

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH
Plaintiff

v.

WESLEY C. SMITH
Defendant

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Chancery No. 53360

#56 – NOTICE OF FRAUD BY LORETTA VARDY

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

COMES NOW the Defendant, Wesley C. Smith, per § 8.01-271, vscr-6:2-8.4, and vscr-6:2-4.1 and notifies the court of fraud by Virginia Bar member Loretta Vardy in her filings of EQUITABLE DISTRIBUTION WORKSHEET and PLAINTIFF'S PROPOSED DISTRIBUTION OF MARITAL PROPERTY. The Defendant states as follows:

1. Loretta Vardy and the Plaintiff made several specific false claims in her filings of EQUITABLE DISTRIBUTION WORKSHEET and PLAINTIFF'S PROPOSED DISTRIBUTION OF MARITAL PROPERTY

2. In the PLAINTIFF'S PROPOSED DISTRIBUTION OF MARITAL PROPERTY line 4, Loretta Vardy claims the Plaintiff paid \$2,344 in utility bills “after she left the home”. This claim of utility payments is repeated in page 4 of her EQUITABLE DISTRIBUTION WORKSHEET where she seeks “reimbursement” for payments she supposedly made from 6/1/2003 to 12/31/2003, of - \$1,502.00 Electric, \$275 Comcast, \$258 Telephone, \$116 Long Distance, and \$193 Waste Disposal.

3. The Defendant has copies of his financial records a sample of which is provided as EXHIBIT A and is able to prove that he not the Plaintiff paid these expenses. The Plaintiff received copies of these records in discovery thus the claims the Plaintiff made this payments and seeking “reimbursement” is intentionally fraudulent and intentionally misleading. Had Loretta Vardy made any reasonable effort to come up with accurate numbers in her documents she would have known the Defendant paid these bills not her client.

4. The Plaintiff claims to have made \$1,502.00 in electric payments from 6/1/2003 – 12/31/2003 or

an average of \$214.57 per month. Note the average per month claimed by the Plaintiff is considerably higher than the actual electric bills, which were in fact paid by the Defendant. See EXHIBIT A.

ELECTRIC Payments made by Defendant 6/1/2003 – 12/31/2003

<u>Date</u>	<u>Check#</u>	<u>Payee</u>	<u>Amount</u>
7/15/03	5035	Dominion Virginia Power	104.91
8/8/03	5041	Dominion Virginia Power	121.10
9/12/03	5047	Dominion Virginia Power	110.58
10/14/03	5053	Dominion Virginia Power	63.52
11/20/03	5059	Dominion Virginia Power	128.56
12/12/03	5062	Dominion Virginia Power	139.04

5. The Plaintiff claims to have made \$275.00 in payments for Comcast Cable from 6/1/2003 – 12/31/2003. Again the Defendant not the Plaintiff made these payments and in fact made payments while she was still living in the home which following her logic would result in the Plaintiff owing the Defendant ½ of the \$226.12 payments he made before she moved out. See EXHIBIT A

COMCAST Payments made by the Defendant 1/1/2003-12/31/2003

<u>Date</u>	<u>Check#</u>	<u>Payee</u>	<u>Amount</u>
2/10/03	5019	Comcast	54.95
3/5/03	5021	Comcast	54.95
4/2/03	5023	Comcast	54.95
6/5/03	5030	Comcast	61.27
7/9/03	5031	Comcast	59.82
8/5/03	5039	Comcast	59.82
9/8/03	5045	Comcast	59.82
10/8/03	5051	Comcast	59.82
11/6/03	5055	Comcast	59.82
12/5/03	5060	Comcast	59.82

6. The Plaintiff claims to have made \$258.00 in payments for Local Telephone Service after she moved out of the house - 6/1/2003 – 12/31/2003. The Plaintiff had the phone disconnected on 10/3/2003 well before 12/31/2003 so she is claiming payments after the phone was disconnected. The Defendant made July 2003 phone bill directly to Verizon (See EXHIBIT A) and has already reimbursed the Plaintiff for the remaining two months as documented by EXHIBIT B - a record subpoenaed from the Plaintiff's Bank showing a check from the Defendant to the Plaintiff with a memo of Phone Bill and a deposit slip made out by the Plaintiff showing the Plaintiff received and cashed a check to cover the phone bill. Thus her fraud is intentional.

Telephone Payments made by Defendant 6/1/2003 – 12/31/2003

<u>Date</u>	<u>Check#</u>	<u>Payee</u>	<u>Amount</u>
7/25/03	5037	Verizon	28.60
10/25/03	142	Cheri Smith	60.00

7. The Plaintiff claims to have made \$116.00 in payments for Long Distance Charges after she moved out of the house - 6/1/2003 – 12/31/2003. Given that the Defendant had a cell phone to make free long distance charges and that the Plaintiff had the home phone disconnected on 10/3/03 it seems very improbable that she actually paid \$116 for Long Distance if indeed she paid anything at all.

8. The Plaintiff claims to have made \$193.00 in payments for Waste Disposal after she moved out of the house - 6/1/2003 – 12/31/2003. Waste Management charged about \$38.40 for two months of service or about \$230/year, thus the \$193 requested by the Plaintiff would cover 10 months or 142% of the charges for the 7 months the Plaintiff states. On top of this the Defendant is able to document that he paid for at least 4 months of service. See EXHIBIT A

Waste Disposal Payments made by Defendant 6/1/2003 – 12/31/2003

<u>Date</u>	<u>Check#</u>	<u>Payee</u>	<u>Amount</u>
7/30/03	5038	Waste Management	38.40
10/8/03	5052	Waste Management	38.60

9. The Plaintiff also claims the “took” a \$400 “child care credit refund” which she described as “Taken by DCSE then refunded to Wesley Smith”. The Plaintiff mischaracterizes this check; it was not related to taxes but rather was a refund of overpayment of child support due to JD&R Case No. JA42997-02-01 as to the legal authority to impose child support when parties are not separated.

10. Following the above habit of fraud asking for “reimbursement” for expenses she did not pay, the Plaintiff in the instance of the \$400 DCSE refund is asking for ½ the value when she was the one who cashed the check instead of the Defendant. In fact the Plaintiff cashed the check made out to both of them without even informing the Defendant of it or getting his permission, which was likely illegal. Claiming the Defendant rather than the Plaintiff cashed the check is another instance of fraud. See EXHIBIT C, subpoenaed from the Plaintiff’s bank that shows that she cashed the check.

11. It is clear and well-established law that any attempt by any officer of the court, whether attorney or judge, to deceive is considered fraud, and when the attempt to deceive occurs in a judicial proceeding,

it is "fraud upon the court". By her action in filing intentionally incorrect financial statements Loretta Vardy has committed fraud upon the court.

12. The actions of Loretta Vardy constitute a violation of VA § 8.01-271.1.

13. The actions of Loretta Vardy constitute a violation of § vs-cr-6:2-8.4:

“It is professional misconduct for a lawyer to: (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;”

14. The actions of Loretta Vardy constitute a violation of § vs-cr-6:2-4.1 Truthfulness in Statement to

Others:

“In the course of representing a client a lawyer shall not knowingly: (a) Make a false statement of fact or law; “

15. The actions of Loretta Vardy constitute a violation of § vs-cr-6:2-3.3:

“(a) A lawyer shall not knowingly:
(1) make a false statement of fact or law to a tribunal;”

16. Per § vs-cr-6:2-8.3 the court has an obligation to report the misconduct of Loretta Vardy.

WHEREFORE the Defendant requests the Court take appropriate actions to punish Loretta Vardy and the Plaintiff for their attempting to mislead the court with fraudulent financial statements and impose the following:

- A. Report the misconduct of Loretta Vardy to the Virginia Bar Association for action.
- B. Order that the Court will not use the Plaintiff's EQUITABLE DISTRIBUTION WORKSHEET and PLAINTIFF'S PROPOSED DISTRIBUTION OF MARITAL PROPERTY
- C. Order that the Plaintiff will not be allowed to present any evidence or motions relating to financial matters.
- D. Impose a financial sanction.
- E. Such further relief as the nature of the case or the goals of equity require.

**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 e-mail and/or fax and/or website, this 18th day of April 2006.

Wesley C. Smith



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Continental Engineering, Inc.

WESLEY C SMITH

11611 HUNTSMAN DR
MANASSAS VA 20112

PB

7/23/2003 thru 8/21/2003

Account number: 1010015424625
Account holder(s): WESLEY C SMITH

Opening balance 7/23	\$916.57
Deposits and other credits	5,100.00
Checks	183.42
Other withdrawals and service fees	901.75
Closing balance 8/21	\$4,931.70

Date	Amount	Description
8/11	100.00	OVERDRAFT PROTECTION TRANSFER FROM 048 540998308550277
8/12	5,000.00	TRANSR 540998308550277 08/11 INTERNET CONFIRMATION # [N031116493400
Total	\$5,100.00	

Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
0154	100.00	7/00	0138*	48.42	8/21			
0135	35.00	7/80	Total	\$183.42				

* indicates a break in check number sequence

Date	Amount	Description
7/25	28.60	AUTOMATED DEBIT VERIZON ONLINE PMT CO. ID. 9500000000 030725 WEB MISC CKF406392144POS
7/25	181.00	AUTOMATED DEBIT FIRST USA CARD ONLINE PMT CO. ID. 9500000000 030725 WEB MISC CKF406392144POS
7/30	38.40	AUTOMATED DEBIT WASTE MANAGEMENT ONLINE PMT CO. ID. 9500000000 030730 WEB MISC CKF406392144POS
8/05	5.95	ONLINE BILL PAY SERVICE FEE 07/01-07/31

Other Withdrawals and Service Fees continued on next page.

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Express Access Checking

02 1010016424625 072 30 0 14 91,124

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
8/05	59.82	AUTOMATED DEBIT COMCAST ONLINE PMT CO. ID. 9500000000 050805 WEB MISC CKF408392144POS
8/05	77.00	AUTOMATED DEBIT FIRST USA CARD ONLINE PMT CO. ID. 9500000000 050805 WEB MISC CKF408392144POS
8/08	2.00	MISCELLANEOUS CHARGE ATM NON-WACHOVIA WITHDRAWALS
8/08	48.88	AUTOMATED DEBIT CINGULAR ONLINE PMT CO. ID. 9500000000 050808 WEB MISC CKF408392144POS
8/08	102.00	WITHDRAWAL BRANCH BANK NG AND TRU DB/08 PRINCE WM GO CCUR MANASSAS VA 6028H007600
8/08	121.10	AUTOMATED DEBIT DOMINION VA POWER ONLINE PMT CO. ID. 9500000000 050808 WEB MISC CKF408392144POS
8/11	5.00	MISCELLANEOUS CHARGE OVERDRAFT PROTECTION TRANSFER
8/11	140.00	WITHDRAWAL SUDLEY ROAD 08/10 8118 SUDLEY ROAD MANASSAS VA 60281 005973
8/19	69.00	TRANSFR 5490998308560277 08/18 INTERNET CONFIRMATION # N081816245100
8/21	2.00	SERVICE CHARGE
Total	\$901.75	

Service Fees

Description	Quantity	Amount	Total
MONTHLY SERVICE FEE		2.00	2.00
Total fees due			\$2.00

Average balance	82,018.62
Minimum balance	671.12

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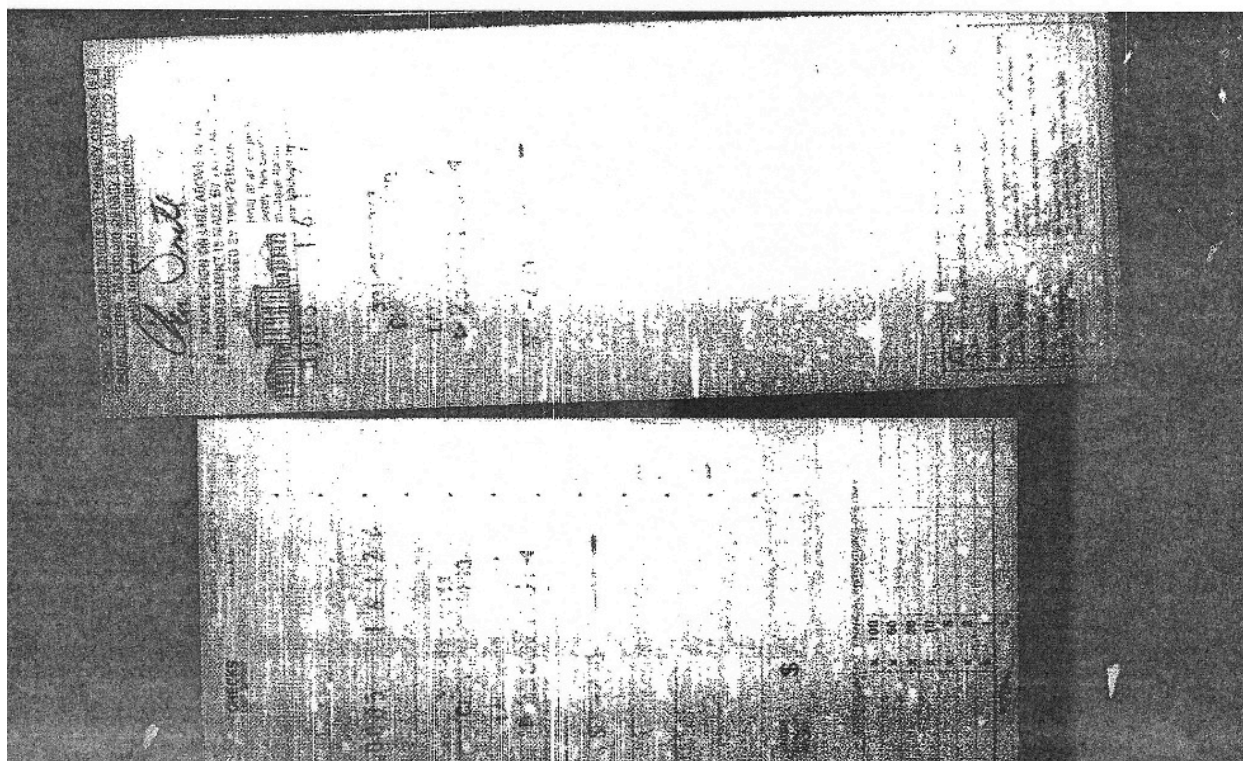
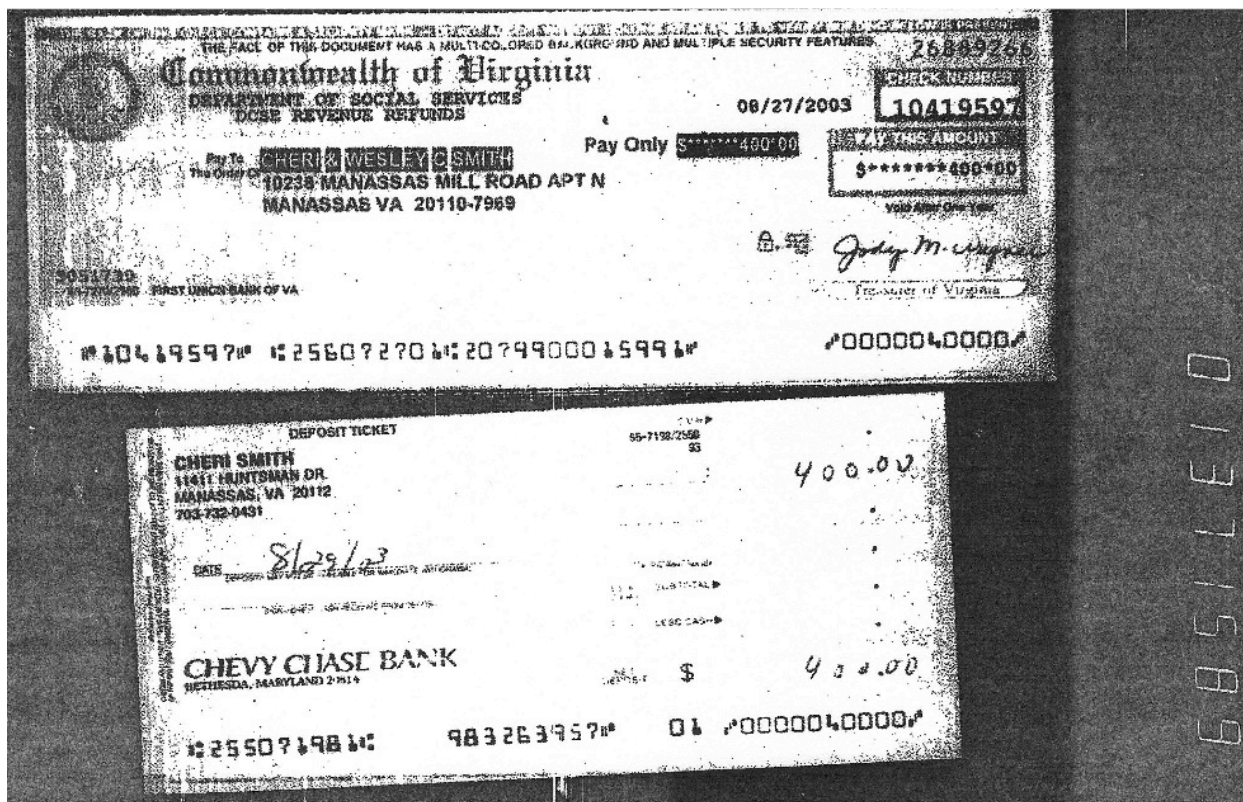


EXHIBIT C