

**VIRGINIA:**

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

**CHERI SMITH**

Complainant/Cross-Defendant

**v.**

**IN CHANCERY NO. 53360**

**WESLEY C. SMITH**

Defendant/Cross-Complainant

**MOTION PENDENTE LITE TO CHANGE CUSTODY**

**COMES NOW** the Defendant/Cross-Complainant, by counsel, and moves this Honorable Court to change the custody of the parties' minor child, Liam Smith, and award temporary physical custody to the Defendant/Cross-Complainant, on the grounds of a material change of circumstances. In support whereof, the Defendant/Cross-Complainant (hereinafter, the "Father"), by counsel, states as follows:

1. The Complainant/Cross-Defendant (hereinafter the "Mother") has notified the Father that she intends to relocate, with the parties' minor child, from the City of Manassas to the Tyson's Corner area.
2. Such a move will engender a change in the child's elementary school, the third such change within one year, which will cause undue stress on the child.
3. As a result of the proposed move, the Mother, upon information and belief, will be forced to move the child from his current daycare arrangement, Seven Oaks Academy, which will cause undue stress on the child.

4. The proposed move will cause an undue hardship on the Father in exercising his current visitation with the child.
5. The child is a "special needs" child, in that he suffers from Down's Syndrome, and requires a high degree of structure and stability in his life.
6. Upon information and belief, the Mother is engaged in an adulterous relationship with a paramour known as "Igor X", to which the child is exposed on a regular basis. Upon information and belief, Igor X spends many nights with the Mother, sharing her bed, in the presence of the child.
7. In light of the forgoing material changes of circumstances, the best interests of the child require a change in his temporary custody to the Father.

**WHEREFORE**, on account of the forgoing, the Father, by counsel, respectfully moves this Honorable Court to grant him temporary custody of the parties' minor child, and for such other and further relief as this Court deems just.

WESLEY C. SMITH  
By Counsel

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Counsel for Wesley C. Smith

CERTIFICATE OF SERVICE

I hereby certify that on this 18<sup>th</sup> day of June, 2004, a true copy of the foregoing Motion was mailed, postage prepaid, and sent via facsimile transmission, to Loretta Vardy, Esq., Counsel for the Complainant/Cross-Defendant, 12388 Silent Wolf Drive, Manassas, Virginia 20112., and hand-delivered to Ronald W. Fahy, Esq., Guardian Ad Litem, 9236 Mosby Street, Manassas, Virginia 20110.

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William A. Boge