

**VIRGINIA:**

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

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

**v.**

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

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**Chancery No. 53360**

**#61 – MOTION TO STRIKE AMENDED BILL OF COMPLAINT**

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**COMES NOW** the Defendant, Wesley C. Smith, and makes a motion to strike the Amended Bill Of Complaint filed by the Plaintiff. In support of his MOTION the Defendant states as follows:

1. On January 23, 2004 Judge Alston entered an order:

“**ORDERED** that the Complainant shall file her Amended Bill of Complaint with this Court and serve a copy thereof on Counsel for the Defendant no later than Feb 6<sup>th</sup> 2004; “

2. The Plaintiff did not file her the Amended Bill Of Complaint by Feb 6<sup>th</sup> as required by the court order, but instead it almost one month late. The late filing is documented by the index prepared by the clerk, which shows the amended bill of complaint was filed on 3/2/04, contained on pages 115-127 of Volume I.

3. Thus when the Plaintiff finally did file her the Amended Bill Of Complaint she did so without leave of the court, and as a result the Amended Bill Of Complaint is not properly before the court.

**WHEREFORE** as the Plaintiff did not comply with the terms required to file an amended Bill Of Complaint the Defendant requests the Court to strike it from the record and not consider it at trial.

**Respectfully Submitted,**  
**Wesley C. Smith**

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Wesley C. Smith, Defendant  
5347 Landrum Rd APT 1, Dublin, VA 24084-5603  
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**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 U.S. mail, this 17 day of May 2006.

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Wesley C. Smith