

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,
Plaintiff,

v.

WESLEY C. SMITH,
Defendant

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Chancery No. 53360

#76 - MOTION TO STOP PLAINTIFF FROM HARASSING JOHN WHITBECK

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

COMES NOW the Defendant, Wesley C. Smith, and due to Plaintiff harassing Mr. Whitbeck at his law office, requests the court to order her and her counsel from any further harassment of Mr. Whitbeck. The Defendant states as follows:

1. John Whitbeck is the attorney that holds the escrow account with the proceeds from the sale of the marital home.
2. On July 6th 2006 the Plaintiff, Cheri Smith, appeared at the law office of Mr. Whitbeck and preceded to harass him and interfere with him conducting business with his law clients for about one hour. The Plaintiff demanded that he immediately release funds from the escrow account to her and refused to leave until a check was issued.
3. The contract the Plaintiff signed to put the funds in escrow states that the funds are to be released upon an agreement between the Plaintiff and Defendant to release funds. Thus the Plaintiff was aware that her demand was unreasonable and that Mr. Whitbeck could not legally comply with her demand.
4. The Plaintiff refused to leave his law office and severely disrupted his legal practice for about one hour causing Mr. Whitbeck to consider calling the police to have the Plaintiff removed.
5. Since that time the Plaintiff's counsel has also continued to take up Mr. Whitbeck's time rather than follow the agreement to only ask for a release of funds upon reaching an agreement with the Defendant.
6. Mr. Whitbeck is concerned about the Plaintiff repeating her actions and as a direct result of her actions is considering interpleading the funds to the court.

7. Mr. Whitbeck is also concerned about the amount of time the Plaintiff and her attorney are causing him to spend on this matter.

WHEREFORE the Defendant requests the court order the following:

1. That the Plaintiff shall cease harassing Mr. Whitbeck.
2. That the Plaintiff shall not go to Mr. Whitbeck's law office or home.
3. That the Plaintiff shall not contact Mr. Whitbeck other than to mail or fax a signed agreement by both parties as to the release of funds.
4. That the Plaintiff's attorney shall not contact Mr. Whitbeck about this matter other than presenting an agreement signed by both parties specifying a release of funds, or to work out details AFTER presenting an agreement signed by both parties.
5. That if Mr. Whitbeck interpleads the funds, that the Plaintiff shall solely be responsible for paying his legal fees for that case.

**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 sent to Loretta Vardy and Ronald Fahy, this 15th day of Sept 2006.

Wesley C. Smith

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ORDER

IT APPEARING TO THE COURT that for the reasons stated in the Defendant's MOTION #76 - MOTION TO STOP PLAINTIFF FROM HARASSING JOHN WHITBECK, the Motion should be granted; it is therefore

ORDERED:

1. That the Plaintiff shall cease harassing Mr. Whitbeck.
2. That the Plaintiff shall not go to Mr. Whitbeck's law office or home.
3. That the Plaintiff shall not contact Mr. Whitbeck other than to mail or fax a signed agreement by both parties as to the release of funds.
4. That the Plaintiff's attorney shall not contact Mr. Whitbeck about this matter other than presenting an agreement signed by both parties specifying a release of funds, or to work out details AFTER presenting an agreement signed by both parties.
5. That if Mr. Whitbeck interpleads the funds, that the Plaintiff shall solely be responsible for paying his legal fees for that case.

ENTERED: this ____ day of _____, 2006

Circuit Court Judge

I ASK FOR THIS:

Wesley C. Smith, Defendant
5347 Landrum Rd APT 1, Dublin, VA 24084-5603
liamsdad@liamsdad.org - no phone

SEEN AND _____:

Loretta Vardy - Counsel for Plaintiff
12388 Silent Wolf Drive
Manassas, Virginia 20112

SEEN AND _____:

Ronald Fahy - GAL
9236 Mosby St # A
Manassas VA 20110