

**VIRGINIA:**

**IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY**

**CHERI SMITH,**

**Plaintiff,**

**v.**

**WESLEY C. SMITH,**

**Defendant.**

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**Chancery No. 53360**

**DEFENDANT MOTION TO DISMISS PLAINTIFF'S MOTION**

**COMES NOW** the Defendant, Wesley C. Smith ("the Husband"), and requests that this court dismiss the Motion filed by the Plaintiff on October 5<sup>th</sup> and in support of this request represents the following facts:

1. The Plaintiff did not provide the Defendant with reasonable notice as required by § vs-cr-4:15 (b) "...reasonable notice shall be in writing and served at least seven days before the hearing." The Plaintiff did not serve the Defendant with motion until October 6<sup>th</sup> (after business hours on the 5<sup>th</sup>) for a hearing on the 8<sup>th</sup>, considerably less than one week notice.

2. Most of the facts stated by the Plaintiff are disputed and/or incorrect, including all references to a Commissioners hearing or agreements about it. Per the Plaintiffs request was prohibited from recording the hearing so no record exists of what was said other than the notes the court made which indicate that Mr. Boge withdrew before a date was set and does not mention of a Commissioners hearing.

3. The order entered does not mention a commissioners hearing (see attached).

4. The actions of the Plaintiff have delayed the case moving forward. These include waiting about 9 months from the time of filing for a preliminary protective order until filing for

