

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

In Re. A COURT OF MIST AND FURY

Case No. CL22-1984

**BLOOMSBURY AND SARAH MAAS’
JOINT MOTION TO VACATE SHOW CAUSE ORDER AND TO DISMISS PETITION**

Bloomsbury Publishing, Inc. and Sarah Maas (together, the “CoMF Author and Publisher”), by counsel, move to vacate the Order To Show Cause Pursuant To 18.2-384 Of The Code Of Virginia entered May 18, 2022 (the “Show Cause Order”), and to dismiss the Petition For Declaration For Adjudication Of Obsenity [sic] Pursuant To 18.2-384 Of The Code Of Virginia (the “Petition”), filed by Petitioner Tommy Altman (“Petitioner”) against the book *A Court of Mist and Fury* (the “Book”), for the following reasons:

1. The Petition and the Show Cause Order are facially defective because Virginia Code § 18.2-384 does not authorize a court to declare that a book is “obscene for unrestricted viewing by minors.”

2. Virginia Code § 18.2-384, by its own terms, “shall be intended only to establish scienter” and cannot constitutionally be the basis for the relief sought by Petitioner.

3. As a matter of law, the Book, taken as a whole, does not lack serious literary, artistic, political, or scientific value, and therefore is not obscene under the standards applicable to Virginia Code § 18.2-384, including Virginia Code § 18.2-372, Article I, Section 12 of the Constitution of Virginia, and *Miller v. California*, 413 U.S. 15 (1973).

4. Even if brought under the statutory provisions governing distribution to juveniles, Virginia Code § 18.2-390 *et seq.*, as a matter of law the Book, taken as a whole, does not lack

serious literary, artistic, political or scientific value for all juveniles, and therefore is not harmful to juveniles under Virginia Code § 18.2-390 and *Ginsberg v. State of N. Y.*, 390 U.S. 629 (1968).

5. Virginia Code § 18.2-384 is unconstitutional in that it abridges the free speech protected by Article I, Section 12 of the Constitution of Virginia and United States Constitution.

6. The provisions of Virginia Code § 18.2-384 are vague and overbroad in violation of Article I, Section 12 of the Constitution of Virginia and United States Constitution.

7. The relief requested by the Petitioner pursuant to Virginia Code § 18.2-384 would constitute an unconstitutional restraint on speech in violation of Article I, Section 12 of the Constitution of Virginia and United States Constitution.

8. Va. Code § 18.2-384 is unconstitutional in that it violates the Dormant Commerce Clause, because it authorizes state restrictions on the sale or distribution of books in interstate commerce.

WHEREFORE, for the foregoing reasons, which will be addressed more fully in a supporting brief or memorandum to be filed pursuant to the Rules of the Supreme Court of Virginia and any scheduling order entered by the Court, the CoMF Author and Publisher respectfully request that the Court vacate the Show Cause Order, dismiss the Petition with prejudice, and award the CoMF Author and Publisher any additional relief that the Court deems fair and just.

Dated: June 14, 2022

Respectfully submitted,

BLOOMSBURY PUBLISHING, INC.

and

SARAH J. MAAS

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2022, a true and accurate copy of the foregoing was sent by electronic mail to the following:

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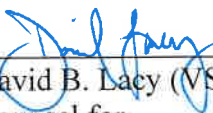
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