

**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, January 26, 2007, at 10:00 a.m. or as soon as possible thereafter, the Co-defendant, Cheri Smith shall present the following Motion to the Court.

**MOTION**

**COMES** now the Co-Defendant, Cheri Smith, by counsel, and moves this Court to order the Clerk of the Court to place in an interest bearing account the funds which he is now holding in connection with this case.

In support of her motion for the distribution of the funds, Ms. Smith states:

1. 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 Prince William.
2. The money deposited with the Clerk of the Court represents the balance of the Smiths' marital funds which had been held by John Whitbeck, Esquire, in his trust account.
3. The placement of the funds in an interest bearing account would benefit all parties.
4. There exists no reason why the funds should not be deposited in an interest bearing account.

**Wherefore**, the co-defendant, Cheri Smith, requests that:

1. The Court enter an order instructing the Clerk of the Circuit Court for Prince William County

to place the funds which he is holding in connection with this case, in an interest bearing account.

2. The Court enter an order specifying that any interest earned on the funds shall be divided in proportion to the allocation of the funds to the parties as decreed in the Final Divorce Decree entered by this Court on June 9, 2006.

I ASK FOR THIS:

Cheri Smith  
By Counsel

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Loretta Vardy, Esquire  
VSB No. 26225  
12388 Silent Wolf Drive  
Manassas, VA 20112  
Phone: 703-791-6078  
Fax: 703-791-7957  
Counsel for Cheri Smith

CERTIFICATION OF NOTICE

This is to certify that on the 19th day of January 2007, a true copy of the foregoing Notice and Motion was mailed postage prepaid to the following:

Wesley Smith  
5347 Landrum Rd APT 1  
Dublin, VA 24084  
Co-defendant

Ronald Fahy, Esq.  
9236 Mosby Street  
Manassas, VA 20110  
*Guardian Ad Litem*

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Loretta Vardy, Esquire