

COPY

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

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SUNTRUST BANK, as Trustee :

of the Stephens Mitchell :

trusts f/b/o Eugene Muse :

Mitchell and Joseph Reynolds :

Mitchell, : CASE NO. 1:01-CV-701-CAP

:

Plaintiff, :

:

v. :

:

HOUGHTON MIFFLIN COMPANY, :

:

Defendant. :

:

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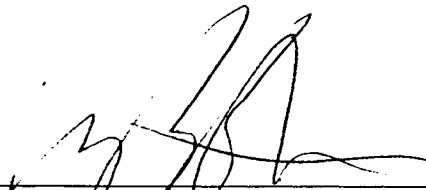
**PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiff, SunTrust Bank, as Trustee of inter vivos and testamentary trusts created by Stephens Mitchell f/b/o Eugene Muse Mitchell and Joseph Reynolds Mitchell, (hereinafter the "Plaintiff" or the "Mitchell Trusts"), moves this Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for a temporary restraining order and preliminary injunction against Defendant Houghton Mifflin Company.

The facts and grounds for this motion are stated more fully in the Affidavits of Paul H. Anderson, Esq., March 23, 2001, Maura J. Wogan, Esq., March 22, 2001, Jessie Beeber, Esq., March 22, 2001 and the Memorandum of Law in Support of

Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction filed contemporaneously herewith. A proposed Temporary Restraining Order is attached hereto as Exhibit "A."

Dated: March 23, 2001.



William B. B. Smith
(Georgia Bar No. 664637)
Ralph R. Morrison
(Georgia Bar No. 525145)
Anne M. Johnson
(Georgia Bar No. 392229)
JONES, DAY, REAVIS & POGUE
3500 SunTrust Plaza
303 Peachtree Street, N.E.
Atlanta, Georgia 30308-3242
Telephone (404) 521-3939
Facsimile (404) 581-8330

Of Counsel:
FRANKFURT GARBUS KURNIT KLEIN & SELZ, P.C.
Maura J. Wogan, Esq. (MW 9589)
(pro hac application pending)
Jessie F. Beeber, Esq. (JB 3129)
(pro hac application pending)
Thomas D. Selz, Esq. (TS 7676)
488 Madison Avenue
New York, New York 10022
Telephone (212) 980-0120
Facsimile (212) 758-7954

Attorneys for Plaintiff
SunTrust Bank as Trustee OF THE
Stephens Mitchell trusts f/b/o
Eugene Muse Mitchell and Joseph
Reynolds Mitchell

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TEMPORARY RESTRAINING ORDER

Upon motion by Plaintiff following service of the Summons and Complaint, and after notice to Defendant Houghton Mifflin Company and a hearing on Plaintiff's motion in which all parties were represented, and after considering the record in this action and the argument of counsel, and it appearing to the Court that immediate and irreparable injury will result to the Plaintiff unless the Defendant is temporarily and preliminarily enjoined as provided herein, it is hereby ORDERED that until further Order of this Court:

Defendant Houghton Mifflin Company, its officers,
directors, employees, agents, licensees, servants,

successors and assigns, and any and all persons in active concert or participation with any of them (collectively hereinafter "Houghton Mifflin"), are hereby: (1) temporarily restrained and preliminarily enjoined from the manufacture, publication, display, distribution, advertising of, sale or offer for sale of the book entitled "The Wind Done Gone" by Alice Randall and any other work which infringes upon Plaintiff's copyrights in the novel entitled "Gone With the Wind," the sequel, "Scarlett: The Sequel to Margaret Mitchell's Gone With the Wind" (hereinafter the "Sequel") and other authorized derivative works; and (2) temporarily restrained and preliminarily enjoined from directly or indirectly using the characters, settings, plot lines, title and/or other elements of the original novel "Gone With the Wind," the Sequel and other authorized derivative works: (i) that are likely to cause confusion, mistake or deception as to the affiliation, association or connection between Houghton Mifflin, "The Wind Done Gone" or any other of Houghton Mifflin's works and Plaintiff, "Gone With the Wind" or any other authorized derivative works; and (ii) that constitute

a false or misleading description of origin in the United States, its territories and possessions and elsewhere within the jurisdiction of this Court.

Pursuant to rule 65 of the Federal Rules of Civil Procedure, Plaintiff shall deposit _____ (\$ _____) with the court as security, for the payment of such costs and damages as may be incurred or suffered by Defendant, if Defendant is found to have been wrongfully enjoined or restrained.

This the _____ day of _____, 2001.

Charles A. Pannell, Judge
United States District Court
Northern District of Georgia

CERTIFICATE OF SERVICE

This is to certify that I have this 23rd day of March, 2001, caused a true and correct copy of the PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION to be hand delivered, addressed to counsel for Defendant as follows:

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


An Attorney for Plaintiff