

V I R G I N I A :

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

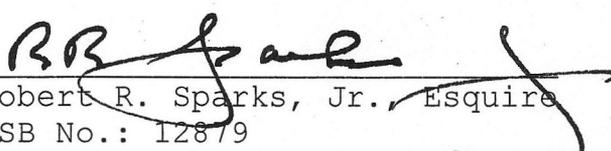
Cheri Smith :  
 :  
 Plaintiff, :  
 :  
 v. : Chancery No.53360  
 :  
 Wesley Smith :  
 :  
 Defendant. :  
 :  
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PRAECIPE/NOTICE

The clerk will please place on the docket to be heard before the Honorable Rossie D. Alston, Jr. for **Friday, September 24, 2004, at 10:00 a.m.**, the attached Motion to Quash filed by Science Applications International Corporation ("SAIC") in the above-referenced matter. The attached Motion is being filed and Noticed for September 24 at the suggestion of the Court Administrator.

Respectfully submitted,

SCIENCE APPLICATIONS  
INTERNATIONAL CORPORATION

  
Robert R. Sparks, Jr., Esquire  
VSB No.: 12879  
Herge, Sparks & Christopher, LLP  
6862 Elm Street, Suite 360  
McLean, Virginia 22101  
Phone: (703) 848-4700; Fax: (703) 893-7371

Herge, Sparks  
& Christopher, LLP  
Attorneys-At-Law  
Suite 360  
6862 Elm Street  
McLean, Virginia 22101  
(703) 848-4700

CERTIFICATE OF SERVICE

The undersigned certifies that on September 22, 2004, the foregoing pleading was served via first-class mail, postage prepaid, and by email at liamsdad@liamsdad.org on:

Mr. Wesley C. Smith  
3215 Ridge View Court, # 104  
Woodbridge, Virginia 22192  
Defendant *pro se*

and, by agreement with Ms. Vardy, via facsimile transmission on:

Lorreta Vardy, Esquire  
703-791-7957  
Counsel for Cheri Smith

  
Robert R. Sparks, Jr.

V I R G I N I A :

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

Cheri Smith	:	
	:	
Plaintiff,	:	
	:	
v.	:	Chancery No.53360
	:	
Wesley Smith	:	
	:	
Defendant.	:	
	:	

**SAIC'S MOTION TO QUASH OR MODIFY SUBPOENA**

Science Applications International Corporation (SAIC), by counsel, moves hereby to quash or modify the subpoena duces tecum served upon it on September 21, 2004. A copy of that subpoena and its associated papers are attached hereto as Exhibit 1.

The subpoena duces tecum at issue in this motion was served on SAIC at its office in California yesterday, September 21, and purports to require the production of a wide range of documents by next Tuesday, September 28, 2004. On information and belief, the subpoena was issued at the behest of defendant Wesley Smith, who is *pro se* in this case. On its face, the subpoena requires production of documents at a street address that does not include a city or zip code.

*is copy date*

*no, served on glencallen*

*yet knew where to mail it*

Herge, Sparks  
 & Christopher, LLP  
 Attorneys-At-Law  
 Suite 360  
 6862 Elm Street  
 McLean, Virginia 22101  
 (703) 848-4700

### Procedural History

This is the second such subpoena served on SAIC. In February 2004, SAIC was served with an attorney-issued subpoena *duces tecum*, dated February 13, 2004, seeking documents almost identical to many of those sought by the current subpoena. On information and belief, upon the motion of counsel for defendant Cheri Smith, Judge Potter narrowed the scope of the February subpoena. Judge Potter's ruling is described in a letter to the undersigned from then-counsel for Wesley Smith. A copy of that letter is attached as Exhibit 2. According to that letter, Judge Potter would not permit Mr. Smith to obtain a whole range of documents relating to one of Ms. Smith's co-workers, Igor Bakhir.<sup>1</sup>

On March 12, 2004, SAIC produced all documents responsive to the February 2004 attorney-issued subpoena, as narrowed by Judge Potter. On information and belief, neither side in this case objected to the adequacy of SAIC's document production.

### The New Subpoena

Mr. Smith's latest subpoena ("the new subpoena") seeks 13 categories of documents. The documents described in the first two paragraphs of the new subpoena are almost identical to those sought in the first paragraph of the February 2004

<sup>1</sup> SAIC has never received a copy of Judge Potter's ruling narrowing the February subpoena.

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subpoena that was narrowed by Judge Potter.<sup>2</sup> In addition, paragraphs 1-7 of the new subpoena are almost identical to paragraphs 1-6 of the February 2004 subpoena. Mr. Smith's additions to the new paragraphs are highlighted in yellow marker on Exhibit 1.

The new subpoena not only seeks many of the same documents that were the subject of Judge Potter's earlier rulings, it also seeks a range of documents that relate to Mr. Bakhir. According to the letter from Mr. Smith's counsel, attached as Exhibit 2, Judge Potter has refused to permit Mr. Smith access to such documents.

With regard to the new documents sought in the new subpoena, the scope of the documents sought is overbroad, burdensome and, in some cases, nonsensical.

*Security Clearance*  
For example, paragraph 7 seeks certain undefined "notifications" made by either Ms. Smith or Mr. Bakhir that "do or might involve Ms. Smith." SAIC does not know what that means.

Paragraph 8 seeks any documents that show that Ms. Smith and Mr. Bakhir had the same supervisor, had a working relationship, worked late or from home, or that Mr. Bakhir "had friends" including a former employee named "Raphael," whose

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<sup>2</sup> The new subpoena includes two paragraphs numbered "2." The first number 2 is little more than the second half of paragraph 1 of the February 2004 subpoena.

last name is not given. Mr. Smith also seeks documents showing "any other friend Mr. Bakhir may have had." The request makes no sense.

Paragraph 9 seeks documents "concerning contacts between Loretta Vardy, attorney for Ms. Smith, or an attorney for Mr. Bakhir." The subpoena does not describe just whose contacts it is seeking: if it seeks contacts by anyone who works or has ever worked at SAIC, the request is overbroad and burdensome. The request is also not limited in time or subject.

Paragraph 12 seeks any photographs of Mr. Bakhir in the possession of SAIC. Judge Potter earlier ruled that Mr. Smith could not have documents relating to Mr. Bakhir.

Paragraph 13 seeks all documents that may mention counsel for Ms. Smith or that "were sent/received by her." SAIC does not know what that means.

On August 30, 2004, Mr. Smith telephoned the undersigned by telephone and demanded a range of documents from SAIC relating to Ms. Smith and Mr. Bakhir. When he was refused that request, Mr. Smith threatened to contact SAIC's customers and

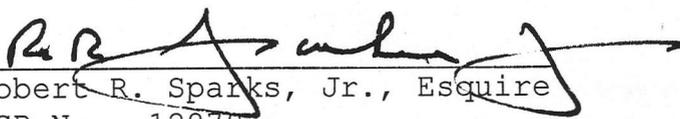
Ms. Smith's co-workers to involve them in his disputes with Ms. Smith.<sup>3</sup> Based on that conversation, the undersigned believes that any effort to resolve the issues raised in this motion prior to filing this motion would be futile.

### Conclusion

Wherefore, SAIC asks that the new subpoena be quashed in its entirety or, in the alternative, that it be modified on such terms as the Court deems appropriate.

Respectfully submitted,

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<sup>3</sup> In his August 30 telephone conversation with the undersigned, Mr. Smith also announced that he had gone to Ms. Smith's workplace at SAIC and had placed under the windshield wipers of the cars in the parking lot there flyers describing Ms. Smith and Mr. Bakhir in unflattering terms. Mr. Smith also maintains a website ([www.liamsdad.org](http://www.liamsdad.org)) that criticizes Ms. Smith, Mr. Bakhir and SAIC.

CERTIFICATE OF SERVICE

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