

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

**Defendant.**

**MOTION FOR PENDENTE LITE RELIEF**

1. Starting in Sep 2002 the Complainant has pursued costly litigation instead of entering into mediation to settle the issues as requested repeatedly by the Defendant.
2. On or about September 18, 2002, the Complainant, without just cause, filed for a Preliminary Protective Order.
3. The Preliminary Protective Order was dismissed on October 1, 2002 due to the Complainant being unable at the request of the judge to provide specific details to support her allegations. The judge did not hear or ask for any testimony from the Defendant before dismissing the order.
4. On or about November 3, 2003 the court issued an order that the Preliminary Protective Order be expunged.
5. On or about Dec 12 2003, the parties sold their home for a profit of about \$182,000. The Complainant refused to agree to an equitable settlement and also refused the Defendants

suggestion that each party hold and be allowed to use 50% of the proceeds until such time as an agreement was reached, or the court ordered a settlement. Thus the proceeds were placed into an escrow account.

6. The Complainant has continued to make false allegations and have her attorney consume time of the Defendants attorney discussing them, thus increasing the Defendants legal fees.

7. The Complainant has refused to discuss many issues directly with the Defendant even remotely via e-mail and has insisted communication on most issues be via attorneys instead, thus increasing the Defendants legal fees.

8. The Complainant has also refused to cooperate via attorneys in concluding the matter in a timely and cost efficient manner.

9. On or about December 12, 2003 the Complainant responded to the Interrogatories but refused to answer many of the questions on 5<sup>th</sup> amendment grounds, even to questions that were not about her potentially criminal sexual misconduct or other criminal activity.

10. When the Complainant responded to the Defendants first request for documents, the Complainant refused to provide many of the documents.. Some were refused on the basis of privacy instead of a valid legal objection.

11. The Complainants refusal to answer questions and provide documents requires the Defendant to take additional steps to gather evidence. These might include filing a motion to compel, obtaining rulings on how broadly or narrowly she may assert her 5<sup>th</sup> amendment rights, and to seek to obtain the required evidence from other parties, including several outside Virginia.

12. The actions required by the Complainants refusals add significant additional cost for the Defendant.

13. The Defendant has already expended over \$50,000 in attorney fees, not including other

significant case related expenses.

14. The Defendant has had to borrow funds order to retain counsel and has the additional expense of paying interest on the money borrowed to pay attorney fees.

15. Given the current debt of the Defendant, he is now unable to borrow enough additional funds to retain counsel for the remainder of the case.

16. The Complainant has refused the Defendants request to release a portion of the funds from the escrow account to assist him in paying costs needed to prepare for the final hearing.

17. The Complainants attorney also wrote an order that the Defendant pay for the Guardian ad litem instead of writing the order to represent the verbal ruling of the judge which did not specify who would pay.

18. The financial difficulties of the Defendant, which were caused by the Complainant, will prevent him from having an equal chance to adequately prepare for the final hearing in this case. The Defendant has already had to appear in court without an attorney.

19. The financial records provided by the Complainant in discovery do not indicate significant payments to her attorney, nor do the records indicate the same financial difficulties incurred by the Defendant in paying his attorney.

20. The Complainant either by not paying her attorney or by other undisclosed means is thus able to continue to have counsel while running up costs for the Defendant.

21. The Complainants refusal to release funds impairs the Defendants ability to prepare for the final hearing and prove his grounds for divorce.

**WHEREFORE** the Husband requests the following relief *pendente lite*:

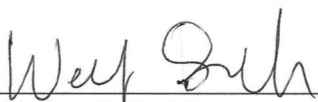
1. An order requiring the holder of the escrow account to release funds to the Defendant

sufficient to cover his attorney fees, not to exceed one half the value of the account.

2. In the alternative, due to the Defendants legal expenses only being necessary because of the Complainants decision to use expensive litigation instead of mediation, that the court enter an order requiring the Complainant to pay attorney fees for the Defendant for the remainder of the case.

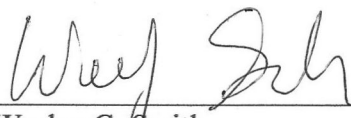
3. An order such further relief as the nature of the case or the goals of equity require.

**Respectfully submitted,  
WESLEY C. SMITH  
Defendant**

  
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Wesley C. Smith  
3215 Ridge View Ct. Ap 104  
Woodbridge, VA 22192  
(703) 220-2637  
Defendant, pro se

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of this pleading was served via first-class mail, this 30 day of April, 2004, to the Loretta Vardy, Esquire, 12388 Silent Wolf Drive, Manassas, Virginia 20112.

  
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Wesley C. Smith.

## VIRGINIA:

**IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY**

**CHERI SMITH,**

**Complainant,**

V.

**Chancery No. 53360**

**WESLEY C. SMITH,**

**Defendant.**

## PRAECIPE

**THE CLERK** will kindly place the attached Motion on this Court's docket for Friday, May 7, 2004 at 10:00 a.m. for hearing.

Wesley C. Smith  
3215 Ridge View Ct. Ap 104  
Woodbridge, VA 22192  
(703) 220-2637  
Defendant, pro se

## CERTIFICATE OF SERVICE

I hereby certify that on this 30 day of April, 2004, a true and accurate copy of this pleading was served via facsimile and first-class mail, to the Loretta Vardy, Esquire, 12388 Silent Wolf Drive, Manassas, Virginia 20112 and via first class mail and electronic mail to Wesley Smith, 3215 Ridgeview Court, Apt. 104, Woodbridge, Virginia 22192

Wesley C. Smith