

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF PRINCE WILLIAM

WHITBECK & ASSOCIATES, P.C.

Plaintiff,

v.

Case No. CL71003

WESLEY C. SMITH,

and

CHERI SMITH,

Defendants.

NOTICE AND MOTION

PLEASE TAKE NOTICE that on Friday, December 1, 2006, the Co-defendant, Cheri Smith has filed her position concerning the distribution of the marital funds now held by the clerk of the Court and has moved the Court to disburse those funds.

CO-DEFENDANT'S POSITION AND MOTION

THIS matter had come before this Court upon the Motion to Amend Complaint and Complaint for Interpleader by the Plaintiff, Whitbeck and Associates, P.C., on November 17, 2006. The co-defendant, Cheri Smith, by counsel, hereby files her position concerning the distribution of funds from the escrow account in question. The co-defendant, Cheri Smith, moves the Court to order the Clerk of the Court to disburse the funds now held by him and formerly held in escrow by John Whitbeck, Esquire, in accordance with the terms of the Final Divorce Order (copy attached) (pp. 14-18 and attached chart) for Chancery Case No. 53360, entered by this Court on June 9, 2006.

In support of her position concerning the distribution of the funds and her Motion, Ms. Smith states:

1. The money escrowed with the Clerk of the Court represents the balance of the Smith's marital funds which had been held by John Whitbeck, Esquire, in his trust account.
2. As a result of an Order entered by this Court on November 17, 2006, the above mentioned funds were deposited by Mr. Whitbeck with the Clerk of the Circuit Court for the County of

