

**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

By Counsel



---

David B. Lacy (VSB #71177)  
CHRISTIAN & BARTON, L.L.P.  
901 East Cary Street, Suite 1800  
Richmond, Virginia 23219-3095  
Telephone: (804) 697-4100  
Facsimile: (804) 697-4112  
[dlacy@cblaw.com](mailto:dlacy@cblaw.com)

Maura J. Wogan†  
Edward H. Rosenthal\*  
Nicole Bergstrom\*  
Molly G. Rothschild\*  
FRANKFURT KURNIT KLEIN & SELZ, PC  
28 Liberty Street  
New York, New York 10005  
Telephone: (212) 980-0120  
Facsimile: (212) 593-9175  
[mwogan@fkks.com](mailto:mwogan@fkks.com)  
[erosenthal@fkks.com](mailto:erosenthal@fkks.com)  
[nbergstrom@fkks.com](mailto:nbergstrom@fkks.com)  
[mrothschild@fkks.com](mailto:mrothschild@fkks.com)

† *pro hac vice* application pending

\* *pro hac vice*

*Counsel for  
Bloomsbury Publishing, Inc. and  
Sarah J. Maas*

## 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:

Timothy Anderson, Esquire  
Anderson & Associates PC  
2492 N. Landing Rd. 104  
Virginia Beach, VA 23456  
Tel.: (757) 301-3636  
Fax: (757) 301-3640  
[timanderson@virginialawoffice.com](mailto:timanderson@virginialawoffice.com)

*Counsel for Petitioner*

Craig T. Merritt, Esquire  
R. Braxton III, IV, Esquire  
Merritt Law, PLLC  
919 E. Main St., Suite 1000  
Richmond, VA 23219  
Tel.: (804) 916-1601  
[cmerritt@merrittfirm.com](mailto:cmerritt@merrittfirm.com)  
[bhill@merrittfirm.com](mailto:bhill@merrittfirm.com)

Robert Corn-Revere, Esquire  
Laura R. Handman, Esquire  
Linda Steinman, Esquire  
Amanda B. Levine, Esquire  
Davis Wright Tremaine, LLP  
Suite 500 East  
1301 K. Street NW  
Washington, D.C. 2009-3317  
[bobcornrevere@dwt.com](mailto:bobcornrevere@dwt.com)  
[laurahandman@dwt.com](mailto:laurahandman@dwt.com)  
[lindasteinman@dwt.com](mailto:lindasteinman@dwt.com)  
[amandalevine@dwt.com](mailto:amandalevine@dwt.com)

*Counsel for Barnes & Noble Booksellers, Inc.*

Kevin E. Martingayle, Esquire  
Bischoff Martingayle, P.C.  
3704 Pacific Avenue, Suite 300  
Virginia Beach, VA 23451  
Tel.: (757) 233-9991  
Fax: (757) 428-6982

Kamala H. Lannetti, Esquire  
Deputy City Attorney  
Virginia Beach City Attorney's Office  
2512 George Mason Drive  
Municipal Center, Building 6  
Virginia Beach, VA 23456  
Tel.: (757) 263-1215  
[klannett@vbgov.com](mailto:klannett@vbgov.com)

*Counsel for the Virginia Beach School Board*

L. Steven Emmert, Esquire  
Sykes, Bourdon, Ahern & Levy, P.C.  
4429 Bonney Road, Suite 500  
Virginia Beach, VA 23462  
Tel.: (757) 499-8971  
Fax: (757) 456-5445  
[lsemmert@svkesbourdon.com](mailto:lsemmert@svkesbourdon.com)

Jeff Trexler, Esquire  
15110 Boones Ferry Road, Suite 220  
Lake Oswego, OR 97035  
Tel.: (212) 677-4092  
[Jeff.trexler@gmail.com](mailto:Jeff.trexler@gmail.com)

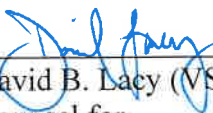
*Counsel for Maia Kobabe*

[martingayle@bischoffmartingayle.com](mailto:martingayle@bischoffmartingayle.com)

Ariel L. Stein, Esquire  
Bischoff Martingayle, P.C.  
208 East Plume Street, Suite 247  
Norfolk, VA 23510  
Tel.: (757) 440-3546  
Fax: (757) 440-3924  
[stein@bischoffmartingayle.com](mailto:stein@bischoffmartingayle.com)

Michael K. Lowman, Esquire  
Armstrong Teasdale, LLP  
14001C St. Germain Drive, Suite 223  
Centreville, VA 20121  
Tel.: (267) 780-2034  
[mlowman@Atllp.com](mailto:mlowman@Atllp.com)

*Counsel for Oni-Lion Forge Publishing  
Group, LLC*

  
\_\_\_\_\_  
David B. Lacy (VSB # 71177)  
Counsel for  
Bloomsbury Publishing, Inc. and  
Sarah J. Maas  
CHRISTIAN & BARTON, L.L.P.  
901 East Cary Street, Suite 1800  
Richmond, Virginia 23219-3095  
Telephone: (804) 697-4100  
Facsimile: (804) 697-4112  
[dlacy@cblaw.com](mailto:dlacy@cblaw.com)