COMMONWEALTH OF VIRGINIA

VA CODE 8.01-2
RULE 3:5

SUMMONS

PRINCE WILLIAM COUNTY CIRCUIT COURT

9311 LEE AVENUE, MANASSAS, VA 20110

WHITBECK AND ASSOCIATES PC

V. CL71003

WESLEY C SMITH

THE PARTY UPON WHOM THIS SUMMONS AND THE ATTACHED COMPLAINT ARE SERVED IS HEREBY NOTIFIED THAT UNLESS WITHIN 21 DAYS AFTER SUCH SERVICE, RESPONSE IS MADE BY FILING IN THE CLERK'S OFFICE OF THIS COURT A PLEADING IN WRITING, IN PROPER LEGAL FORM, THE ALLEGATIONS AND CHARGES MAY BE TAKEN AS ADMITTED AND THE COURT MAY ENTER AN ORDER, JUDGMENT OR DECREE AGAINST SUCH PARTY EITHER BY DEFAULT OR AFTER HEARING EVIDENCE.

APPEARANCE IN PERSON IS NOT REQUIRED BY THIS SUMMONS.

DONE IN THE NAME OF THE COMMONWEALTH OF VIRGINIA

AUG/29/2006 DAVID C. MABIE, CLERK

BY Angela L Tant
DEPUTY CLERK

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

WHITBECK & ASSOCIATES, P.C., **116-E Edwards Ferry Road,** **Leesburg, Virginia 20176**	)	
Plaintiff,	)	**Case No.** CL71003
v.	)	
WESLEY C. SMITH, **Serve via private process:** **5347 Landrum Road, Apt. 1** **Dublin, Virginia 24084**	)	
and	)	
CHERI SMITH, **c/o 12388 Silent Wolf Drive** **Manassas, Virginia 20112**	)	
Defendants.	)	

COMPLAINT OF INTERPLEADER

COMES NOW the Plaintiff, Whitbeck & Associates, P.C., by counsel, and requests this Honorable Court enter an Order grant such relief as set forth below, and states as follows:

1. The Plaintiff, Whitbeck & Associates, P.C. ("the Firm") is a Virginia Professional Corporation, in good standing, organized in and licensed to conduct business in the Commonwealth of Virginia.

2. The Defendants, Wesley C. Smith and Cheri Smith ("the Defendants") are natural persons who reside in the Commonwealth of Virginia.

3. The Firm is a law office engaged in the business of providing professional legal services, and the undersigned is formerly counsel for the Defendant, Wesley C. Smith in his divorce case currently pending in this Court.

4. Pursuant to the written Escrow Agreement of the Defendants dated December 12, 2003, the Firm has maintained the proceeds from the sale of the Defendants' residence since the aforesaid date.

5. After various distributions of the aforesaid proceeds pursuant to the Orders of this Court, the Firm had proceeds totaling $130,053.38 in its Account as of July 7, 2006.

6. Pursuant to the written agreement of the Defendants dated July 7, 2006, $1,319.50 was disbursed to pay the fees of the Guardian *ad litem* appointed in the Defendants' divorce case.

7. The Firm, simultaneously with the filing of this Complaint, has deposited with the Clerk of this Court the sum of $128,733.88, representing the remaining proceeds from the sale of the Defendants' residence.

8. The Firm does not own any part of the said sum of $128,733.88, nor does the Firm claim any interest whatsoever in the same.

9. The Firm has been notified that the Defendants' are claiming ownership and/or entitlement to various amounts of the aforesaid proceeds, and that the division of the aforesaid proceeds remains in dispute.

10. The Firm has no personal knowledge as to the justice or right of the respective claims of any of the Defendants, and that there is no way by which the claims to the said sum may be determined to the Firms protection, save by the intervention of a court of equity.

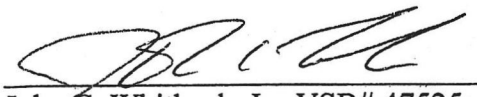
11. The adverse claims by the Defendants to the aforesaid proceeds, as above set forth, are derived from and are dependent upon a common source, to-wit: the Final Decree of Divorce entered by this Court concerning the parties.

12. Since the respective claims of the Defendants have arisen pursuant to the Final Decree of Divorce, the Firm has sought, but without success, to obtain an agreement with the

Defendants named herein as to how and to whom the aforesaid proceeds should be distributed, and the Defendants' desire the proceeds be made available.

WHEREFORE, the Firm requests this Honorable Court enter an Order providing that (1) the Clerk of this Court maintain the $128,733.88 in proceeds deposited with the filing of this Complaint; (2) that the Firm be forever discharged from any and all liability to the Defendants and to each of them, and to any person or persons claiming by, through, or under them, upon or by virtue of the proceeds hereinabove referred to; (3) that a temporary restraining order may be issued against the Defendants and each of them enjoining the Defendants from instituting against the Firm any further proceedings in any court on account of their several claims as hereinabove described and that a time and place be set after due notice to the Defendants for a hearing upon the issue as to whether the injunction shall be made permanent; (4) that after the hearing the injunction shall be made permanent against the Defendants and each of them and shall be amplified and modified as the necessities of the Firm may require; (5) that the Escrow Agreement of the Defendants dated December 12, 2003 be rescinded and declared void; (6) that the court costs of the Firm and a reasonable fee for the Firm's attorneys be allowed to it out of the amount deposited by it, and the Firm may have such other and further relief as the nature of the case may require and to equity may seem meet.

Respectfully submitted
WHITBECK & ASSOCIATES, P.C.
by Counsel



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