

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,)
)
 Complainant,)
)
 v.) **Chancery No. 53360**
)
 WESLEY C. SMITH,)
)
 Defendant.)

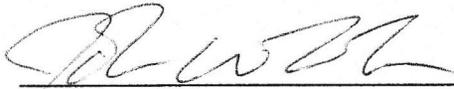
MOTION FOR LEAVE TO AMEND CROSS-BILL

COMES NOW the Defendant, Wesley C. Smith ("Mr. Smith"), by counsel, and moves this Honorable Court to for leave to amend the Cross-Bill filed herein, and states as follows:

1. On or about September 9, 2003 Mr. Smith filed an Answer to the Complainant's Bill of Complaint and a Cross-Bill.
2. Since that time, new evidence has arisen that tends to support Mr. Smith's pleading new grounds for his being granted a divorce from the Complainant on the basis of adultery.
3. As a result thereof, Mr. Smith's failure to plead adultery in his prior Cross-Bill necessitates his amending the Cross-Bill to include adultery as grounds for divorce, and as a relevant issue in this Court's deciding custody, visitation, child support, spousal support and equitable distribution in this matter.
4. This matter has not been scheduled for trial, nor has it been formally referred to a Commissioner in Chancery.
5. As a result thereof, this Court's granting leave to Mr. Smith to amend his Cross-Bill will not prejudice the Complainant.
6. The Complainant has refused to consent to Mr. Smith's amending his Cross-Bill.

WHEREFORE Mr. Smith requests this Honorable Court grant him leave to amend his Cross-Bill, that he be awarded attorneys' fees and costs incurred herein, and for such further relief as the nature of the case or the goals of equity require.

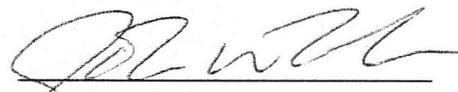
**Respectfully submitted,
WESLEY C. SMITH
by Counsel**



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this pleading was sent via facsimile (703) 791-7957 and first-class mail, this 5 day of February, 2004, to the Loretta Vardy, Esquire, 12388 Silent Wolf Drive, Manassas, Virginia 20112, Counsel for Complainant. I further certify that I have attempted to resolve this matter with counsel for the Complainant prior to the filing of the Motion.



John C. Whitbeck, Jr.

