

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

**CHERI SMITH,
Plaintiff**

v.

**WESLEY C. SMITH,
Defendant**

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Chancery No. 53360

#77 - MOTION TO MODIFY VISITATION

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

COMES NOW the Defendant, Wesley C. Smith, and requests this Court modify its order of June 9, 2006 to grant more frequent visitation with the parties' minor child, Liam Smith, per VA Code 20-124.2(B) and such further relief as stated herein, and in support thereof states as follows:

1. The current visitation schedule calls for one weekend a month, plus holidays and two weeks in the summer.
2. The father and son have always enjoyed spending time together and since June 2006 the father and son have used their limited visitation time for the following activities: play with cousins, visit family in Michigan, Wisconsin, Florida, swimming (many times), camping (multiple times), Salem Fair, Fort Chiswell Animal Park, Dinosaur Kingdom, Ferry ride across Lake Michigan, bowling (many times), petting zoo, mini golf, New River Fair, Splashdown Waterpark, Farms, Natural Bridge Zoo, Universal Studios, Daytona Beach, etc
3. Our son has repeatedly begged his father to let him "stay longer" and at times is VERY insistent about his request. This leaves the father in the uncomfortable position of having to try and explain why he isn't able to accommodate his son's request, with the reason being that his mother refuses to share time with him equally. It would be best for our son if he were allowed more time with his father so the issue of his mother's refusal doesn't need to be discussed.
4. It should be noted that on a few occasions, since June 2006, the mother has recognized both our son's desire to spend more time with his father and that it would be good for him by allowing him to spend time not required by the order. However she has not allowed nearly as much time as requested by

our son, nor given her history of fluctuating between allowing additional time and trying to cut off all contact can one reasonably rely on her allowing more time in the future.

5. The current situation is not best for of our son and the Court has an obligation to modify the situation. Code 20-124.2(B) provides in part:

The **court shall assure** minor children of **frequent** and continuing **contact with both parents**, when appropriate, and **encourage parents to share** in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either.

6. § 20-124.3 requires the court to consider the child's relationship with extended family, which additional and longer periods in the summer would help given the location of family in other states. § 20-124.3 also requires the court to consider the preference of the child and our son has expressed a preference for spending more time with his father.

7. Pursuant to Virginia Code 20-124.3, the Child's best interests require an order with more frequent visitation.

WHEREFORE the Defendant requests this Court to modify visitation to include:

1. Visitation on Father's Day weekend
2. Increase weekend visitation from one to two weekends a month
3. Increase summer visitation from 2 weeks to ½ the summer vacation with one period at least 3 weeks long to allow for travel to visit extended family and the remaining time to be scheduled as agreeable to the parties.
4. Order 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
703-348-7766

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), this 28th day of February 2006.

Wesley C. Smith