

VIRGINIA:  
IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH  
Plaintiff

Vs

In Chancery No. 53360

WESLEY C. SMITH  
Defendant

**ORDER**

*RWF*  
THIS MATTER CAME ON TO BE HEARD THIS DAY for entry of an Order from the hearing held herein on July 7, 2006; upon the Motion filed by the Plaintiff, by counsel, to direct the escrow agent, John Whitbeck, Esq., to disburse the escrow he apparently holds from the settlement on the sale of the marital residence; upon the appearance of the Plaintiff ~~and her~~ counsel and the Defendant, who is proceeding pro se; upon appearance in person of Mr. Whitbeck; upon due notice to all parties; and upon argument of the counsel, including the Defendant.

IT APPEARING TO THIS COURT that the parties hereto have by agreement previously entered into a sale of the marital residence and have escrowed the net proceeds of sale with Mr. Whitbeck, the escrow agent and the former counsel for the Defendant; and it further appearing to the Court that it has entered a final decree of divorce on June 6, 2006 that directs the equitable distribution of the parties properties; and it further appearing to the Court that while Mr. Whitbeck was present in court this day, he is not a party to these proceedings and it would therefore not be proper for this Court to direct him to disburse the funds; upon further finding that such a motion would be premature unless and until the escrow agent disburses the net proceeds of sale either by agreement of the parties, by interpleader or by some other means, it is therefore

ADJUDGED, ORDERED and DECREED as follows:

1. That upon consideration of the totality of the evidence and the law in Virginia, and argument of counsel, the motion to have the Court order the escrow agent to disburse the funds should be, and the same hereby is, denied, without prejudice to the parties to file any future motions based upon the actions, if any, taken by the escrow agent as to the funds.

2. That it further appearing to this Court that the Defendant has previously filed a motion to have the Court consider a Motion to Reconsider the Final Decree of Divorce entered herein on June 6, 2006, but that the Court finds that there was no request by the Defendant to properly schedule that motion to be heard on July 7, 2006, and insufficient notice was given to the Plaintiff for said motion to be addressed on that date, the motion to consider the Motion to Reconsider shall be, and the same hereby is, denied.

