

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF PRINCE WILLIAM

CHERI SMITH
Plaintiff

v.

WESLEY C. SMITH
Defendant

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Chancery No. 53360-00

NOTICE AND MOTION

PLEASE TAKE NOTICE that on Friday, January 28, 2005, at 10:00 a.m., or as soon thereafter as this matter may be heard, the Plaintiff by Counsel will move this Court to enter the Order which is attached,

Respectfully submitted,

CHERI SMITH

By Counsel

Loretta Vardy

Loretta Vardy, Esquire
Virginia State Bar No. 26225
12388 Silent Wolf Drive
Manassas, Virginia 20112
(703) 791-6078
Counsel for Ms. Smith

CERTIFICATION OF NOTICE

This is to certify that on the 18th day of January 2005, a true copy of the foregoing Notice and Motion was hand delivered to Wesley C. Smith, Defendant and Ronald Fahy, Esquire (GAL)

Loretta Vardy
Loretta Vardy

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ORDER

THIS MATTER came for hearing on November 3, 2004 upon the Complainant's Motion to Quash a Witness Subpoena issued for Complainant's Counsel; Complainant's Motion to release escrowed marital funds in the amount of fifty thousand dollars for the benefit of the Defendant's mother, Mrs. Smith; and upon the Motion of the Guardian *Ad Litem* to release monies from the escrowed marital account in order to pay the Guardian *Ad Litem*; as well as the Defendant's Petition for a Rule to Show Cause against Igor Bakhir; Petition for a Rule to Show Cause against the Complainant; Motion to Compel Answers to Discovery ; Motion to appoint a new Guardian *Ad Litem* ; Motion to Vacate the *Pendente Lite* Order entered by this Court on September 23, 2004; Motion for Sanctions against Counsel for the Complainant; Motion to Order Child Protective Services to provide copies of all documents related to the minor child, Liam Smith; Motion to prohibit the Complainant from filing any further motions until she complies with discovery; four Motions for *Pendente Lite* Relief which was originally set for June 11, 2004 (Clarification of Visitation), June 23, 2004 (Travel and Adultery) and August 17, 2004.

Upon consideration of the evidence presented and the arguments of counsel, it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Complainant's Motion to quash the witness subpoena issued for the Complainant's Counsel is granted.

2. Complainant's Motion to release fifty thousand dollars from the marital funds in escrow for the benefit of the Defendant's mother is granted with the stipulation that Mr. Smith not be allowed to borrow money from his mother to pursue matters relating to the pending case.
3. Mr. Fahy's Motion to release funds from the escrow account in order that he may be paid is granted.
4. Defendant's Petition for a Rule to Show Cause against Mr. Igor Bakhir is granted with respect to Mr. Bakhir's telephone records for his home telephone and cell phone and e-mail records related to the Complainant and/or her son, Liam Smith; records of credit card statements, bank statement or gift certificates which reflect money or gifts given to the Complainant and/or her son, Liam Smith and all photos of the Complainant or her son, Liam Smith; and all letters to or from the Complainant or her son, Liam Smith.
5. Defendant's Petition for a Rule to Show Cause against the Complainant is denied; however, Complainant is reminded that she must send, whether by mail or other means, within 48 hours of receipt, all documents required to be sent by her to the Defendant with in 48 hours.
6. Defendant's Motion to Compel Discovery with respect to the Defendant's Interrogatories, is granted in part and denied in part:
 - A. With respect to Interrogatory # 1, the Motion is denied;
 - B. With respect to Interrogatory #5, the Motion is denied;
 - C. With respect to Interrogatory #6, the Motion is granted to the extent that the Complainant is ordered to update her response to the Defendant and within 30 days of the final hearing to provide the Defendant with a copy of her actual work schedule-days worked as well as hours worked for the past three months;
 - D. With respect to Interrogatory #7, the Complainant is ordered to update her income and expense statements for the preceding three months thirty days prior to the final trial date;

- E. With respect to Interrogatory #8, the Defendant's Motion is denied;
 - F. With respect to Interrogatory #9, the Complainant is ordered to update the information requested;
 - G. With respect to Interrogatory #10, the Complainant is ordered to update the information about daycare providers;
 - H. With respect to Interrogatory #11, the Complainant is ordered to provide updated information about therapists;
 - I. With respect to Interrogatory # 14, Defendant's Motion is denied;
 - J. With respect to Interrogatory # 15, the Complainant is ordered to update this information if necessary;
 - K. With respect to Interrogatory # 16, the Complainant is ordered to update this information with the present provider.
 - L. With respect to Interrogatory # 17, the Complainant is ordered to update this information
 - M. With respect to Interrogatory # 18, Defendant's Motion is denied;
 - N. With respect to Interrogatory # 19, Defendant's Motion is denied;
 - O. With respect to Interrogatory # 20, the Complainant is ordered to update the list of prescription drugs with printouts for the past 3 years from all provider pharmacies used by her;
 - P. With respect to Interrogatories # 21, #22, #23, #24, #25, Defendant's Motion is denied;
 - Q. With respect to Interrogatory # 26, #27, #28, #29, #30, Defendant's Motion is denied;
7. Defendant's Motion to Compel Discovery with respect to the Defendant's Request for the Production of Documents, is granted in part and denied in part:
- A. With respect to Request # 1, Complainant is ordered to provide the Defendant with copies of her 2003 income tax returns and provide the Defendant with updated Quicken Reports for the period from August 2003 through the present;

- B. With respect to Request # 2, the Complainant is ordered to provide the Defendant with Quicken report updates of her checking account activity for the period from August 2003 through the present;
- C. With respect to Request # 3, the Complainant is ordered to provide copies of the Cardio-pulmonary stock certificates;
- D. With respect to Request # 6, Defendant's Motion is denied as these matters have already been addressed in the Interrogatories;
- E. With respect to Request # 11, Defendant's Motion is denied with respect to Complainant's Separate property, however, the Complainant is ordered to update information concerning the Wachovia credit card account information;
- F. With respect to Request # 20 , Defendant's Motion is denied;
- G. With respect to Request # 22, Defendant's Motion is denied;
- H. With respect to Request #23, Defendant's Motion is denied;
- I. With respect to Request # 26, Defendant's Motion is denied. The Plaintiff will not be allowed to enter any such record at the final hearing;
- J. With respect to Request # 28, Defendant's Motion is denied.;
- K. With respect to Request # 32, the Plaintiff is ordered to provide all copies except those which are on the SAIC computers
- L. With respect to Request #33, the Complainant is ordered to verify that all information was provided and to update if any other documents are in her possession;
- M. With respect to Request # 35, the Complainant is hereby ordered to update these e-mails with copies of e-mails sent by the School;
- N. With respect to Request # 40, the Complainant is ordered to update the record by submitting her copies of her lease and rental application for her present;
- O. With respect to Request # 42, Defendant's Motion is Denied;
- P. With respect to Request # 43, Defendant's Motion is denied ;
- Q. With respect to Request # 44, Defendant's Motion is denied;

8. Defendant's Motion to Compel the Fairfax County Child Protective Services to disclose information concerning an allegation of possible child abuse is denied. The Defendant did not give notice to Fairfax County Child Protective Services and thus, they were not represented at this hearing;
9. Defendant's four Motions for *Pendente Lite* Relief will not be heard as the parties have already had their *Pendente Lite* Hearing. This matter is now ready for a final hearing; however, any relief requested within these Motions will relate back to the date of filing;
10. Defendant's Motion to appoint a new Guardian *Ad Litem* is denied. If the Defendant brings this motion again, sanctions may be considered;
11. Defendant's Motion for Sanctions against Complainant's Counsel is denied;
12. The issue of Attorney Fees is reserved for the final hearing; and

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED that neither party is allowed to put any information concerning issues in this case on a website.

ENTERED THIS ____ DAY OF December, 2004.

Judge Lon E. Farris, Circuit Court

SEEN & AGREED:

SEEN & _____

By Loretta Vardy
Loretta Vardy, Esquire
Counsel for the Complainant
12388 Silent Wolf Drive
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VSB# 26225

By _____
Ronald Fahy, Esquire
Guardian *Ad Litem*
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SEEN AND _____

By: _____
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Defendant
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