



# Order Injunction Stayed

August 17, 1917

**Masses Publishing Co. v. Patten**

At a Stated Term of the United States District Court, held in and for the Southern District of New York, at the United States Courts and Post Office Building, Borough of Manhattan, City of New York, on the 17 day of November, 1917.

P r e s e n t :

Honorable

*Augustus U. Hand*

District Judge.

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MASSSES PUBLISHING COMPANY,	)
Complainant,	:
	)
v.	:
	)
T. G. Patton, Postmaster of the	:
City of New York,	)
Defendant,	:
-----X	

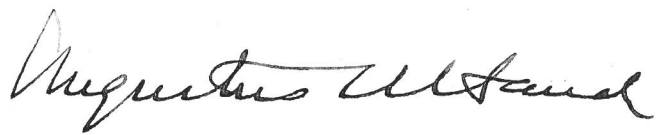
E. 14/225

This suit having heretofore come on for hearing before this Honorable Court and an Order having been made in favor of the complainant, wherein it was "Ordered, adjudged and decreed that the motion for the temporary injunction herein be and the same hereby is granted and the said defendant, his agents, servants and employees, is hereby restrained and enjoined from treating the August 1917 issue of said magazine known as 'The Masses' as non-mailable matter, and the said defendant, his agents, servants and employees hereby are commanded forthwith to transmit said issue of said magazine known as 'The Masses' through the mails from the New York Post Office in the usual way, without further delay"; and the defendant having

thereafter by an appeal obtained the transcript of the record to be brought into the United States Circuit Court of Appeals for the Second Circuit, and the said U. S. Circuit Court of Appeals having transmitted to this Court its mandate, by which it appears that at the October Term of said Court for 1917 this cause came on to be heard and was argued by counsel, on consideration whereof it was "Ordered, adjudged and decreed that the order of said District Court be and it hereby is reversed".

Now, upon reading and filing said mandate, and upon motion of FRANCIS G. CAFFEY, United States Attorney for the Southern District of New York, and Solicitor for the defendant, ~~and after hearing~~  
~~Esq. of counsel for complainant,~~ it is

ORDERED, ADJUDGED and DECREED That the mandate of said Circuit Court of Appeals in this cause be, and the same hereby is made the judgment of this Court, and the motion for temporary injunction denied.



U. S. District Judge.

At a Stated Term of the United States District Court, held in and for the Southern District of New York, in the United States Court House, in the Borough of Manhattan, City, County and State of New York, on the 9<sup>th</sup> day of October, 1917.

P R E S E N T :

Hon. AUGUSTUS N. HAND,  
Judge.

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MASSES PUBLISHING COMPANY,	:	
Complainant,	:	
-vs-	:	IN EQUITY.
T. G. PATTEN, Postmaster of the	:	No. 14/248
City of New York,	:	
Defendant.	:	

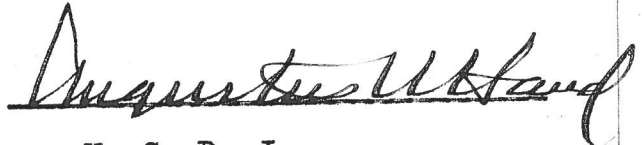
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A motion having duly been made herein for an injunction pendente lite, enjoining and restraining the defendant, his agents, servants and employees from treating the September, 1917, issue of "THE MASSES" as non-mailable, and commanding him and them forthwith to transmit the said issue through the mail in the usual way, and said motion having duly come on for hearing on the 23rd day of August, 1917, and on reading the order to show cause dated August 17, 1917, and the affidavit of MERRILL E. ROGERS, verified August 17, 1917, thereto annexed, in support of said motion, and the affidavit of FREDERICK G. MULKER, verified the 22nd day of August, 1917, in opposition thereto, and after hearing GILBERT E. ROE, Esq., counsel for the complainant, in support of said motion, and EARL B. BARNES, Assistant

U. S. Attorney, in opposition thereto, and due deliberation having been had thereon,

NOW on motion of FRANCIS G. CAFFEY, United States Attorney for the Southern District of New York, attorney for the defendant, it is

ORDERED, ADJUDGED AND DECREED that the said motion be and the same hereby is in all respects denied.



U. S. D. J.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK.

----- -x  
MASSES PUBLISHING COMPANY  
Complainant  
-against-  
T. G. PATTEN, Postmaster of the  
City of New York,  
Defendant  
----- -x

*In Equity*  
*14-248*

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Upon the duly verified bill of complaint, duly verified and filed this 17th day of August, 1917, and the writ of subpoena herein, and the affidavit of Merrill Rogers, duly verified and filed this 17th day of August, 1917, and upon motion of Gilbert E. Roe, Esq., solicitor for complainant, it is

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O R D E R E D, that the defendant show cause, if any he have, before the undersigned, one of the Judges of the District Court of the Southern District of New York, at ~~the~~ *us Court House Post Office* ~~his Chambers,~~ in the ~~Woolworth~~ Building, in the Borough of Mannattan, City of New York, on the ~~20th~~ *23rd* day of August, A. D. 1917, at *10* o'clock in the *fore* noon, or as soon thereafter as counsel can be heard, why an injunction should not issue pendente lite, as prayed in the bill of complaint, herein, and enjoining and restraining the defendant, his agents, servants and employees, and all other persons whomsoever from treating the September 1917 issue of said magazine, or any numbers thereof, known as "The Masses" as non-mailable, under the Act of June 15th, 1917, or any other

Act of law whatsoever, and that said defendant, his agents, servants and employees, be forthwith commanded to transmit said magazines through the mail in the usual way, and accord to the complainant thereof, the rights and privileges of second class mail matter, whereon the lawful postage has been duly paid and received by the proper Post Office officials. And that the defendant show cause, at the same time and place, why the complainant should not have such other and further relief in the premises as may be just and proper.

*Recd.*

O R D E R E D further, that sufficient cause having been shown, service of this order, with copies of said bill of complaint, and of said affidavits, on the defendant on or before the <sup>20th</sup> ~~15th~~ day of August, 1917, shall be sufficient service.

Dated: New York, August 17, 1917.

*Augustus H. Hand*  
*15-7.*