

S|B SYKES, BOURDON,
A|L AHERN & LEVY, P.C.

ATTORNEYS AND COUNSELORS AT LAW

4429 BONNEY ROAD
SUITE 500
VIRGINIA BEACH, VIRGINIA 23462

TELEPHONE: 757-499-8971
FACSIMILE: 757-456-5445

JON M. AHERN
R. EDWARD BOURDON, JR.
JAMES T. CROMWELL
ASHLEY M. EICK
L. STEVEN EMMERT
MARK R. GARRETT
MOLLY R. KISER
KIRK B. LEVY
MICHAEL J. LEVY*
HOWARD R. SYKES, JR.
DAVID M. ZOBEL

*Admitted in Virginia and Washington DC

June 14, 2022

HAND-DELIVERED

Ms. Tina Sinnen, Clerk
Virginia Beach Circuit Court
Civil Division
2425 Nimmo Parkway
Virginia Beach, Virginia 23456


Re: In Re: Gender Queer, A Memoir
Case No. CL22-1985

Dear Ms. Sinnen:

Enclosed is an Answer for filing on behalf of Maia Kobabe in this case.

Thank you for your assistance.

Very truly yours,



L. Steven Emmert

LSE/dlc
Enclosure
cc: Timothy Anderson, Esquire

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

In re: *Gender Queer, A Memoir*

CASE NO: CL22-1985

ANSWER

This answer is filed by and on behalf of Maia Kobabe, a citizen of the State of California and the author of the book challenged in this proceeding. The answer is filed without waiving the defenses set out in Part 2 of this pleading.

Part 1 – Answer to the Petition

1. The author does not know the petitioner and is unable to admit or deny his place of residence.
2. While the petition served on the author contains an Exhibit A, containing an excerpt from the author's book, that exhibit does not contain the subject book. The author accordingly denies Paragraph 2 of the petition.
3. The author denies that the subject book is a graphic sexual novel, and admits that copies of it are displayed and sold in southeastern Virginia.
4. The author is unable to admit or deny the display and distribution practices of either Barnes & Noble Booksellers, Inc. or Bayside High School.
5. Denied.
6. Denied.
7. Denied.

PREPARED BY:

S B SYKES, BOURDON,
A L AHERN & LEVY, P.C.

Part 2 – Motion to Dismiss and Other Defenses

8. The petitioner has not alleged facts sufficient to establish his standing to bring this action.

9. The petition fails to join necessary parties; in the absence of such parties, the Court may not adjudicate the merits of the case.

10. The petition fails to state a claim for which the Court can grant temporary injunctive relief before it adjudicates the merits of the case.

11. The misapplication of Code §18.2–384 to the subject book, as the petitioner seeks here, would render the statute unconstitutional as applied.

12. The petition improperly attempts to graft a provision from Code §18.2–391 onto Code §18.2–384 by its claim that the book is “obscene for distribution to minors.”

13. Taken as a whole, the subject book has serious literary, artistic, political, and scientific value; does not have as its dominant theme or purpose an appeal to the prurient interest of adults or juveniles; does not go substantially beyond customary limits of candor in description or representation of such matters for either adults or juveniles; and does not portray sexual conduct in a patently offensive way for adults or with respect to prevailing standards in the adult community with respect to what is suitable material for juveniles. As such, it cannot be proscribed or restricted as the petitioner seeks here.

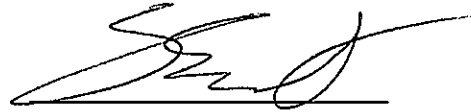
PREPARED BY:

 SYKES, BOURDON,
AHERN & LEVY, P.C.

The author accordingly moves this Court to vacate the show-cause order issued May 26, 2022, and to dismiss this proceeding. In the alternative, the author requests that this Court vacate the show-cause order and find that the book is not obscene, as provided in the first sentence of Code §18.2 – 384(J), and award to the author such other and further relief as the nature of this case may require.

MAIA KOBABE

By:



Of Counsel

L. Steven Emmert, Esq. (VSB No. 22334)
Sykes, Bourdon, Ahern & Levy, P.C.
4429 Bonney Road, Suite 500
Virginia Beach, Virginia 23462
Telephone (757) 965-5021
Facsimile (757) 456-5445
lsemmert@sykesbourdon.com

Jeffrey Trexler, Esq.
15110 Boones Ferry Road, Suite 220
Lake Oswego, OR 97035
Telephone (212) 677-4092
Jeff.trexler@gmail.com
Pro hac vice application pending

CERTIFICATE OF SERVICE

I certify that I served a copy of this answer on all counsel of record, by electronic mail sent this fourteenth day of June, 2022.

PREPARED BY:

 SYKES, BOURDON,
AHERN & LEVY, P.C.



L. Steven Emmert