on Tuesday, December 2, 2003.

14. The Complainant's actions are willful and part of an ongoing effort to alienate the child from Mr. Smith.

WHEREFORE Mr. Smith requests this Honorable Court issue a Rule against the Complainant requiring her to appear and show cause why she should not be held in contempt of this Court for her failure to abide by the terms of the Order, that the Court impose an appropriate sanction pursuant to Va. Code Ann. § 20-115 and other applicable authorities, for an award of attorneys' fees incurred herein and such further relief as the nature of the case or the goals of equity require.

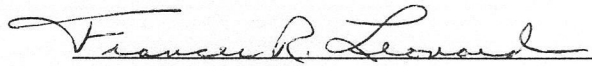


WESLEY/C. SMITH

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF PRINCE WILLIAM, to wit:

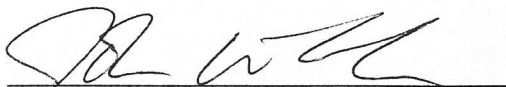
This day personally appeared before me, FRANCIS R. LEONARD a Notary Public in and for the Commonwealth of Virginia at large, Wesley C. Smith, who being first duly sworn, states that the allegations contained in the foregoing Petition are true and correct.

Subscribe and sworn before me this 16th day of December, 2003.



Notary Public

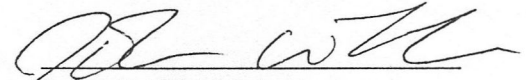
My Commission Expires: 1/31/2005



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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this pleading was served via private process to the Complainant, Cheri Smith and first-class mail, this 16 day of December, 2003, to the Loretta Vardy, Esquire, 12388 Silent Wolf Drive, Manassas, Virginia 20112, Counsel for Complainant. I further certify that I have attempted to resolve this matter with counsel for the Complainant prior to the filing of this pleading.


John C. Whitbeck, Jr.