

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,)	
Plaintiff)	
)	
v.)	Chancery No. 53360
)	
WESLEY C. SMITH,)	
Defendant)	

#32 - DEFENDANT’S MOTION FOR TRIAL DATE AND SANCTIONS

A pdf copy of this motion is available at: http://www.liamsdad.org/court_case/

COMES NOW the Defendant, Wesley C. Smith, and requests the Court take action to get this case ready for trial, and order the trial date to be held **AFTER** the case is ready for trial and not before, to sanction the Plaintiff for impeding getting the case ready for trial and making false statements to the court. In support of his **MOTION** the Defendant states as follows:

1. On November 28, 2005 the Defendant received a **CIVIL TERM DAY PRAECIPE** from the Plaintiff in which she states the case is “matured for trial on the merits” and asks the court to set a trial date without a jury.
2. The Plaintiff’s Counsel, Loretta Vardy, is well aware that the case is not mature and ready for trial and her statement is intentionally misleading and is an attempt to get a trial not based on the merits of the case.
3. There are many outstanding issues that need to be addressed before the case is mature and ready for trial. The Plaintiff has not yet fully complied with discovery requests, has refused to get court orders entered, and has refused to set a date to hear motions that must be addressed before the trial.
4. The case file is not back from the Appeals Court. This used to be a favorite excuse of Loretta Vardy for why she couldn’t schedule a hearing to resolve the motions/orders and get the case ready for trial (see Exhibit A).
5. There are many motions filed with the court that need rulings including but not limited to:
 - A. Motion For Pendente Lite Relief (Adultery - originally scheduled Jun 23, 2004)
 - B. Motion For Pendente Lite Relief (Travel - originally scheduled Jun 23, 2004)

- C. Motion For Pendente Lite Relief (originally scheduled Aug 17, 2004)
 - D. Motion to Dispense With Commissioners Hearing - scheduled for 5/6/04
 - E. Response To Dismiss with Commissioners Hearing And Motion For Sanctions– Filed May 2, 2005
 - F. Defendant’s Motion #28 to Disqualify/Recuse Judge Alston – Filed 8/16/05
 - G. GAL’s Motion To Quash – Filed 5/17/05
 - H. #30 - Defendant’s Motion For Sanctions Against Mr. Fahy – Filed 8/19/05
 - I. Plaintiff’s Motion To Quash – Filed 5/27/05
 - J. #29 - Defendant’s Motion For Sanctions Against Plaintiff – Filed 8/18/05
 - K. Fairfax County School Board’s Motion To Quash Subpoena – Filed 10/04/05
 - L. #31 – Defendant’s Motion For Jury Trial – Filed 11/29/05
6. There are also at least two outstanding orders that need to be entered:
- A. The NOVEMBER 3, 2004 RULING on several motions. The Plaintiff was charged with getting this ruling entered but even after one year has refused to do so. This ruling includes an order to compel and since the Plaintiff after one year still hasn’t fully complied the court will need to allow time for a show cause/contempt hearing after this order is entered.
 - B. The Nov 3, 2004 RULING to Issue an Order for Rule to Show Cause against Igor Bakhir. The ruling was made to issue the order and the order has been submitted to the court several times for several dates but an order has yet to be signed. The order needs to be signed and a hearing held before the case is ready for trial.

7. The Defendant has repeatedly asked the Plaintiff’s counsel to set a hearing date to resolve these issues so that we can move the case forward and get it ready for trial and had been extremely flexible about dates available, but Loretta Vardy refuses to set a date and appears to be attempting to hold a trial without having completed the motions and orders listed above. Her excuses have varied from claiming the Court was refusing to hear motions until the file was back from the Appeals Court to simply ignoring the Defendants requests to set a date for weeks, then switching to wanting to set a final Trial Date without

clearing up the motions/orders first and when the file is still not back from the Appeals Court

8. Due to her refusal to set a date to hear the motions, her refusal to enter the Nov 3rd 2004 ruling, and her refusal to set an agreed date for the final trial, and her blatantly misleading statement about this case being ready for trial, Loretta Vardy should be sanctioned by the Court

WHEREFORE the Defendant asks that the Court

1. Set a ½ day hearing date to resolve the motions/orders above any date after Jan 15, 2006.
2. Order that the Plaintiff may not schedule a final trial date until the Plaintiff complies fully with the outstanding discovery requests and ruling, and not until the above motions/orders have been resolved.
3. Order that the final hearing shall be 4 days held at least one month after all motions/orders are taken care of .
4. Issue appropriate sanctions against Loretta Vardy for her intentional misleading statements to the court and her refusal to cooperate to mature this case for trial.

**Respectfully Submitted,
Wesley C. Smith**

Wesley C. Smith, Defendant
5347 Landrum Rd APT 1
Dublin, VA 24084-5603
liamsdad@liamsdad.org
no phone

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served to Loretta Vardy and Ronald Fahy (GAL) via first-class mail, this 29th day of November 2005.

Wesley C. Smith

From: lorvardy@aol.com
Subject: Re: Ronalds Motion
Date: June 3, 2005 9:36:34 PM EDT
To: liamsdad@liamsdad.org

Wesley:

We cannot set a date at this point. Judge Alston will not allow anything be scheduled because the file is in Richmond.

-----Original Message-----

From: Liam's Dad <liamsdad@liamsdad.org>
To: lorvardy@aol.com
Sent: Fri, 3 Jun 2005 10:39:34 -0400
Subject: Re: Ronalds Motion

Loretta,

Lets set a date.

Then again if you want to spend less days in court you could always work out a reasonable settlement with me.

Wesley

Liam's Dad - Wesley Smith
<http://www.liamsdad.org>
liamsdad@liamsdad.org

An individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law.

- Martin Luther King, Jr