

**VIRGINIA:**

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

CHERI SMITH	)	
Plaintiff	)	
	)	
v.	)	Chancery No. 53360-00
	)	
WESLEY C. SMITH	)	
Defendant	)	

**NOTICE AND MOTION**

**PLEASE TAKE NOTICE** that on Wednesday February 15, 2006, at 10:00 a.m., or as soon thereafter as this matter may be heard, the Plaintiff by Counsel will move this Court to hear her **MOTION** which is attached,

**MOTION**

**COMES NOW** the Complainant, Ms. Smith, by counsel, and moves this Court pursuant to Va. Code Ann to §20-79, to order that the monies in the amount of twelve thousand five hundred dollars (\$12,500.00) owed to the Defendant by the Virginia Department of Transportation be paid over to the Plaintiff to pay child support arrearages or to be held in escrow until the Court determines the proper distribution of these funds at the final divorce hearing. In support of her **MOTION** the Complainant states as follows:

1. That there is an existent *Pendente Lite* Order entered by this Court which requires the Defendant to pay eight hundred and twenty three-dollars (\$823.00) per month in Child Support.
2. That the Defendant has not paid Child Support since July 2004.
3. Beginning with the August 2004 through February 2006, the Defendant has not paid child support for nineteen months;

4. The total arrearages equal fifteen thousand, six hundred and thirty-seven thousand dollars (\$15,637.00).
5. The Plaintiff has actual knowledge that the Virginia Department of Transportation has reached an agreement with the Defendant to pay him an additional twelve thousand and five hundred dollars (\$12,500.00) as part of final settlement for the taking of part of the parties' property for the purpose of widening Route 234.
6. That the monies owed to the Defendant are income as defined in VA. Code §63.2-1900;

**WHEREFORE** the Complainant requests the following relief :

1. That the Court order that the twelve thousand and five hundred dollars (\$12,500.00) owed to the Defendant by the Virginia Department of Transportation be paid over to the Plaintiff as a partial payment of the child support arrearages; or
2. That the Court order that these monies owed to the Defendant by the Virginia Department of Transportation be turned over to the Court to be held until the final hearing in this case;
3. That the Court order such further relief as the nature of the case or the goals of equity require.

Respectfully submitted,

**CHERI SMITH**

By Counsel

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Loretta Vardy, Esquire  
Virginia State Bar No. 26225  
12388 Silent Wolf Drive  
Manassas, Virginia 20112  
(703) 791-6078  
Counsel for Ms. Smith

CERTIFICATION OF NOTICE

This is to certify that on the 13<sup>th</sup> of February, a true copy of the foregoing Notice and Motion was e-mailed to the following:

Wesley Smith  
5347 Landrum Rd APT 1  
Dublin, VA 24084

This is to certify that on the 13<sup>th</sup> of February , 2006, a true copy of the foregoing Notice and Motion was hand delivered to the following:

Ronald Fahy, Esq.  
9236 Mosby Street  
Manassas, VA 20110

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Loretta Vardy