

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

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

#83 - PLAINTIFF VIOLATING COURT ORDER

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

COMES NOW the Defendant, Wesley C. Smith, and notifies the Court that the Plaintiff is willfully violating the Court Order of June 9th 2006:

1. The Court, at the specific request of the Plaintiff, added a provision requiring notification of where our son was staying when traveling. On page 8 of the Final Divorce Decree (d)(i) it states:
 - i. In the event **either party** takes the child outside of a 200 mile radius from the child's home or the Defendant's home then that party shall notify the other party in advance and provide that party with the **address and telephone number** where the child will be.
2. The Plaintiff has repeatedly refused to follow this provision. The Defendant has repeatedly politely reminded her of the provision but she still refuses to comply.
3. For her latest trip the Plaintiff did finally provide limited notice of travel but refused to provide the addresses or phone numbers as required by the order. When Defendant again reminded her she needed to provide the addresses and cited the provision in the order she responded with the sarcastic comment: "You already have them". [See exhibit #1]
4. If the Plaintiff's statement was true then there would be no reason for her not to confirm the addresses and phone numbers, instead the Plaintiff not only refused to provide the addresses but had her attorney threaten the Defendant in order to get him to drop his request that she comply with the order and provide the addresses. [See exhibit #2]
5. The Defendant contacted Loretta Vardy, counsel for the Plaintiff, and asked that she

encourage her client to comply with the order. Rather than comply with the ethical guidelines and rules of the court that prohibit her from supporting a client intentionally violating a court order, Loretta Vardy, sent the Defendant an e-mail threatening him with a rule to show cause if he didn't agree to let her client violate the order. Loretta Vardy should be sanctioned for her misconduct in encouraging, aiding and abetting a willful violation of a Court Order.

6. It should also be noted Loretta Vardy is a party to a lawsuit involving the Defendant and should no longer be representing the Plaintiff in this case.

7. As shown above, the Plaintiff was made aware of the provisions of the court order, the specific portion of the order she was violating and she still chose to not comply with the order. Thus her violation was knowing and willful.

WHEREFORE, it has been shown that the Plaintiff has willfully violated the terms of the Final Divorce Decree with the full support and encouragement of her Virginia Bar Association attorney, Loretta Vardy, the Defendant requests that the Court take any or all of the following actions:

- A. Issue a Rule To Show Cause
- B. Issue Sanctions against Loretta Vardy
- C. Remove Loretta Vardy from this case
- D. Order that the Defendant no longer needs to comply with the notification section that the Plaintiff is refusing to comply with herself.

**Respectfully Submitted,
Wesley C. Smith**

Wesley C. Smith, Defendant
5347 Landrum Rd APT 1, Dublin, VA 24084-5603
liamsdad@liamsdad.org
703-348-7766

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served to Loretta Vardy via U.S. mail, this 20th day of August 2007.

From: lorvardy@comcast.net
Subject: Re: Fwd: Liam traveling notification
Date: August 17, 2007 10:18:06 AM EDT
To: "Liam's Dad" <liamsdad@liamsdad.org>

Wes:

The information which was given to you by Cheri concerning her vacation plans for August 2007, identifies where Liam will be and how you can contact Liam.

You put all information about this case on the web-site; it is an invasion of everyone's privacy. You have been ordered by the Court to dismantle the web-site and you have refused to do so. Judge Potter never changed that Order.

Loretta Vardy

----- Original message -----

From: Liam's Dad <liamsdad@liamsdad.org>
Loretta,

You should advise your client to comply with the order and provide me with the addresses. I was going to settle for just the addresses but since she is being uncooperative adviser her to also provide the phone numbers as well (court order does not say her cell phone).

Let me know if you would prefer I file a complaint with the court.

Begin forwarded message:

From: Cheri Smith <cherismith_98@yahoo.com>
Date: August 16, 2007 5:56:22 AM EDT
To: "Liam's Dad" <liamsdad@liamsdad.org>
Subject: Re: Liam traveling notification

You already have them.

----- Original Message -----

From: Liam's Dad <liamsdad@liamsdad.org>
To: Cheri Smith <cherismith_98@yahoo.com>
Cc: Liam's Dad <liamsdad@liamsdad.org>
Sent: Monday, August 13, 2007 7:45:32 PM
Subject: Re: Liam traveling notification

Per page 8 of the June 9th, 2006 order, you also need to provide the street addresses.

Liam may call me on the 19th or any other time.

On Aug 11, 2007, at 6:57 AM, Cheri Smith wrote:

This is notification that Liam will be traveling to Ohio and Salt Lake at the end of August. He will be at my brother Darryl's house in Akron from 18-23 August, and at my parent's house in Salt Lake from 23-30 August. We may also spend some time at my sister Michelle's house in Logan around the 27-29. You can reach him by calling my cell phone number. Can he call you for the Sunday evening call at 7:00 on the 19th?

Cheri

Liam's Dad - Wesley Smith

<http://www.liamsdad.org>

liamsdad@liamsdad.org

The First Amendment is often inconvenient. But that is besides the point. Inconvenience does not absolve the government of its obligation to tolerate speech.

- Justice Anthony Kennedy

Liam's Dad - Wesley Smith

<http://www.liamsdad.org>

liamsdad@liamsdad.org

An individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law.

- Martin Luther King, Jr

From: lorvardy@comcast.net
Subject: RE: settlement offer
Date: August 17, 2007 10:50:16 AM EDT
To: liamsdad@liamsdad.org

For Settlement Purposes Only

Wes:

My client has authorized me to make the following settlement offer concerning your threat of court action, specifically, filing a Rule to Show Cause concerning the information provided to you concerning her vacation plans for August 2007. In an effort to reduce litigation, she proposes that you withdraw your threat and accept as sufficient the information which she has already provided to you concerning her vacation plans for August 2007 as this information identifies where Liam shall be and provides a contact telephone number for him. In exchange, at this time, she will not exercise her right to file a Rule to Show Cause concerning your child support arrearage. It is our position that this case has required enough of the Courts time to date and that the parties should use the Courts as a last resort only.

Loretta Vardy

Exhibit #2