

VIRGINIA:

IN THE CIRCUIT COURT THE COUNTY OF PRINCE WILLIAM

Cheri Smith

Complainant

v.

Wesley Smith

Defendant

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Chancery No. 53360

NOTICE

PLEASE TAKE NOTICE that on Wednesday, November 3, 2004 at 10:00 A.M. in the above captioned court I will make an appearance and make the following motion:

MOTION

Comes now, the Complainant, Cheri Smith, who by counsel moves this Court to release certain marital funds which are currently being held in his escrow account by Defendant's former attorney, John Whitbeck, Jr. Esquire, Kasem, Whitbeck, Seck & Kazem, P.L.C., 15-D Loundoun Street, S.W., Leesburg, VA., 20175.

In support of this Motion, Complainant states:

1. That the equitable distribution of the abovementioned marital funds is subject to this court's jurisdiction;
2. That Defendant's mother has contacted Complainant to request that the Defendant be allowed access to the marital funds in order to reimburse his mother for the money which she lost when he defaulted on a loan which was secured by his mother's funds;
3. That the Complainant is in no manner responsible for the Defendant's mother's loss;
4. That the Complainant is aware that the Defendant's mother has health problems;
5. That the Complainant shall not contest an amount of fifty-five thousand dollars (\$55,000.00) as the Defendant's portion of the escrowed marital funds;

6. That the Complainant is willing to have the Court release funds directly to Defendant's mother, in the amount of fifty-five thousand dollars (\$55,000.00) or less from the Defendant's share of the marital funds; This release would be subject to the following two conditions:

- A. That such release shall in no way bestow responsibility for reimbursement of any funds to either the Defendant or his mother;
- B. That the Defendant agree that the funds released to his mother shall not be used by him in any manner;

WHEREFORE, the Complainant respectfully requests that Court grant her the following relief:

- 1. An order directing John Whibeck, Jr., Esq., to release the escrowed funds directly to Mr. Smith's mother.
- 2. An order determining that whatever amount is distributed to Mr. Smith's mother be deducted from what would be Mr. Smith's equitable share of the escrowed marital funds;
- 3. An order directing Mr. Smith that he may not use any of these released funds for any purpose;
- 4. An order granting whatever further relief that equity and the goals of justice require.

Respectfully submitted,

Cheri Smith

By Counsel

By: Loretta Vardy

Loretta Vardy, Esquire
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Counsel for Cheri Smith

CERTIFICATE OF NOTICE

This is to certify that on the 29TH day of October, 2004, a true copy of the foregoing Notice and Motion was mailed, postage prepaid to Wesley Smith, Pro Se Defendant 3215 Ridge View Ct. Apt. 104, Woodbridge, VA 22192 and Hand-delivered to Ronald Fahy, Esquire, Guardian Ad Litem,

Loretta Vardy
Loretta Vardy