

**VIRGINIA:**

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

**CHERI SMITH,**  
**Plaintiff,**

**v.**

**WESLEY C. SMITH,**  
**Defendant**

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**Chancery No. 53360**

**#52 – MOTION FOR SANCTIONS DUE TO FRAUD UPON THE COURT**

A pdf copy of this motion is available at: [http://www.liamsdad.org/court\\_case/](http://www.liamsdad.org/court_case/)

**COMES NOW** the Defendant, Wesley C. Smith, and moves this Court pursuant to impose sanctions against the Plaintiff and her attorney, pursuant to Va. Code Ann § 8.01-271 § vs-cr-6:2-3.4, because they did intentionally make misleading and false statements both in motions and orally to the court. In support of his MOTION the Defendant states as follows:

1. The Defendant incorporates statements from the previously filed MOTION FOR *PENDENTE LITE* RELIEF filed 08/12/2004

[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2004.08.13\\_Vardy\\_FalseClaimsMotion.pdf](http://www.liamsdad.org/court_case/pwc_circuit/2004.08.13_Vardy_FalseClaimsMotion.pdf)

2. The Plaintiff's Attorney Loretta Vardy has knowingly made false statements of fact in violation of § vs-cr-6:2-3.3(a)(1) and § vs-cr-6:2-3.4(f). She has repeatedly filed motions that she knew were groundless, in violation of § vs-cr-6:2-3.4(i), thus directing the Defendants, time, energy, and money away from the core issues of the case.

3. Examples of false and misleading statements made by the Plaintiff and her attorney include:

4. Claiming the Defendant was ashamed of his son due to Down Syndrome, when in fact the Defendant had volunteered to help with Disabled children when he was in elementary school, volunteered as a hugger for Special Olympics, helped with Special Olympics when in College, well before he had any idea he would have a son with Down Syndrome.

5. In her MOTION FOR *PENDENTE LITE* RELIEF (4/8/2004

[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2004.04.08\\_public\\_ex.pdf](http://www.liamsdad.org/court_case/pwc_circuit/2004.04.08_public_ex.pdf)) implying the Defendant

abused our son when helping our son play a joke on the Plaintiff, when in fact the Plaintiff had laughed and enjoyed the joke and had played similar jokes with our son in the past. This was dropped after the Plaintiff learned the Defendant had a audio recoding of her laughing at the joke and photo's of her with our son in a box (smiling from ear to ear).

6. In the same motion she has also made false claims of badgering by the Defendant at exchanges. The Plaintiff dropped this when she found out the Defendant had audio recordings proving her claim false.

7. The Plaintiff's attorney, Loretta Vardy, has repeatedly made false statements in court, such as claiming the Defendant was not supportive of our son's speech therapy when in fact the Defendant allowed the Plaintiff to schedule speech therapy during his visitation and took him to speech therapy weekly before taking him to school.

8. § vscr-6:2-3.4 A lawyer shall not: ... (f) In trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused.

9. Ms. Vardy repeatedly violates this rule for example when she claimed in court that the Defendant's actions made her client call the police, then didn't present any evidence her client had called the police, which would have been an odd thing to do given the Defendant's action was driving up to his own apartment, noting the Plaintiff was sitting outside his apartment in her car, and then the Defendant drove off again without any communication or contact with the Plaintiff.

10. Another example of a violation is when Ms. Vardy stated in court that the Plaintiff had complied with the terms of the court order, when in fact Ms. Vardy was an eyewitness to the fact that the Plaintiff had not complied with the court order (or common sense) and had called the police when our son had wanted to spend time with his father, a direct violation of the court order that required her to allow our son access to his father even outside of set visitation times. Listen to her statement in court and take a

look at the court order and then photo's of Vardy at the scene with police available on my website or the CD attached to the previous motion:

[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2004.08.13\\_Evidence/court.FollowedTempVisitation.mp3](http://www.liamsdad.org/court_case/pwc_circuit/2004.08.13_Evidence/court.FollowedTempVisitation.mp3)  
[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2004.08.13\\_Evidence/JDR\\_order2.jpg](http://www.liamsdad.org/court_case/pwc_circuit/2004.08.13_Evidence/JDR_order2.jpg)  
[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2004.08.13\\_Evidence/8\\_picts.jpg](http://www.liamsdad.org/court_case/pwc_circuit/2004.08.13_Evidence/8_picts.jpg)

11. Ms. Vardy continued her false claims in her EMERGENCY MOTION TO AMENDVISITATION, in which she paints the Defendant out as moving to Michigan without notice, refusing to answer calls, let our son call the Plaintiff, etc. When in fact the Defendant had notified the Plaintiff of his move, had held a court hearing about it, the Plaintiff had seen him moving, had taken items from his apartment and so on. The Defendant even has phone records that document his having our son call the Plaintiff within a couple minutes of him finding out she wanted to talk to him. This motion is almost entirely false, even the part about service to the Defendant, which was by two-day mail not over night as Ms. Vardy claimed. See the Defendants OBJECTION TO EMERGENCY MOTION AND PROPOSED STATEMENT OF FACTS for more details of her false statements:

[http://www.liamsdad.org/court\\_case/suspend\\_visitation/2005.01.18\\_Object\\_Emergency\\_Motion.pdf](http://www.liamsdad.org/court_case/suspend_visitation/2005.01.18_Object_Emergency_Motion.pdf)

12. It should be noted that the first legal action Ms. Vardy took against the Defendant was to file for a protective order on false grounds, and when the Defendant proved the statements made were false the court dismissed the protective order. This Court has even expunged the protective order, admitting it had no merit.

13. The reason this case has drug on for years had been because Ms. Vardy has repeatedly made false and misleading statements to the court in an attempt to make the Defendant look bad, and then when the Defendant proves that Ms. Vardy was misleading the court, the court instead of punishing her just drops the issue, so of course Ms. Vardy just starts up again with another false accusation. Its time for the court to sanction her for her misconduct to stop her from doing it again.

**WHEREFORE** the Defendant requests the following:

1. Issue appropriate sanctions against Ms. Vardy and the Plaintiff to discourage them from making any more false and misleading statements to the court.

2. Such further relief as the nature of the case or the goals of equity require.

**Respectfully Submitted,  
Wesley C. Smith**

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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 e-mail and/or fax and/or website, this 13th day of February 2006.

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Wesley C. Smith