

VIRGINIA:  
IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH  
Plaintiff

Vs.

WESLEY C. SMITH  
Defendant

In Chancery No 53360

ORDER

THIS MATTER CAME ON TO BE HEARD THIS DAY upon (1) the Plaintiff's Motion to direct the Clerk to disburse the proceeds that have been paid into the court, which proceeds are the proceeds escrowed after the sale of the marital residence; and (2) Defendant's Motion to Preserve the Marital Assets During Appeal (3) upon Defendant's motion for the court to certify the record of this case, including records from the final decree of divorce and equitable distribution hearing of May 22 and May 23, 2006; upon proper notice to all parties; upon appearance this day of the Plaintiff ~~and her~~ counsel and the Defendant who is proceeding pro se; and was argued by counsel.

IT APPEARING TO THIS COURT that the Clerk is not holding any funds in this case because there has been no action taken yet to interplead any such funds into this Court and that the motion to have the Clerk of this Court disburse the funds is therefore premature, and should be denied at this time, without prejudice to any party, and

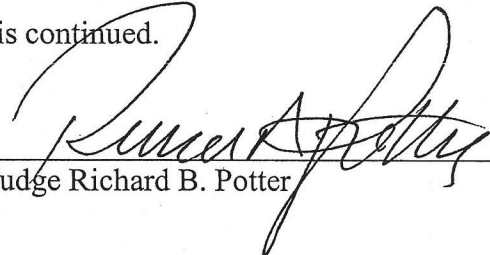
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IT FURTHER APPEARING TO THIS COURT that the Plaintiff has filed herein a "Partial Statement of Facts" on August 7, 2006; that the transcripts of the proceedings from the equitable distribution hearing were previously and timely filed herein, including a transcript reflecting only the ruling of the court that was used by counsel to prepare the final decree; that the ~~Defendant~~ Plaintiff has timely filed her Objections to the Partial Statement of Facts; that the Court finds that the Partial Statement of Facts is inaccurate and incomplete; and that the motion by the Plaintiff to have the Court certify the record for the purpose of appeal under Rule 5A:8 should therefore be denied in part and granted in part, with clarification by the Court, it is therefore

AJUDGED, ORDERED and DECREED as follows:

1. The Plaintiff's Motion to direct the Clerk to disburse the proceeds interplead by the escrow agent shall be, and the same hereby is, denied, without prejudice to the Plaintiff to file the appropriate motions in the future to address any funds that may be interplead into the Court in the future, if any, and

2. Due to the Order contained in paragraph 1 above, the Defendant's Motion to Preserve the marital assets pending appeal shall be, and the same hereby is, denied, and
3. That the Defendant's Motion for certification of the record for the purpose of appeal under Rule 5A:8 of the Rules of the Supreme Court of Virginia shall be, and the same hereby is, denied in part and granted in part, with clarification by the Court as follows:
  - a. The Motion for the Court to certify the Partial Statement of Facts shall be, and the same hereby is, denied, and
  - b. The Objections filed by the Plaintiff to the Partial Statement of Facts shall be, and the same hereby are, sustained, and her motion to thereby amend and correct the Partial Statement of Facts should be, and the same hereby is, granted, and
  - c. The Court, having found that the Partial Statement of Facts is both inaccurate and incomplete, has included the objections to partially clarify the accuracy of the record and does further direct that the transcripts of the hearing on May 22 and May 23, 2006 shall be made part of the record of the case, in order to make the record more accurate and complete.

And this Order is final and this Cause is continued.  
Entered this 18<sup>th</sup> day of August, 2006.

  
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Judge Richard B. Potter

Seen:

Loretta Vandy

Seen:

Wendy S. [Signature] *Objections will file separate later*