

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

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

#37 - DEFENDANT’S REPLY & MOTION FOR TRIAL DATE AND SANCTIONS

A pdf copy of this motion is available at: http://www.liamsdad.org/court_case/

COMES NOW the Defendant, Wesley C. Smith, and requests the Court take action to get this case ready for trial, and order the trial date to be held **AFTER** the case is ready for trial and not before, to sanction the Plaintiff for impeding getting the case ready for trial and making false statements to the court. In support of his MOTION the Defendant states as follows:

1. On Jan 27th 2005, the Plaintiff filed a motion to set a final trial date, again ignoring the outstanding pre-trial motions, and her non-compliance with discovery requests/orders. See and incorporate Defendant’s Motion “#32 - MOTION FOR TRIAL DATE AND SANCTIONS”.
2. The Plaintiff’s Attorney, Loretta Vardy, has refused to cooperate in setting a date for pre-trial motions and for the trial itself in spite of the Defendant being willing to do so. See and incorporate the following motions, #37 - DEFENDANT’S MOTION FOR TRIAL DATE AND SANCTIONS, #33 - DEFENDANT’S MOTION FOR TRAVEL EXPENSES, and #36 - DEFENDANT’S MOTION FOR TRAVEL EXPENSES
3. The Plaintiff’s Counsel, Loretta Vardy, is well aware that the case is not mature and ready for trial and her statement in her 11/22/2005 filing is intentionally misleading and is an attempt to get a trial not based on the merits of the case.
4. There are many outstanding issues that need to be addressed before the case is mature and ready for trial. The Plaintiff has not yet fully complied with discovery requests, has refused to get court orders entered, and has refused to set a date to hear motions that must be addressed before the trial.
5. There are many motions filed with the court that need rulings including but not limited to:

- A. Motion For Pendente Lite Relief (Adultery - originally scheduled Jun 23, 2004)
 - B. Motion For Pendente Lite Relief (Travel - originally scheduled Jun 23, 2004)
 - C. Motion For Pendente Lite Relief (originally scheduled Aug 17, 2004)
 - D. Motion to Dispense With Commissioners Hearing - scheduled for 5/6/04
 - E. Response To Dismiss with Commissioners Hearing And Motion For Sanctions– Filed May 2, 2005
 - F. Defendant’s Motion #28 to Disqualify/Recuse Judge Alston – Filed 8/16/05
 - G. GAL’s Motion To Quash – Filed 5/17/05
 - H. #30 - Defendant’s Motion For Sanctions Against Mr. Fahy – Filed 8/19/05
 - I. Plaintiff’s Motion To Quash – Filed 5/27/05
 - J. #29 - Defendant’s Motion For Sanctions Against Plaintiff – Filed 8/18/05
 - K. Fairfax County School Board’s Motion To Quash Subpoena – Filed 10/04/05
 - L. #31 – Defendant’s Motion For Jury Trial – Filed 11/29/05
 - M. #32 - MOTION FOR TRIAL DATE AND SANCTIONS – Filed 11/29/05
 - N. #34 - DEFENDANT’S MOTION FOR AN ATTORNEY – Filed 11/29/05
 - O. #35 - EMERGENCY MOTION TO CHANGE CUSTODY / VISITATION – Filed 12/07/05
6. There are also at least two outstanding orders that need to be entered:
- A. The NOVEMBER 3, 2004 RULING on several motions. The Plaintiff was charged with getting this ruling entered but even after one year has refused to do so. This ruling includes an order to compel and since the Plaintiff after one year still hasn’t fully complied the court will need to allow time for a show cause/contempt hearing after this order is entered.
 - B. The Nov 3, 2004 RULING to Issue an Order for Rule to Show Cause against Igor Bakhir. The ruling was made to issue the order and the order has been submitted to the court several times for several dates but an order has yet to be signed. The order needs to be signed and a hearing held before the case is ready for trial.
7. The Defendant has repeatedly asked the Plaintiff’s counsel to set a hearing date to resolve these

issues so that we can move the case forward and get it ready for trial and had been extremely flexible

about dates available, but Loretta Vardy refuses to set a date and appears to be attempting to hold a trial without having completed the motions and orders listed above. Her excuses have varied from claiming the Court was refusing to hear motions until the file was back from the Appeals Court to simply ignoring the Defendants requests to set a date for weeks, then switching to wanting to set a final Trial Date without clearing up the motions/orders first and when the file is still not back from the Appeals Court, and now back to ignoring pre-trial motions.

8. Due to her refusal to set a date to hear the motions, her refusal to enter the Nov 3rd 2004 ruling, and her refusal to set an agreed date for the final trial, and her blatantly misleading statement about this case being ready for trial, Loretta Vardy should be sanctioned by the Court

WHEREFORE the Defendant asks that the Court

1. Set a ½ day hearing date to try and resolve the outstanding motions/orders, with sufficient advance time to subpoena witnesses.
2. Order that the Plaintiff may not schedule a final trial date until the Plaintiff complies fully with the outstanding discovery requests and ruling, and not until the above motions/orders have been resolved as well as an necessary follow on motions.
3. Order that the final hearing shall be 4 days with a jury held at least one month after all motions/orders are resolved.
4. Issue appropriate sanctions against Loretta Vardy for her intentional misleading statements to the court and her refusal to cooperate to mature this case for trial.

**Respectfully Submitted,
Wesley C. Smith**

Wesley C. Smith, Defendant
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no phone

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served to Loretta Vardy and Ronald Fahy (GAL) via first-class mail, this 1st day of February 2006.

Wesley C. Smith