

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,
Plaintiff

v.

WESLEY C. SMITH,
Defendant

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Chancery No. 53360

#36 - DEFENDANT'S MOTION FOR TRAVEL EXPENSES

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 award him travel expenses for his unnecessary travel to motions day on Feb 3, 2005 to hear the Plaintiffs frivolous motion to set a trial date instead of the Plaintiff scheduling agreed dates for pre-trial motions and for trial as offered by the Defendant. In support of his MOTION the Defendant states as follows:

1. The Plaintiff and her Counsel, Loretta Vardy, are responsible for the case not being ready for trial. See #32 - DEFENDANT'S MOTION FOR TRIAL DATE AND SANCTIONS
2. The Defendant has been very flexible in offering dates to schedule a date to hold a hearing to get the case ready for trial as well as to hold the trial itself.
3. The Defendant has offered **ANY DATE** after Jan 15 to hold a ½ hearing to get the case ready for trial.
4. The Defendant has offered **ANY** 4 days at least one month after the hearing in #3 for the final trial.
5. Instead of agreeing to and scheduling pre-trial motions and the trial per the very generous and flexible terms offered by the Defendant the Plaintiff's Attorney keeps attempting to force the Defendant to waste time/money by repeatedly filing frivolous motions asking the court to set the date. These include her motions/paerice filed on 11/22/2005, 12/13/2005, and 1/27/2006.
6. The Defendant lives about 250 miles away from the courthouse.
7. Traveling 500 miles for a unnecessary court appearance that could be handled via telephone or e-mail puts an unnecessary financial and time burden on the Defendant.

8. The only reason for the trial date to be set via motions day instead of via a call to chambers or an agreed order is the refusal of Loretta Vardy to agree to a date. As such she should be personally responsible for all costs incurred by the Defendant for her refusal to set a trial date via a call to chambers.

9. Loretta Vardy should not be billing her client for her spending more billable time on this than needed.

10. The conduct of Loretta Vardy in this matter is inappropriate and should be sanctioned by the court.

WHEREFORE the Defendant asks that the Court:

1. Order Loretta Vardy personally, not the Plaintiff, to pay all reasonable and necessary travel and other expenses.
2. Order Loretta Vardy to notify her client that she has been wasting her money on this case and refund an appropriate amount of money to the Plaintiff.
3. Order Loretta Vardy personally to pay for any time the GAL has spent on this.
4. Issue any sanctions if appropriate for an attorney needlessly harassing the Defendant and delaying the trial rather than working to wrap things up efficiently for her client.

**Respectfully Submitted,
Wesley C. Smith**

Wesley C. Smith, Defendant
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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 1st day of February 2006.

Wesley C. Smith