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UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION

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SUNTRUST BANK OF ATLANTA	:
as Trustee of the Stephens Mitchell trusts f/b/o	:
Eugene Muse Mitchell and Joseph Reynold	:
Mitchell	:
	: CASE NO. 1:01 CV- 701
	:
Plaintiff,	:
	:
-against-	: <b>AFFIDAVIT OF THOMAS HAL</b>
	: <b>CLARKE, ESQ. IN SUPPORT</b>
	: <b>OF PLAINTIFF'S MOTION FOR</b>
HOUGHTON MIFFLIN COMPANY,	: <b>TEMPORARY RESTRAINING</b>
	: <b>ORDER AND PRELIMINARY</b>
Defendant.	: <b><u>INJUNCTION</u></b>
	:
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STATE OF GEORGIA     )  
                                  : ss.:  
COUNTY OF FULTON    )

THOMAS HAL CLARKE, duly sworn, deposes and says:

1. I am an attorney admitted to practice before this Court and one of two surviving members of the committee (hereinafter the "Committee") established by the trust instruments to direct the plaintiff SunTrust Bank, as Trustee of the four Stephens Mitchell trusts f/b/o Eugene Muse Mitchell and Joseph Reynolds Mitchell (the "Mitchell Trusts") with respect to all decisions relating to the exploitation of the Mitchell Trusts' interest in the renewal copyright of "Gone With The Wind." I have personal knowledge of those facts described herein which are not the subject of common knowledge or matters of public records and submit this declaration in support of the Mitchell Trusts' motion for a temporary restraining order and preliminary injunction

preventing defendant Houghton Mifflin Company ("Houghton Mifflin") from the publication and distribution of a book entitled "The Wind Done Gone" by Alice Randall.

2. I am submitting this affidavit in opposition to the defendant's characterization of the black characters in "Gone With The Wind" as one dimensional.

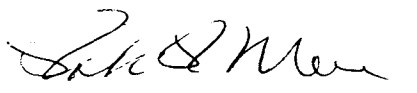
3. Attached hereto is a letter dated November 10, 1998 to us from Pat Conroy about the issue of the death of "Scarlett" in the sequel which we were discussing with him.

4. On Page 4 of his letter, he reflects that he disagrees "that 'Gone With The Wind' is the most racist novel ever to be published in America", and confirms his belief that "the black characters in 'Gone With The Wind', . . . are as well drawn as the characters in Toni Morrison's or Alice Walker's novels."

5. Shortly after receiving this letter and agreeing on how the death of Scarlett would be treated, one of Mr. Conroy's agents, ~~Henry Frank~~<sup>Tom</sup>, tried to change the financial terms of the agreement again, and we withdrew from negotiations.

  
THOMAS HAL CLARKE

Sworn to before me this  
16<sup>th</sup> day of April, 2001

  
Notary Public  
Notary Public, Fulton County, Georgia  
My Commission Expires Jan. 13, 2002

FAX TO OWEN LASTER  
FROM PAT CONROY

November 10, 1998

Dear Hal, Dear Paul, Dear Owen, Dear Margaret Mitchell:

I was in Chapel Hill this past weekend giving a talk on Thomas Wolfe. Because of my introduction to the Sixtieth edition of *Gone With The Wind*, you know the power and the lastingness of that book on my childhood. *Look Homeward Angel* was the next book that blew me out of the water and set me on the course that would put us all in this position today.

Paul and Hal, I need to say this to both of you. I try to demonstrate as much integrity as a writer as both of you gentlemen do as lawyers. The rules for writers are not written down the way they are for members of the bar, but they are just as <sup>INVIOLABLE</sup> ~~enforceable~~ and sacred. I believe I have been as flexible and reasonable as any man or woman you could approach about this project. My editor, Nan Tales, still bristles with anger when she brings up the subject that I will be paying sixty cents for every dollar I make to a dead woman. If you remember, Barry Frank issued you an ultimatum on this very subject. As I knew you would, you sent this ultimatum flying right back in his face. I know how Southern boys react to ultimatums. It once caused a Civil War.

I cannot, Hal and Paul—and I repeat—I cannot sign anything that gives away literary control of the book I would write for the estate. I think I am giving up the copyright (I confess, I have not looked at a single document or contract. Until you mentioned it the other day, Paul, I had no idea how much I was being paid.) But it seems I have made extraordinary concessions at this stage of my stumbling career to remain a part of this project. You may see me otherwise; I just don't know.

But here is my pledge to you. It has been my pledge from the beginning. I will try to write a work of art. I will try to make this book a magnificent and lasting and worthy thing. If I fail, it will be because of a lack of talent, not because I did not pour my heart and soul into it. I will not dishonor, in any way, the book *Gone With The Wind*. My intention is to enhance its

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greatness, not diminish it. The standards I set for my art are my own, Hal and Paul, and I try to set them high. Each sentence I write I try to craft with love and passion and joy. I have great limitations as a writer but these were given to me by God, and I have learned to live with them.

I ask you to trust me, Hal and Paul. I am a sixties liberal of the worst, kneejerk variety, but I understand very well that world that you came out of and inhabit. My political views would provoke a gag reflex from both of you. Since The New York Times article, many of my friends have called or written to me. Several implied that I was a racist ~~even~~ <sup>GA</sup> even speaking to you about this project. Others thought that pure greed had overwhelmed me. Some understood. Many did not.

I do not care. Margaret Mitchell and I were baptized at the same font in Sacred Heart Church in Atlanta. I find that fact strange and miraculous. My mother took me to Margaret Mitchell's grave when I was in kindergarten at Sacred Heart and read *Gone With The Wind* to me that same year my father flew a warplane in Korea. All the connections astonish me. I was watching Jeopardy on television a couple of years ago when this flashed on the board: "Margaret Mitchell and Pat Conroy are both authors native to this Southern city." This is the stuff of miracle, gentlemen. And it grieves me that it might be slipping away.

Yet...I want you to know that I feel a constant terror when I think about writing this book. I worry, I fret, and I tremble when I think I will write a bad or laughable book. One friend wrote me this suggestion: Scarlett whispered, "Rhett, darling, set me on fire. The way Sherman did Atlanta." I roared laughing, but it demonstrated the razor-thin edge I'll be walking when I enter the hunting preserves of Margaret Mitchell. I've been scared to death since we began these talks. This is an extraordinary task and I have grave personal doubts that I am up to it. All of you need to know this. But if it comes to pass, I will try to write a better book than *Gone With The Wind*. I don't think I can do it, but I will try.

Hal, I understand perfectly your feelings about the death of Scarlett O'Hara. I share them. I wanted to write it because I understand the nature of tragedy and I wanted to write one of the great death scenes in all of literature. I think I could bring the world to its knees with the death of Scarlett. Could we compromise of this? Could I write the book and leave Scarlett alive and intact at the end? Then could I write the chapter of her death and leave it in the archives of

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the Margaret Mitchell estate to be possibly—and I mean possibly—published by the estate when the copyright runs out? This will allow me to save some face. The artist in me tells me not to allow this under any circumstances. But if I'm allowed to write it and just give it to you, I believe it will satisfy the artistic impulse that led me to Scarlett's deathbed in the first place. I have thought a lot about this, Hal. All my resistance to your restrictions—all of them, and I include miscegenation, homosexuality, the rights of review and approval—I do because they begin inching toward the precincts of censorship. You do not mean them that way, I know, but it is what they sound like to the writer who lives inside me. I cannot take Scarlett as a date to the Censor's Ball and I mean that. I can grant you no rights of approval over my work—none whatsoever—but I promise I will bring honor to your estate and the memory of Margaret Mitchell.

If you must have some approval rights, I will understand that too and wish you godspeed. At Chapel Hill on Saturday, Bill and Lucy Emerson were in attendance at the Thomas Wolfe festival. We have been good friends for years, and both told me that they had grown up knowing both of you and your families. Lucy, feisty and lovely, ripped into me as she often does. "Patrick, I read the article in the Atlanta paper and you're being totally unfair to Hal and Paul. They're both wonderful men and you shouldn't be pushing them around like that. You're being too hard on them. Cut it out right now."

Very few people in the world refer to me as Patrick, but Lucy Emerson is one of them. Bill Emerson responded mythically as he always does: "If Hal and Paul were such nincompoops to have such a blustering, cantankerous, pusillanimous and treacherous son-of-a-bitch as Conroy, then they deserve every single arrow of outrageous fortune that punctures their Atlanta hides. But the mealy-mouthed, low-born, reprobate Conroy is right. They are asking for what no real writer can surrender."

"Shut up, Bill," Lucy said.

"The damn woman silences me with her menopausal rage the very moment I become the slightest bit rhetorical, Conroy," Bill whispered to me.

You and I were once neighbors, Hal. I lived at 34 Peachtree Circle while writing *The Prince of Tides*. I think I could see your house from my front porch in Ansley Park. My

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daughter's name is Susannah Ansley Conroy, and she is the only child I have ever met who is named for a neighborhood. I know where both Hal and Paul's family come from and what they are like and what they believe in and where they worship. Bill and Lucy Emerson's families come out of the same Atlanta.

I came out of a different Atlanta and a different South. When black people tell me that *Gone With The Wind* is the most racist novel ever to be published in America, I respectfully disagree. Then I tell them this: Margaret Mitchell loved the black characters in *Gone With The Wind*, and I think they are as well drawn as the characters in Toni Morrison's or Alice Walker's novels. Then I tell them this, Hal and Paul, Margaret Mitchell did not hate black people, she hated poor Southern whites. She hated my people. If you look back at *GWTW*, Miss Mitchell poured all of her considerable powers of contempt on the Slatterys, the poor white subsistence farmers who lived on a few acres adjacent to Tara. The Slatterys are my mother's people plain and simple. My mother came out of the lowest born South possible. It was a source of embarrassment to her until the day she died.

*Gone With The Wind* was the liberating text of my mother's childhood. She used Scarlett O'Hara as her inspiration to remake herself into something exceptional and fine. Her whole life was spent in heartfelt denial that she was a Slattery. She was, Hal and Paul, and so am I. It is part of the pure magic of human life that you have chosen a descendant of the Slatterys to write this book. I was the first person in my mother's family to graduate from college. My mother took me to the city of literature when I was a boy and *Gone With The Wind* was the first house we visited there together. Literature has an immeasurable, transfiguring power. My mother imagined a different and better life for her son. I grew up in trailer parks and Quonset huts, but I became a neighbor of Hal Clark. I was born a Slattery, but I have worked hard to make the name Conroy an honored one in my country. I say this without an ounce of self-pity. I say it with enormous pride.

When I get to heaven, I would like Margaret Mitchell to ask me for the first dance. I don't want you two boys cutting in on me. I'd like to tell her what it was like to take her fabulous book and try to turn it into something worthy of her spirit. I want her to be waiting for me with open, thankful arms. I'd like for this to work.

Pat Conroy

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CERTIFICATE OF SERVICE

This is to certify that I have this day caused a true and correct copy of the within and foregoing document to be delivered by hand by 5:00 p.m. to counsel for the Defendant as follows:

Miles J. Alexander  
Jerre B. Swann  
Joseph M. Beck  
KILPATRICK STOCKTON LLP  
1100 Peachtree Street, N.E.  
Suite 2800  
Atlanta, Georgia 30309-4530

This 16th day of April, 2001.

  
\_\_\_\_\_  
An Attorney for Plaintiff