

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF PRINCE WILLIAM COUNTY

Cheri Smith,
Complainant/Cross-Defendant,

v. Chancery No.:53360

Wesley C. Smith,
Defendant/Cross-Complainant.

ANSWER TO AMENDED CROSS BILL OF COMPLAINT

COMES NOW the Complainant/Cross-Defendant, Cheri Smith, ("the wife") by counsel, and in response to Defendant/Cross-Complainant, Wesley Smith's ("the Husband") Cross-Bill of Complaint respectfully states as follows:

1. The allegations contained in Paragraph 1 of the Amended Cross-Bill of Complaint are admitted.

2. The allegations contained in Paragraph 2 of the Amended Cross-Bill of Complaint are admitted.

3. The allegations contained in Paragraph 3 of the Amended Cross-Bill of Complaint are admitted.

4. The allegations concerning the Wife's mental illness contained in Paragraph 4 of the Amended Cross-Bill of Complaint are denied. The remaining allegations are admitted.

5. The allegations contained in Paragraph 5 of the Amended Cross-Bill of Complaint are admitted.

6. The allegations contained in Paragraph 6 of the Amended Cross-Bill of Complaint are admitted.

7. The allegations contained in Paragraph 7 of the Amended Cross-Bill of Complaint are admitted.

8. The allegations contained in Paragraph 8 of the Amended Cross-Bill of Complaint are admitted.

9. The allegations contained in Paragraph 9 of the Amended Cross-Bill of Complaint are denied. Although living in the same house, the Parties have not cohabited since on or about September 17, 2002. They have separated bedrooms, maintain separate bank accounts. The Wife 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.

10. The allegations contained in Paragraph 10 of the Amended Cross-Bill of Complaint are admitted.

11. The allegations contained in Paragraph 11 of the

Amended Cross-Bill of Complaint are admitted.

12. The allegations contained in Paragraph 12 of the Amended Cross-Bill of Complaint are denied.

13. The allegations contained in Paragraph 13 of the Amended Cross-Bill of Complaint are denied.

14. The allegations contained in Paragraph 14 of the Amended Cross-Bill of Complaint are denied.

15. The allegations contained in Paragraph 15 of the Amended Cross-Bill of Complaint are denied: the child has lived with both parents or with the Wife.

16. The allegations contained in Paragraph 16 of the Amended Cross-Bill of Complaint are denied.

17. The allegations contained in Paragraph 17 of the Amended Cross-Bill of Complaint are denied in part and admitted in part, specifically,

Sub-paragraph 17A, the allegations are admitted;

Sub-paragraph 17B., the allegations are denied;

Sub-paragraph 17C., the allegations are denied;

Sub-paragraph 17D., the allegations are denied;

Sub-paragraph 17E., the allegations are denied;

Sub-paragraph 17F., the allegations are denied;

Sub-paragraph 17g., the allegations are denied.

18. The allegations contained in Paragraph 18., Sub-paragraphs A,B,C,D,E,F,G of the Amended Cross-Bill of Complaint are denied. As to the allegations contained in Paragraphs 18 H and 18 I., the Wife invokes her fifth amendment right not to admit or deny anything which may tend to incriminate her and demands strict proof thereof; as to all other allegations contained I Paragraphs 18H and I, the Wife denies them and demands strict proof thereof.

COUNT I

Adultery

19. The Wife incorporates each of the aforesaid answers to the Husband's allegations contained in Paragraph 1 through 18 above.

20. The Wife invokes her Fifth Amendment right against self-incrimination and demands strict proof of the allegations contained in Paragraph 20 of the Amended Cross-Bill of Complaint.

21. The Wife invokes her Fifth Amendment right against self-incrimination and demands strict proof of the allegations contained in Paragraph 21 of the Amended Cross-Bill of Complaint.

22. The Wife invokes her Fifth Amendment right against self-incrimination and demands strict proof of the allegations

contained in Paragraph 22 of the Amended Cross-Bill of Complaint.

23. The Wife denies the allegations contained in Paragraph 23 of the Amended Bill of Complaint.

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COUNT II

Desertion

24. The Wife incorporates each of her responses aontained in paragraphs 1 through 23 above, to the Husband's Amended Bill of Complaint

25. The Wife denies the allegations contained in Paragraph 25 of the Cross-Bill of Complaint; the Husband by his verbal harassment of the Wife and false allegations of mental illness as well as other verbal and physical abuse have rendered her decision to leave the marital home as justified. Further, the Wife denies the allegation of Desertion. In support of her denial, the Wife states that:

1. The Husband by his conduct has been guilty of cruelty and constructive desertion thereby justifying the Wife's exit from the marital home.
2. Beginning around 1996 and continuing intermittently to the present, the Husband has harassed the Wife with false allegations of mental illness. Such allegations have been made not only to the Wife but to third parties and the Parties' child.
3. The Wife has sought counseling with and without the husband and has undergone mental health evaluations,

yet the Husband is not satisfied. He has stated that only when he is convinced that there is no mental illness will he stop making the allegations.

4. In about mid-June 2002, the Husband issued an ultimatum: that the Wife either get treatment for the alleged mental illness or leave the home. In response to this ultimatum and for her personal safety, the Wife, removed herself from their shared bedroom in the marital home and slept in the guest room.
5. On or about September 17, 2002, after an altercation, the Wife did leave the marital home and go to a neighbor's home. During her absence, the Husband did place her belongings in plastic bags and put them in the driveway in an effort to force the Wife from the home.
6. Since September 2002, the Parties have been involved in court actions for custody of their minor child.
7. As a hearing date of July 10, 2003 in the Juvenile and Domestic Relations Court for Prince William County approached, the Husband became more verbally abusive and aggressive towards the Wife. In reaction to the Husband's conduct the Wife removed herself and her son

on or about the first weekend in June 2003.

26. The Wife denies the allegations contained in Paragraph 26 of the Amended Cross-Bill. The date of separation was September 17, 2002.

27. The Wife admits the allegations contained in Paragraph 27 of the Amended Cross-Bill of Complaint.

28. The Wife denies the allegations contained in Paragraph 28 of the Amended Cross-Bill of Complaint. See Response to Paragraph 25, above

COUNT III

Constructive Desertion

29. The Wife incorporates each of the aforesaid responses to the allegations contained in Paragraphs 1 through 28 of the Amended Cross-Bill of Complaint.

30. The Wife denies the allegations contained in Paragraph 30 of the Amended Cross-Bill of Complaint.

31. The Wife denies the allegations contained in Paragraph 31 of the Amended Cross-Bill of Complaint. Wife specifically denies the allegation of Constructive Desertion. In support of this denial, the Wife states that

1. The Husband has abused, threatened, humiliated, and degraded the Wife and subjected her to his acts of cruelty. The Husband has many false allegations that the Wife suffers from a mental illness. He has made these allegations not only to the wife but to third parties and the Parties' minor child.
2. On or about the first week in June 2002, the Husband issued an ultimatum to the Wife that she either get treatment for her alleged mental illness or move out of the house.
3. Since June 2002, the Husband has repeatedly attempted to force the Wife out of the marital home.
4. Since September 2002, the Husband has avoided being in the same room as the Wife.
5. The conduct of the Husband has resulted in the practical destruction of the Parties' home life and has rendered the marriage intolerable and impossible for the Wife to endure to a level constituting the constructive desertion of the marriage.

32. The Wife denies the actions alleged in Paragraphs 30 and 31 and admits that she desires not to remain married.

33. The Wife denies the allegations contained in Paragraph 33 of the Amended Bill of Complaint.

WHEREFORE, the Complainant/Cross-Defendant requests:

1. That this Court deny the Defendant/Cross-Complainant's requests as set forth in his Amended Cross-Bill;
2. That this Court dismiss the Amended Cross-Bill of Complaint filed in this matter and award the Wife attorney's fees and costs both *Pendente Lite* and permanently expended herein.
3. That the Court grant the Complainant/Cross-Defendant such further relief as to the nature of the case or the goals of equity require.

**Respectfully submitted,
Cheri Smith
by Counsel**

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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 8th day of April 2004 to Wesley C. Smith, 3215

Ridge View Ct. #104, Woodbridge, VA 22192.

Second Copy was sent on April 21, 2004

Loretta Vardy
Loretta Vardy