

CIVIL WORKSHEET

DATE: 5/22/2006

CH53360

JUDGE: RBP

COURT REPORTER:
Andrea Blakley-MAR Reporting

ATTORNEY(S):

PLAINTIFF: **CHERI SMITH**
present

LORETTA VARDY
present

DEFENDANT: **WESLEY C SMITH**
present

pro se

RONALD FAHY, guardian ad litem
for child - present

Court in session: 10:00 am

Rule on witnesses

Parties are sworn and background in

CHERI SMITH:

Born 2/4/69, 37 years old, Master's Degree, employed at Science Application International, as Project Manager, Project Manager for 5 years, annual income \$75,900, monthly income \$6,325, no other income, good physical and mental health, takes orthotricyclene, birth control, health insurance through employer – Aetna, covers family self, child and husband, insurance for Liam \$35 bi-weekly, dental plan included, lives at 1533 Lincoln Circle, apt. #104, Mclean, VA, since July 2004, 2 bedroom apartment, lives with Liam, Liam has own bedroom, married on 11/23/88 in South Jordan, Utah, first marriage, no other children, Liam born 7/22/1997, 8 years old, attends Spring Hill Elementary, 2nd grade, below average student, Downs Syndrome, in special ed. has IEP, elementary school is in Fairfax County, is mainstreamed in school, goes to after-school program with Fairfax County, office is in Mclean, Spring Hill Elementary is also in Mclean, separated 9/17/02, she moved out, came back into home, parties alternated living days in the home, moved out into apartment on Manassas Mill Road, in June 2003, parties have lived separate and apart since June 2003, took Liam with her when she moved out, Liam on Merelax (maintenance laxative) and takes allergy medication during spring, sees physician on regular basis and sees a geneticist, had a regular visitation schedule with father until December 2004, father moved to Michigan, no established visitation plan was ever set, defendant moved to Dublin, VA, in spring of 2005, no schedule for visitation at this time, position of custody – sole legal physical custody, opposes joint custody, visitation – minimize contact of parties in front of child, wants to know where Liam is, PSA – none, owns no real estate, jointly owned marital residence at 11411 Huntsman Drive, Manassas, VA, single family home 4 bed, purchased in January 1997 for \$207,000, sold December 2003, proceeds from sale have not been distributed, \$50,000 was released to defendant to satisfy a debt to his mother, funds were deducted to pay GAL, \$130,053 is held in escrow, furnishings were distributed, auto – 2002 Mazda 626, lien, title in name alone, bears costs, no other vehicles, grounds – 1 year separation, ore tenus, spousal support, none, monthly child care costs \$256 per month for 9 month, 3 months in summer \$600, \$4,104 divide by 12 = \$342 per month, speech therapist and physical therapy not covered by insurance. No issues of real estate other than distribution of proceeds, household furnishing – none, personal property – seek to retain interest in own auto, none for him, retirement account – seeking none from def, life insurance – has one defendant is beneficiary, but will change to Liam, adult to serve as trustee, joint stock in defendant's former employer, 2000 shares, in name only, seeking sole interest in stocks, no IRAs, no CDs, tax deduction – files head of household since 2003, plaintiff seeking all proceeds held

in escrow, 2 stock accounts at time of separation, Datek and Ameritrade, possibly sold, seeking attorney fees \$40,000 affidavit to be submitted tomorrow

WESLEY CLAY SMITH:

Born 5/26/65, 40 years old, B.S. Degree in computer science, employer Quality Inn in Christiansburg, since mid January 2006, night clerk, monthly income \$400, part-time – 16 hours per week, \$7 per hour, 112 per week, \$481.60 per month, good physical health, ADD, does not take medications for ADD, diagnosed in 2003, gastro problems – takes over the counter medication, no health insurance for self or Liam, lives at 5347 Landrum Road, Apt 1, Dublin, VA 24084, 1 bedroom apartment in basement of brothers home, brother married, Thaniel, wife, Katherine, 2 children, ages 9 and 5, pays limited amount of rent, cooks dinner, mows grass, babysits children, moved into apartment in March 2005,

Defendant motions court – no jurisdiction

ARGUMENT:

Mr. Smith
Ms. Vardy

COURT:

Motion denied – over objection

Plaintiff motions to amend grounds of divorce – defendant objects

Issues:

Spousal support – seeking percentage of plaintiff's income - 5% over \$100,000 earned

Child custody – seeking sole legal custody with visitation for mother

Visitation – to be based on when child wants to see mother

ED: No assets

Auto - jointly titled 1993 Saturn SL2, purchased in 1992, no other autos

Household furnishings – seeking piano - Yamaha upright worth \$4,000, purchased while married

Retirement – has none – seeking wife's portion, no future

Life insurance – none

Stock – Cardiopulmonary Association, Daytech, joint stock, liquidated in Sept. 2002, Ameritrade is same account,

Tax purposes – no tax return filed

REPORT OF GUARDIAN AD LITEM – defendant objects

Motion to quash appearance of witness

ARGUMENT:

Ms. Rewari
Ms. Vardy
Mr. Smith

COURT:

Motion granted – over objection

Court in recess: 12:15 pm – 12:30 pm

DEFENDANT WITNESSES:

- 1) Desiree Romeo – sworn – 12: 34 pm – 12:47 pm
Liam's current teacher
- 2) Christine Richards – sworn – 12:47 pm – 12:51 pm
Liam's teacher last year
- 3) Liam Smith – 12:53 pm – 12:55 pm

Court in lunch recess: 12:55 pm – 1:59 pm

PLAINTIFF WITNESSES:

- 1) Heidi Thorpe – sworn – 2:00 pm – 2:08 pm
Knows arties through children

DEFENDANT WITNESSES (continued):

4) Frank McNulty – sworn – 2:09 pm – 2:20 pm
Fairfax County Dept. of Social Serv.

PLAINTIFF WITNESSES (continued):

2) Cheri Smith – previously sworn – 2:21 pm – 3:20 pm

Court in recess: 3:21 pm – 3:36pm

Guardian ad litem submitted his fee schedule during the break.

PLAINTIFF WITNESSES (continued):

Cheri Smith (continued) – 3:38 pm – 4:56 pm

Court in recess until 5/23/06: 4:45 pm

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Andrea Blakley-MAR Reporting**

ATTORNEY(S):

**PLAINTIFF: CHERI SMITH
present**

**LORETTA VARDY
present**

**DEFENDANT: WESLEY C SMITH
present**

pro se

Court in session: 10:00 am

PLAINTIFF WITNESSES (continued):

Cheri Smith (continued) – sworn – 10:01 am – 11:00 am

DEFENDANT WITNESSES (continued):

5) Wesley Smith – sworn – 11:00 am – 11:48 am

Court in recess: 11:48 am – 12:02 pm

DEFENDANT WITNESSES (continued):

Wesley Smith (continued) – 12:02 pm – 1:00 pm

Court in lunch recess: 1:01 pm – 2:01 pm

CLOSING:

Ms. Vardy 2:15 pm – 2:23 pm
Mr. Smith 2:23 pm – 2:31 pm

COURT:

1. Divorce:

Upon consideration of the totality of the circumstances and the law of Virginia, the Plaintiff is hereby granted a divorce from the Defendant on the grounds that the parties have lived separate and apart without cohabitation and without

