

**VIRGINIA:**

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

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

**#64 – MOTION TO STRIKE GAL REPORT**

A pdf copy of this document is available at: [http://www.liamsdad.org/court\\_case/](http://www.liamsdad.org/court_case/)

**COMES NOW** the Defendant, Wesley C. Smith, and makes a motion to strike the intentionally misleading report filed by the GAL Ronald Fahy in violation of VA Code § 8.01-9, and § 8.01-271.1, and Rules vs-cr-6:2-4.1, vs-cr-6:2-3.3 and vs-cr-6:2-8.4 . In support of his MOTION the Defendant states as follows:

1. On April 27, 2006, Ronal Fahy filed a “report” addressing the matters to be considered pursuant to Va. Code Section 20-124.3 along with illegible chicken-scratch purporting to be time sheets.
2. In his “report” Mr. Fahy repeatedly misrepresents information, leaves out relevant information, and makes false statements in order to support his biased position that the mother get custody rather than performing his duty to provide a complete and unbiased report in order to assist the court in making a informed ruling.
3. The resulting report fails to provide information absolutely necessary to the court to make an informed ruling while at the same time providing incorrect information. Thus this court is without a useable third party report on which to help base a ruling.
4. Mr. Fahy’s actions and statements go well beyond expressing a difference of opinion of the different parenting abilities of the two parties and is clearly an attempt to mislead the court with in an effort to attempt to steer the court away from making an ruling in the Defendant’s favor.
5. No reasonable person would conclude that Ronald Fahy’s “report” complies with the requirements set in § 8.01-271.1 that it be well grounded in fact after reasonable inquiry and that it “not interposed for any improper purpose...”

6. Mr. Fahy's report is materially deficient and demonstrates that he has not fulfilled his obligations as set out by the state's published STANDARDS TO GOVERN THE PERFORMANCE OF GUARDIANS AD LITEM FOR CHILDREN,

[http://www.courts.state.va.us/gal/gal\\_standards\\_children\\_080403.html](http://www.courts.state.va.us/gal/gal_standards_children_080403.html)

7. The Defendant incorporates by reference all statements in the following motions: **MOTION TO APPOINT NEW GUARDIAN AD LITEM, DEFENDANT MOTION TO RECONSIDER DENIAL OF MOION TO APPOINT A NEW GUARDIAN AD LITEM, #30 - DEFENDANTS MOTION FOR SANCTIONS AGAINST MR. FAHY, #48 – MOTION TO REMOVE RONALD FAHY AS GUARDIAN AD LITEM**

8. The "report" purports to provide information relevant to the BEST INTERESTS OF THE CHILD/CUSTODY OR VISITATION VA. CODE SECTION 20-124.3 but in fact provides more of a false and misleading information than useful information.

9. Paragraph #1 - "Age, physical & mental condition of child:" fails to mention that our son has shown signs of distress since being separated from his father that were severe as to require the help of a Clinical Psychologist. Mr. Fahy conveniently leaves this information out along with the fact that our son has been diagnosed with depression as a result of the misguided court ordered suspension of visitation. See exhibit A. Note that the DSMIIIR code of 300.4 is Depression.

10. Certainly no statement by a GAL as to the mental condition of our son can be considered accurate and complete without mention of having been diagnosed with depression. Either Mr. Fahy does not mention it because he hasn't performed his duty to make reasonable inquiry, or more likely does not mention it because our son being depressed at being separated from his father would hurt the Plaintiff and help the Defendant. Either way its evidence that the report is materially deficient and should be disregarded.

11. Mr. Fahy also fails to mention the behavior problems that developed at school as a result of the court suspending visitation both leaving him depressed and leaving his only example of a parent as one that has problems controlling her anger and physically assaulting others. The refusal of Mr. Fahy to mention these problems is inexcusable as it has significant negative impact on his education and social

development. See Exhibit B school e-mail.

12. Paragraph #2 - "Age, health of parents:" Mr. Fahy shows his bias here by claiming the Plaintiff is in reasonably good mental health. His comment is lacking any mention of the Plaintiff's history of problems with anxiety, depression, and uncontrollable rage in spite of the problems being severe enough for the Plaintiff to have sought psychotropic drugs to help manage it.

13. Mr. Fahy refuses to acknowledge the Plaintiffs mental health issues in spite of having been provided with both medical records, prescriptions, and even an audio recording of the Plaintiff acknowledging that she has "uncontrollable rage" and a written statement by the Plaintiff stating "I do have a problem". See #51 – MOTION FOR MENTAL HEALTH EVALUATION OF PLANTIFF

14. Does Mr. Fahy believe mental healthy people take psychotropic drugs like Paxil, Xanax, and Effexor just for the fun of it? Wouldn't that be drug abuse if she didn't have a mental health problem that warranted taking those medications? See Exhibit F

15. Are we to believe that "uncontrollable rage", depression, anxiety are to be considered "reasonably good mental health" and not worth mentioning to the court?

16. Are we to believe that "uncontrollable rage" that has in the past led the Plaintiff to commit acts of domestic violence is not of interest to the court? See Exhibit G and <http://www.liamsdad.org/badmother/mentalhealth/audio/uncontrollableRage.mp3>

17. Does it not occur to Mr. Fahy that the combination of a unstable mother who has problems controlling her anger and rage with a history of verbal and physical abuse combined with a small defenseless, and now somewhat oppositional child is a situation that demands attention?

18. At the same time sweeping the Plaintiff's mental health problems under the rug, Mr. Fahy takes a unwarranted swipe at the Defendants mental health. The usual excuse Mr. Fahy gives for not taking an interest in the Plaintiff's demonstrated mental health problems is due to a rushed and incomplete and scientifically invalid custody evaluation by James Behrmann.

19. Mr. Fahy points to that evaluation and says no mental illness was found while refusing to discuss the reasons why no mental illness was found (it wasn't looked for). Mr. Behrmann said it was a custody evaluation and that he would not focus on ruling mental illness in or out. Also the report does not say that

the mother does not have any mental illness it just states that no formal verifiable diagnoses was given by Ms. Welch (the recording of Ms. Welch where both she and the Plaintiff state that the Plaintiff exhibits “uncontrollable rage” was not provided to Mr. Behrmann prior to this report) and that “There is no florid or severe emotional dysfunction in either parent” which is clearly not the same thing as saying no emotional or mental health problem exists or indeed does not indicate that the report even covers all possible mental health issues.

20. It should be noted that the “no florid or severe...” statement the Mr. Behrmann applied to both parents is not as comprehensive as the statement he made in his February 17, 2003 report about the Defendant: See Exhibit E

“Mr, Wesley Smith is an intellectually bright, articulate, well presenting adult, with no indication of **any** mental illness and no indication of **any** emotional dysfunction or abnormal deviation. He is fairly open, non-defensive, and trusting.”

21. Given that Mr. Behrmann gave a more encompassing statement about the Defendant not having **any** mental illness as opposed to the qualified (**no severe**) statement about the Plaintiff, it appears biased that Mr. Fahy would use that to ignore a history of documented and admitted problems with the Plaintiff and yet not accept Mr. Behrmann’s statement as relating to the Defendant’s good mental health.

22. This is further clarified by the fact that the Plaintiff herself, has stated repeatedly that the Defendant does not have a mental illness. She has done this both in written statements like the Bill Of Complaint an also via verbal statements when the Defendant offered to undergo the same testing he was asking her to undergo. The Plaintiff stated, “I don’t think you have a mental illness”.

23. Paragraph #3. Mr. Fahy claims the Defendant refuses to resume visitation. This is a gross misrepresentation. The Defendant has repeatedly asked the court to vacate the order suspending visitation, has asked the court to modify the order, and has asked the Plaintiff to let him spend time with out son even if its not legal visitation. Mr. Fahy here is intentionally trying to mislead the court into believing the reason the Defendant has not been spending time with his son is due to his choice as opposed to the reality that the Plaintiff after years of trying different legal tactics, finally got one to work in her plan to remove the Defendant from the life of his son.

24. Mr. Fahy places inappropriate emphasis on the fact that the Defendant is presenting adultery by

the Plaintiff as a ground of divorce. Mr. Fahy has repeatedly brought this up. In this case he implies the Defendant to not be of “reasonably good mental health” because of this. Yet Mr. Fahy does not present any evidence other than the court proceedings itself to support his claim. It is improper for an officer of the court to deprive a child of a parent due to that parent presenting a legal defense that is specifically provided for by statute.

25. Indeed if Mr. Fahy was honest he would point out that it was the Plaintiff not the Defendant who is focused on adultery. Certainly her affair and the upheaval it has caused in our son’s life, has been difficult for him to cope with. In spite of her actions being illegal, harmful to our son, and damaging to her court case, she has persisted in her illegal, immoral, and selfish behavior rather than wait until after a divorce to start a new relationship.

26. One wonders why Mr. Fahy is so adamant that the Plaintiff has the “right” to break the law by committing adultery and forcing our son to rearrange his entire life to support her sexual desires rather than taking a stand against illegal activity that sets a poor moral example for our son and requires him to give up his home, standard of living, and relationship with his father.

27. Mr. Fahy also makes the claim “The father has made public demonstrations of his apparent hatred for the mother such that the child is aware of his father's feelings” without providing any support for it. The public statements made by the Defendant do not express hatred for the Plaintiff, but merely document her inappropriate conduct on a website. The Defendant is not aware of our son ever reading any statements on his website or elsewhere. If our son has seen the website it would only be due to the Plaintiff showing it to him. Hence it is clear that Mr. Fahy’s statement is clearly misleading.

28. It should also be noted that while Mr. Fahy is trying to turn documentation of the Plaintiff’s misconduct into “hatred”, he is at the same time white washing the misconduct of the Plaintiff. The Plaintiff has falsely accused the Defendant of being abusive, and has done so repeatedly both in court in front of our son, and also privately in front of him.

29. The Plaintiff has referred to the Defendant as “a sick man” right in front of our son. Mr. Fahy is aware of the actions of the Plaintiff but since they don’t support the ruling he wants, he left them out of his “report”.

30. Paragraph 5 – “Roles of the parents”: Again Mr. Fahy is joining with the Plaintiff to try and help her avoid taking responsibility for the harm she is causing to the relationship between our son and his father. He again is claiming the Defendant refuses to resume visitation which is blatantly incorrect. He tries to justify this on the basis on having got an absurd (and illegal) court order. It is not possible for the Defendant to submit a report written by an employee of the Plaintiff, if the Plaintiff does not have the employee write the report. The phrase “acceptable plan for visitation” is too vague to be legal and is nothing more than an attempt to force the Defendant to agree that the illegal and harmful rulings of the court are justified. Nothing could be further from an “acceptable plan for visitation” than the one imposed by the Plaintiff and the court. It would be impossible for the Defendant to know what would be acceptable, or appease, such uncaring, selfish people who would deprive a disabled child of a loving father in order to help a selfish mother avoid taking responsibility for her sexual misconduct and rage.

31. Mr. Fahy goes the extra mile with the absurd suggestion that the Defendant is not interested in playing a constructive role in his son’s life. It is the Plaintiff not the Defendant who chose to have an affair and destroy the marriage between Liam’s parents; it is the Plaintiff who chose to have a long drawn out court battle instead of agreeing to mediation as repeatedly requested by the Defendant. It is the Plaintiff who refused to comply with court-ordered visitation and called the police on several occasions. It is the Plaintiff who repeatedly refused requests by our son to allow him to spend time with his father. It is the Plaintiff who has resorted to fraud in attempts to sever the father/son relationship with a PPO and various motions. It is the Plaintiff who even when her actions in cutting off contact with his father resulted in misbehavior at school and depression severe enough to require a Clinical Psychologist, still refused to let Liam see his father in spite of Liam repeatedly begging her to allow him to see his father. If Mr. Fahy were honest he would question the desire of the Plaintiff for a constructive role in our son’s life.

32. Paragraph #6 – “Parents' support of children's relationship with other parent”: Mr. Fahy here makes such an outrageous claim that one questions not only his bias **but what he was smoking when he wrote his report**. Mr. Fahy states: “The mother has supported the child's contact and relationship with his father; the father has not reciprocated.”

33. Perhaps Mr. Fahy meant to write: “The mother has **NOT** supported the child's contact and

relationship with his father; the father has not **retaliated**.” Certainly no other interpretation of his remark bears any semblance to reality (whether he was smoking illegal substances or not).

34. Mr. Fahy has really piled it high and so deep this time. Does Mr. Fahy really expect anyone to believe the following actions by the Plaintiff constitute support of the child’s contact with his father?

- a. Filing for a protective order on false grounds asking the court to prevent all contact between father/son for two years. (Note the PPO was dismissed expunged)
- b. Calling the police when Liam chose to spend time with his father – even when the last court order required her to allow Liam to spend time with his father if he chose even outside of visitation.
- c. Putting Liam in an unlicensed home daycare instead of allowing him to continue to be cared for in the marital home by his father. (Note the JD&R court ordered her to return Liam to his father for daycare)
- d. Calling the Defendant “a sick man” in front of our son.
- e. Encouraging our son to associate with her illegal lover while at the same time asking the court to limit visitation with his father.
- f. Asking the court to suspend visitation, making up false claims in order to get the court to approve it.
- g. Telling our son he isn’t allowed to hug his father. See  
[http://www.liamsdad.org/badmother/audio/NoHug\\_DS330155.mp3](http://www.liamsdad.org/badmother/audio/NoHug_DS330155.mp3)  
<http://www.liamsdad.org/badmother/sarcasticaudio.shtml>
- h. Keeping our son out of state during a court ordered visitation period. See  
PETITION FOR RULE TO SHOW CAUSE  
[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2003.12.16\\_show\\_cause.pdf](http://www.liamsdad.org/court_case/pwc_circuit/2003.12.16_show_cause.pdf)
- i. Refusing to allow the Defendant to spend Fathers-Day with his son per court order unless he gives up additional visitation time. (Court ruled against her) See:  
  
[http://www.liamsdad.org/court\\_case/pwc\\_circuit/2004.06.11\\_clerk\\_notes.pdf](http://www.liamsdad.org/court_case/pwc_circuit/2004.06.11_clerk_notes.pdf)
- j. Refusing repeated requests by Liam to be allowed to go visit his father or to let his father come visit him.
- k. Asking to the school to prevent the Defendant from attending his son’s school events.
- l. Refusing to provide timely notice of IEP meetings so that the Defendant can attend.

m. Calling the police when the Defendant exercised visitation on a day the Plaintiff had specifically stated in writing was the Defendants day for visitation. See Exhibit C

35. Does Mr. Fahy really expect the court to believe the above constitutes support, or rather does he expect that the court knows the Plaintiff has **not** supported the child's contact with his father but that the court simply does not care about the facts and just wants Mr. Fahy to make some statements to support the courts pre-determined gender based outcome for this case.

36. The Plaintiff's statements "At my good graces" and "I'm Not Going To Let You Have Much To Do With Liam" sums up the real level of support. See

[http://www.liamsdad.org/badmother/audio/03.02.24\\_MyGoodGraces.mp3](http://www.liamsdad.org/badmother/audio/03.02.24_MyGoodGraces.mp3)

[http://www.liamsdad.org/badmother/audio/02.12.31\\_4\\_NotMuchToDo.mp3](http://www.liamsdad.org/badmother/audio/02.12.31_4_NotMuchToDo.mp3)

37. Paragraph #6 is completely backwards. The Defendant has supported our son's relationship with his mother, has assured Liam he can love both of us, when Liam has remarked about activities with her lover has stated that he hoped Liam had fun. In spite of the hell the Plaintiff has put the Defendant thru he has never asked the court to terminate, suspend or even to significantly restrict the Plaintiff's access to our son. The Plaintiff has quite clearly not supported the relationship between Liam and his father and her lack of support is so bad it's hard to imagine how she could be less supportive.

38. Paragraph #7 – "Parents' relationships with children/cooperation in resolving disputes affecting children." Again Mr. Fahy is resorting to fantasy. He falsely states: "The mother has demonstrated a willingness to cooperate and resolve disputes regarding matters affecting the child; the father has not." This again is clearly not true and Mr. Fahy is aware it's not true. His is aware of the mothers' misconduct and refusal to cooperate with the father as shown by her refusing to comply with visitation in Dec 2003, refusing to follow the Fathers-Day visitation provision in 2004. Her repeated attempts to get the court to severely limit the Defendants role with his son is also evidence of her unwillingness to cooperate to resolve disputes.

39. The Plaintiff's uncooperative and confrontational style in handling disputes is clearly demonstrated by her conduct on July 23, 2004. The Plaintiff had previously sent the Defendant her interpretation of the court order as to which days the Defendant was granted visitation by Court order. The calendar she created clearly shows the Defendant having visitation from 7pm July 9<sup>th</sup> thru 7pm July



25th. See Exhibit C.

40. On July 23, 2004 the Plaintiff then proceeded to demand that the Defendant return our son while there was still an entire weekend remaining in the court ordered two week visitation period. The Plaintiff was aware of this vacation visitation as shown by the calendar she created. The Defendant instead of insisting on her complying with the court order of two weeks uninterrupted visitation, was flexible and cooperative, and in an attempt to placate her, offered to trade that weekend for another weekend. However instead of either following the visitation schedule or agree to swap weekends the Plaintiff called the police and attempted to elicit their help in violating the court order. This uncooperative and abusive behavior is documented by her own attorney, Loretta Vardy: See Exhibit D

“On July 23,2004 at approximately 7:00 p.m., Mrs. Smith went to Mr. Smith's apartment to pick up Liam. Mr. Smith was not at home. Mrs. Smith called his cell phone. He refused to return Liam to her unless she signed an agreement that stated that he could have visitation on Tuesday,(July 27th) and the next weekend, (July 30th through August 1st ). (This attempt at **extortion** while using Liam as leverage is totally unacceptable and certainly is not in Liam's best interest.) **Mrs. Smith called the PWC police;**”

41. As shown above both parties accepted that the court order provided for the Defendant to have visitation that included the entire day of July 23, 2004 (and the following weekend), the Plaintiff demanded the child on that day, the Defendant made a reasonable offer to trade days for equivalent time.

42. The Plaintiff's actions of calling the police, labeling the Defendants offer as “extortion” and her verbal abuse of the Defendant using terms like “kidnapping” is totally unacceptable and only Mr. Fahy would call such extreme and uncooperative behavior by the Plaintiff as a” a willingness to cooperate”, while refusing to grant the Defendant credit for being willing to interrupt his “uninterrupted” two week visitation period at a moments notice just to placate an angry Plaintiff.

43. Paragraph 9: “Abuse:” Mr. Fahy simply states: “There are no founded incidents of abuse.” Apparently Mr. Fahy is willing to sweep child abuse under the rug in his haste to impede informed ruling on custody.

44. Mr. Fahy doesn't dispute that Liam is attached to his father, thus the repeated attempts to separate him from his father constitute emotional child abuse by the Plaintiff (and Mr. Fahy). Not only is the emotional abuse obvious but also the harm caused by it has been documented by Harold A Kaplan, a Clinical psychologist, who diagnosed Liam with Depression as a result of the Plaintiff separating him

from his father. See Exhibit A

45. Mr. Fahy also makes no mention of the complaint filed with CPS of physical child abuse. Isn't this exactly the type of thing that a GAL is appointed to investigate and report on? Mr. Fahy is consistent in only wanting to present items that help the Plaintiff and harm the Defendant.

46. Given that the abuse was alleged to have happened at a time during which the Defendant had not had visitation the most likely perpetrator of the abuse is either the Plaintiff and/or her illegal lover Igor Bakhir.

47. If the abuse did not occur then certainly it's important that the court know who filed the false complaint. If the Plaintiff or someone acting on her behalf filed a false complaint with CPS then that is certainly misconduct that would weigh heavily against the Plaintiff according to the criteria mandated by 20-124.3.

48. Mr. Fahy is grossly negligent in the performance of his duties as GAL by not researching and declaring to the court who filed the CPS complaint and if it was another example of how the Plaintiff "supports" our son's relationship with his father.

49. Paragraph 10: "Other Factors" – With reference to adultery Ronald Fahy states that: "... the GAL is of the opinion that the child has not been exposed to inappropriate physical or sexual actions". This statement is not only dubious but incomplete as well.

50. It was our son who brought the adultery to the attention of the Defendant and without our son's comments, the Defendant would not have investigated. It is clear that our son has been exposed to the affair, has been made aware the Plaintiff and Igor Bakhir were sleeping together, and had seen them in bed together.

51. It is reasonable to conclude that a mother engaging in sexual relations in a one-bedroom apartment with the child present, that the child has some exposure to the act. The same applies to the mother sharing a tent with the child and lover.

52. Mr. Fahy seems intentionally blind to the real effects of adultery on our son. Apart from the moral implications, the bad relationship example set for him, and the example lying, sneaking around and lack of taking responsibility for actions, lack of apologizing for misconduct, the affair by the mother has

resulted in many negative changes in Liam's life including but not limited to:

- A. Having his parents divorce, all the stress and changes caused by that. (Including any ill effects Mr. Fahy claims relating to the Defendants public comments on her adultery).
- B. Having his home stable home of six years in a 4 bedroom house, where he has his own yard of over one acre, playset, own room, etc replaced with short term housing at a neighbors, back to the house, then moved again to a small one-bedroom apartment, then another move to another county for yet another apartment.
- C. Disrupted his schooling, resulting in his spending his first three years in school in three different school districts.
- D. Disruption of his therapy, requiring a change in speech therapists.
- E. Not being able to have both parents attend his school events. Indeed its her attempt to hide her affair and replace the father with her lover that is the major cause of Liam not having his father present at school events.
- F. Negative impact on his relationship with his father and how much time he is able to spend with his father.

53. There is almost **no aspect of Liam's life that has not been adversely affected by his mother's adultery** and steps taken to support her adultery rather than to support our son.

54. Even if the adultery and associated negative consequences for our son is not reason by itself to award custody to the Defendant it certainly is a factor that favors the Defendant, as the conduct by the Plaintiff both shows poor judgment and a selfish insistence on putting her sexual desires ahead of the health and welfare of our son.

55. Mr. Fahy instead of making a responsible report of the effects of the Plaintiff's adultery on our son, attempts to smear the Defendant describing him as "obsessed". Adultery is relevant for the grounds of divorce and for showing the true motive of the Plaintiff for the divorce, thus it is completely appropriate for the Defendant to bring up in this case. Its inappropriate for an officer of the court to suggest a parent lose custody for pursuing a statutory approved grounds for divorce.

56. "Obsessed" is hardly an appropriate word to describe a spouse who has patiently documented the

unfaithful actions of his wife, per instructions from a licensed investigator, without confronting or the adulterers or taking rash action. Sitting in a parking lot, taking photo's of cars, and putting chalk marks on tires is hardly obsessive behavior, neither is leaving his son's Christmas present by the door instead of knocking when it was assumed her lover was present.

57. "Obsessed" is also inappropriate given the Defendants lack of religious fervor. Sure the Defendant views the conduct as illegal, immoral, dishonest, inappropriate, harmful to both the marriage and our son, a violation of their marriage vows, a sign of weak character, etc, but the Defendant not being religious does not view it in terms of sin or the Plaintiff burning in hell or other such nonsense.

58. Mr. Fahy also attempts to discredit concerns about the mental health of the mother by using the word "obsessed". Isn't it odd that an officer of the court tries to discredit the request of the Defendant to examine this issue when state law requires the court to consider the mental health of the mother.

59. If there is any obsession going on its Mr. Fahy's obsession with trying to help the Plaintiff avoid taking responsibility for her adultery and helping her avoid taking responsibly for her mental health problems. He is so obsessed with this objective that he would rather leave a disabled child alone with a parent with "uncontrollable rage" rather than fulfill his duty to our son and try to limit the impact of rage on a small child.

60. Mr. Fahy's bias is again evident here by his focusing on negative comments in the Mr. Behrmann's evaluation while refusing to discuss proven facts that contradict the evaluation, and while making no mention of the negative statements in the report that relate to the Plaintiff. This is even more absurd when the negative statements about the Plaintiff relate directly to her lack of proper parenting skills. Mr. Fahy seems to have ignored these lines from the evaluation:

"He thus can tune into Liam's world and join in playfully or instructively, emotionally and intellectually. At these times he is an **excellent father**"

"Cheri can flip flop in her interactions with Liam, being say, strict or achievement oriented, and then shifting to lenient and easy going about the same area, which **causes some confusion to Liam.**"

" Cheri when under stress, can function at the edge of her emotional resources. This internal stress will build, while she will appear on the surface to be steady. **Ms Smith can then fairly abruptly let go with loud verbal emotion, throw small objects...** this can be **yelling at Mr. Smith or perhaps at Liam...** if there is **emotional harshness at Liam**, Ms. Smith feels guilty... Ms Smith can have a difficult time just playing with

Liam; Cheri thinks about how to play almost more than emotionally feels how to play and she subtly attempting to insert an achievement or educational goal into the play. This occurred in my observation of Cheri with Liam. Liam refused to go along with it”

“...**setting goals too high for Liam given his abilities** and the school system’s capacities”

61. Mr. Fahy goes on to claim that my description of Mr. Fahy’s angry outburst as “a deeply troubling fabrication”. It should be noted that the very same Psychologist whom Mr. Fahy quotes, has made statements in his report that support the Defendant’s view of the incident and contradict Mr. Fahy’s account.

62. In his report dated February 17, 2003 Mr. Behrmann made the following statements:

“Regarding alleged physical threat to his spouse, court documents indicate that while a preliminary protective order was granted, this order was then dismissed. Thus there seems to be the inverse of physical threat to his spouse as adjudicated by a court of law. Further, the MMPI-2 suggest a modulated, non-physical response to interpersonal pressure; Mr. Smith **is not an angry individual, and in fact tends toward a much more gentle non-physical approach to life.**” See Exhibit E

63. As it has been shown above the “report” filed by Ronald Fahy has both glaring omissions of information the court needs to know about such as the anger and other mental health problems of the Plaintiff, the false child abuse claim, the diagnosed depression of our son, the behavioral problems at school, the lack of cooperation by the Plaintiff etc, as well as intentionally biased and misleading statements. As such the “report” is clearly unfit to be used as an source of information for use by the court.

**WHEREFORE** the Defendant moves this court to:

1. Strike the “report” filed by Ronald Fahy.
2. Rule that Ronald Fahy has refused to fulfill his duty as GAL and that his performance has been grossly negligent and biased.
3. Remove Ronald Fahy as GAL and not allow him to participate anymore in the proceedings.
4. Impose appropriate sanctions per § 8.01-271.1 against Ronald Fahy.
5. Ask the Bar Association to take appropriate action against Ronald Fahy to prevent him from repeating his misconduct in other cases.

As it has been shown that Ronald Fahy’s report is nothing less than complete BS, that no reasonable

person would consider acceptable, failure by the court to take the above steps will indicated a clear bias by the court, a failure of the court to perform its duty required by statute and rule, and an abuse of discretion.

**Respectfully Submitted,  
Wesley C. Smith**

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