

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,

Complainant,

v.

WESLEY C. SMITH,

Defendant.

Chancery No. 53360

MOTION FOR APPOINTMENT OF A GUARDIAN AD LITEM

COMES NOW the Defendant, Wesley C. Smith ("Mr. Smith"), by counsel, and moves this Honorable Court to appoint a Guardian *ad litem* for the Parties' minor child Liam R. Smith ("the Child"), and states as follows:

1. This matter is currently before the Court on Complainant's Bill of Complaint for divorce and Mr. Smith's Cross-Bill of Complaint for divorce.
2. Both Parties have requested this Court grant them sole legal and physical custody of the Child.
3. The Child has been diagnosed with Down's Syndrome.
4. The Child is currently being exposed to an extramarital affair within which the Wife is involved in that the Wife has forced the Child to spend time with the paramour at her one-bedroom apartment on several occasions, which has adversely affected the Child's well-being.
5. The Complainant has refused to abide by this Court's *Pendente Lite* Order entered October 2, 2003 with respect to Mr. Smith's visitation with the Child, and his right to be informed as to the education and health of the Child.
6. There is significant disagreement between the Parties as to the Child's health,

education, safety and welfare.

7. The estrangement of the Complainant and Mr. Smith “beclouds (their) parental judgment with emotion and prejudice.” Verrocchio v. Verrocchio, 16 Va. App. 314, 317, 429 S.E. 2d 482, 484 (1993).

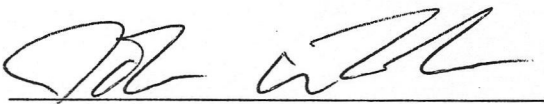
8. As a result thereof, a potential conflict exists between the interests of the Parties and the Child.

9. As a result thereof, this Court’s appointment of a Guardian *ad litem* is in the best interests of the Child.

10. This Court has the authority and discretion to appoint a Guardian *ad litem* in this matter. Verrocchio, 16 Va. App. at 322.

WHEREFORE Mr. Smith requests this Honorable Court appoint a Guardian *ad litem* for the Child, that he be awarded attorneys’ fees and costs incurred herein, and for such further relief as the nature of the case or the goals of equity require.

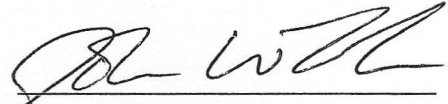
Respectfully submitted,
WESLEY C. SMITH
by Counsel



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15-D Loudoun Street, SW
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(703) 777-1795
(703) 777-9079 facsimile
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this pleading was sent via facsimile (703) 791-7957 and first-class mail, this 5 day of February, 2004, 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 the Motion.



John C. Whitbeck, Jr.

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PRAECIPE

THE CLERK will kindly place the attached Motion for appointment of a Guardian *ad litem* on the Court's docket for Friday, February 13, 2004 at 10:00 a.m. for hearing.

Respectfully submitted,
WESLEY C. SMITH
by Counsel

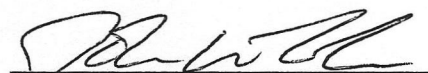
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PRINCE WILLIAM COUNTY VA.
DEPUTY
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2/13/04:RDA

off per chambers.


John C. Whitbeck, Jr.