

Rec 8/15/06



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FILE NO: 37077.2254

August 11, 2006

**VIA HAND DELIVERY**

The Honorable John T. Frey, Clerk  
Circuit Court of Fairfax County  
4110 Chain Bridge Road  
Fairfax, Virginia 22030

**Wesley C. Smith v. Roger Vanderhye**

Fairfax County Circuit Court  
CL 2006-0007859

Dear Mr. Frey:

Enclosed for filing please find the original and one copy of a Praeipce setting our previously-filed Demurrer for hearing on September 8. Because this matter was transferred to this court from the Circuit Court of Pulaski County, we have also enclosed a courtesy copy of the Demurrer previously filed in that court.

I would appreciate it if you would date-stamp the copy of our Praeipce and return it to me through our courier.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to call me.

Sincerely,

Sona Rewari

Enclosures

cc: Mr. Wesley C. Smith

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Wesley C. Smith

Plaintiff  
vs.

Civil Action No. CL 2006-0007859

Roger D. Vanderhye

Defendant

SERVE:

FRIDAY MOTIONS DAY – PRAECIPE/NOTICE

Moving Party: ☐ Plaintiff ☒ Defendant ☐ Other

Title of Motion: Defendant Roger D. Vanderhye's Demurrer to Complaint ☐ Attached ☒ Previously Filed

DATE TO BE HEARD: 09/08/06 Time Estimate (combined no more than 30 minutes): 20 minutes

Time to be Heard: ☐ 9:00 a.m. with a Judge ☐ 9:00 a.m. without a Judge

☒ 10:00 a.m. (Civil Action Cases) Does this motion require 2 weeks notice? ☒ Yes ☐ No

☐ 11:30 a.m. (DOMESTIC/Family Law Cases) Does this motion require 2 weeks notice? ☐ Yes ☐ No

Case continued from: \_\_\_\_\_ continued to: \_\_\_\_\_  
(Date) (Date)

Moving party will use Court Call telephonic appearance: ☐ Yes ☒ No

Judge \_\_\_\_\_ must hear this motion because (check one reason below):

- ☐ The matter is on the docket for presentation of an order reflecting a specific ruling previously made by that Judge.  
☐ This Judge has been assigned to this entire case by the Chief Judge; or,  
☐ The Judge has advised counsel that all future motions, or this specific motion, should be placed on this Judge's docket

PRAECIPE by: Sona Rewari

Hunton & Williams LLP

Printed Attorney Name/ Moving Party Name

Firm Name

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CERTIFICATIONS

- ☒ I certify that I have in good faith conferred or attempted to confer with other affected parties in an effort to resolve the subject of the motion without Court action, pursuant to Rule 4:15(b) of the Rules of the Supreme Court of Virginia; and,  
☒ I have read, and complied with, each of the Instructions for Moving Party on the reverse side of this form.

  
Moving Party/Counsel of Record

CERTIFICATE OF SERVICE

I certify on the 11th day of August, 2006, a true copy of the foregoing Praecipe was

☒ mailed ☐ faxed ☐ delivered to all counsel of record pursuant to the provisions of Rule 4:15(e) of the Rules of the Supreme Court of Virginia.

  
Moving Party/Counsel of Record

## INSTRUCTIONS FOR MOVING PARTY

**DATE/TIME:** All motions should be noticed for the 10:00 a.m. Civil Action Docket or the 11:30 a.m. Domestic/Family Law Docket (All Divorce cases, adoptions and Juvenile & Domestic Relations Court Appeals) unless the moving party believes the motion will be uncontested. All motions believed to be uncontested should be noticed for 9:00 a.m. All motions noticed for 9:00 a.m. should be set without a judge, unless evidence will be required (e.g., *Ex Parte* Proof, Infant Settlements, Fiduciary Matters), or if it is necessary for the order to be entered that morning rather than in chambers at a later time. **A minimum of two weeks' notice is required for all motions for Summary Judgment, Demurrers, Pleas in Bar, motions pertaining to discovery disputes and other motions for which any party desires to file a memorandum.** A memorandum of points and authorities of five pages or less must accompany any of these pleadings and any other motion placed on the Two Week Docket. If either party believes it necessary to file a memorandum exceeding five double-spaced pages, then the parties must utilize the Briefing Schedule procedure: contact opposing counsel or the opposing party and by agreement conduct a telephone conference call with the Calendar Control Judge, (703) 246-2221; or, if agreement is not possible, give advance notice of an appearance before the Calendar Control Judge to establish a Briefing Schedule.

**Each side should bring a draft proposed order to Court on the day of the hearing, as the ruling must be reduced to an order that day, absent leave of Court.** Cases may only be removed from the docket by the Court or by counsel for the moving party or the moving party. One Week Motions may be removed from the docket up until 4:00 p.m. on the Thursday preceding the hearing date, by contacting the Motions Clerk: (703) 246-4355. Two Week Motions may not be continued or removed from the docket after 4:00 p.m. on the Friday preceding the hearing date, without leave granted by the Judge assigned to hear the motion, for good cause shown.

If a hearing on any motion must take longer than thirty (30) minutes, the moving and responding parties, or their counsel, should appear before the Calendar Control Judge to request a hearing for a day other than a Friday. See, "Motions Requiring More than 30 Minutes" in "Friday Motions Docket Procedures" on the Court's website at <http://www.co.fairfaxcounty.gov/courts/circuit/pdf/CCR-E-05>

**MOTIONS TO RECONSIDER:** Do not set a Motion to Reconsider for a hearing. (See Friday Motions Docket Procedures, available from the Clerk's Office, the Bar Association office or on the Court's website at the address above.

**CERTIFICATIONS OF MOVING PARTY/COUNSEL:** Rule 4:15(b) of the Rules of the Supreme Court of Virginia provides in pertinent part that "Absent leave of court, and except as provided in paragraph (c) of this Rule, reasonable notice shall be in writing and served at least seven days before the hearing. Counsel of record shall make a reasonable effort to confer before giving notice of a motion to resolve the subject of the motion **and to determine a mutually agreeable hearing date and time.**"

**CERTIFICATE OF SERVICE:** Pursuant to Rule 4:15 (e), a motions pleading shall be deemed served when it is actually received by, or in the office of, counsel of record through delivery, mailing, or facsimile transmission; not when it is mailed or sent.

## INFORMATION FOR MOVING PARTY

**COURTCALL TELEPHONIC APPEARANCE:** In most cases, Virginia attorneys may appear by phone in lieu of appearing in Court for the hearing. To set up a telephonic appearance, you must call (888) 882-6878. For information, please visit the Court's website at <http://www.fairfaxcounty.gov/courts/circuit/CCR-E-60-70.htm>. The Clerk's Office prefers that you notify it that you have set up a telephonic appearance by calling (703) 246-2880 no later than 4:00 p.m. on Thursday prior to the hearing date. The Court encourages use of this procedure, and either party may appear by phone.

**NOTE:** Telephonic appearance is for Virginia attorneys only.

**CONCILIATION PROGRAM:** The Fairfax Circuit Court strongly encourages use of conciliation procedures to resolve motions. The Fairfax Bar Association's Conciliation Program conducts conciliation without charge by experienced litigators, who meet in person or by telephone with all interested parties. To request conciliation, fax a Request for Conciliation form to the Fax Hotline, (703) 715-2230; e-mail a request for conciliation to: [ffxconciliation@aol.com](mailto:ffxconciliation@aol.com); or leave a voice mail message at (703) 715-9600. You will be contacted before the hearing date by a representative of the Conciliation Program.