

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BLAKE LIVELY,

Plaintiff,

v.

WAYFARER STUDIOS LLC, et al,

Defendants.

No. 24-cv-10049-LJL (lead case)
No. 25-cv-449 (LJL) (member case)

JENNIFER ABEL,

Third-Party Plaintiff,

v.

JONESWORKS LLC,

Third-Party Defendant.

WAYFARER STUDIOS LLC, et al.,

Consolidated Plaintiffs,

v.

BLAKE LIVELY, et al.

Consolidated Defendants.

**NOTICE OF PLAINTIFF BLAKE LIVELY'S
MOTION FOR SPOILIATION SANCTIONS AGAINST DEFENDANTS**

PLEASE TAKE NOTICE that, for the reasons stated in the accompanying Memorandum of Law in Support of Plaintiff Blake Lively's Motion for Spoliation Sanctions, and the accompanying Declaration of Esra Hudson, dated October 22, 2025, with the exhibits attached thereto, the undersigned will move this Court, before Judge Lewis J. Liman, at the United States

Courthouse for the Southern District of New York, located at 500 Pearl St., New York, NY 10007, on a date and time to be set by the Court, for an order, pursuant to Rule 37(e) of the Federal Rules of Civil Procedure, issuing spoliation sanctions against Defendants Wayfarer Studios LLC, Justin Baldoni, Jamey Heath, Steve Sarowitz, It Ends With Us Movie LLC, Melissa Nathan, The Agency Group PR LLC, and Jennifer Abel (collectively, the “Wayfarer Defendants”), and Defendants Jed Wallace and Street Relations, Inc. (collectively, the “Wallace Defendants”) for their failure to preserve electronically stored information. For these reasons, and those set forth in more detail in the accompanying memorandum of law, the Court should grant Ms. Lively’s motion in its entirety.

Dated: October 22, 2025

/s/ Esra A. Hudson

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MEMORANDUM OF LAW

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**PLAINTIFF BLAKE LIVELY’S MEMORANDUM OF LAW
IN SUPPORT OF SPOILIATION SANCTIONS**

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I. INTRODUCTION

It is by now well-known that Defendants¹ texted and emailed each other about their ability to execute an “untraceable” retaliatory campaign against Blake Lively that would leave no “fingerprints.” Their defense from the outset has been that they never moved beyond the “scenario planning” stage, which was a blueprint intended to “bury” Ms. Lively and her career. Along with their counsel, they have mocked Ms. Lively’s use of the term “untraceable,” even though it was first used by *Defendant Nathan* in stressing the importance of leaving no paper trail. And they have routinely taunted that Ms. Lively will not be able to prove that Defendants actually implemented the retaliatory campaign, insisting that the sudden onslaught of negative publicity against her beginning in August 2024 was “organic,” coinciding perfectly with their plans by sheer luck.

Meanwhile, Defendants have hid the ball at every turn in the discovery process, either failing to produce documents, or improperly cloaking them in the attorney-client privilege, forcing no less than twelve discovery-related motions to date against Defendants and their aligned third parties. Now that the dust has settled, and fact discovery and depositions have closed, two things are clear: (1) despite Defendants’ clumsy efforts to cover their tracks, there is substantial evidence that the retaliatory campaign was, in fact, implemented as planned, and (2) Defendants flouted this Court’s orders, and destroyed and/or failed to preserve or produce additional material and highly relevant evidence, the absence of which they intend to try to unjustly exploit in their favor. Ms. Lively brings this motion to stop Defendants from benefitting from their own misconduct, as described below:

¹ The “Defendants” are collectively Defendants Wayfarer Studios LLC (“Wayfarer”), It Ends With Us Movie LLC (“IEWUM”), Justin Baldoni, Jamey Heath, Steve Sarowitz, Jennifer Abel, Melissa Nathan, The Agency Group PR LLC (“TAG” and, with Ms. Nathan, the “TAG Defendants,” and collectively the “Wayfarer Defendants”), and Defendants Jed Wallace and Street Relations, Inc. (together, the “Wallace Defendants”). Unless otherwise indicated, all exhibit references herein are to the exhibits appended to the Declaration of Esra A. Hudson, dated October 22, 2025.

First, Defendants used ephemeral methods of communication, thereby *destroying and/or failing to preserve* relevant communications in real time. In their depositions, most of the Defendants admitted [REDACTED] [REDACTED] (including as early as July). The evidence further shows that Mr. Wallace [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED], at the height of their discussions of a retaliatory campaign. Indeed, this Court has already recognized that “[i]t is undisputed that the Wayfarer Parties used Signal to discuss topics relevant to this litigation.” (Dkt. No. 711, at 12.) Accordingly, the Court previously ordered the Wayfarer Defendants to produce their Signal communications, including those of their counsel, by September 8, 2025. They not only failed to timely produce all responsive communications, *but none of the Defendants ever produced any Signal communications pre-dating December 20, 2024.*³ Not one. For the Wallace Defendants, the reason for this is clear: they admitted to the Court that they did not disable the *auto-delete* function on Signal, even though Signal was their *preferred method of communication for work*. The remaining Defendants cannot explain their failure to preserve or produce relevant Signal communications or voice memos from Mr. Wallace prior to December 20, 2024, but it is clear that the messages are destroyed and cannot be replaced. This fact is all the more damning given that

² None of the Defendants produced a single voice memo from Mr. Wallace at any time prior to December 20, 2024, including Mr. Wallace. Notably, however, Katherine Case did produced one voice memo from Mr. Wallace dated August 5, 2024 in her third-party production, [REDACTED] (see Ex. 47 (KCASE-000004957)), [REDACTED]

³ For his part, Mr. Baldoni claims [REDACTED] [REDACTED] (Ex. 6 (Deposition of Justin Baldoni, dated Oct. 6, 2025 (“Baldoni Dep. Tr. Vol. I”)) at 54:5-55:6.)

the Wayfarer Defendants' lead attorney, Bryan Freedman, was a participant on at least some Signal communications with the Defendants by August 2024, and yet apparently did *nothing* to ensure these key communications were preserved.

Defendants further contemplated litigation as early as August 2024 (although the evidence shows that most of them were clearly aware of the possibility of legal action by November 2023), *yet took no steps whatsoever to preserve their Signal or voice memo communications* until December 20, 2024. Incredibly, Mr. Baldoni testified that [REDACTED]

Second, Defendants produced no documents and provided minimal testimony about the work they claim the Wallace Defendants *actually performed* for their \$90,000 fee in 2024, as to which Defendants either feigned ignorance or described with one word: "monitoring." *No one, however, including Mr. Wallace, has been able to explain what "monitoring" actually involved*, and more importantly, not a single pre-December 20, 2024 document has been produced either (1) backing up the Defendants' claim that all the Wallace Defendants did was "monitor," or (2) reflecting the supposed "monitoring" work that was performed: in Defendants' entire document production, there are no reports, text messages, notes, or email summaries reflecting this alleged social media "monitoring" work from August 2024.

Having retained the Wallace Defendants to perform a detailed set of "untraceable" digital services, paid the Wallace Defendants \$90,000 over a period of three months for those services, and communicated with the Wallace Defendants through ephemeral communications intended to eliminate any digital trail, Defendants now hope to blame Ms. Lively for being hindered in her ability to present the specific direct evidence they destroyed. But as described in more detail below, there is substantial evidence that Defendants indeed engaged in the conduct detailed in their

“scenario planning” documents, and did exactly what the Wallace Defendants and TAG proposed to do (the “*Digital Campaign*,” as defined specifically below in Section II.B), which is entirely consistent with [REDACTED].

Given the foregoing, severe sanctions are warranted to prevent Defendants from benefiting from their willful misconduct. To remedy the prejudice caused by the spoliated evidence, Ms. Lively respectfully seeks: (1) an adverse inference that Defendants intentionally deleted and failed to preserve relevant evidence when they had an obligation to do so, and that the destroyed evidence would have further shown Defendants’ execution of the Digital Campaign; (2) preclusion sanctions to prevent Defendants from arguing that they did not execute their Digital Campaign as they openly planned to do, or that the Wallace Defendants did not actually engage in the Digital Campaign services they were hired and paid to perform, given the destruction of documentary evidence that would otherwise show what the Wallace Defendants actually did; and (3) monetary sanctions at least in the amount of Ms. Lively’s reasonable attorneys’ fees and costs for bringing this motion.

II. BACKGROUND

A. Certain Wayfarer Defendants Acknowledged Receipt Of A Legal Letter On Or About November 9, 2023, Triggering An Obligation To Preserve Evidence.

On November 9, 2023, prior to returning to production on the film *It Ends With Us* (the “Film”), which had been halted between June and October 2023 due to the WGA and SAG-AFTRA strikes, Ms. Lively’s attorney sent Wayfarer’s attorney a document, entitled “Protections for Return to Production.” (Ex. 11 (WAYFARER_000140991) (the “Protections Document”).) In the underlying transmittal email, Ms. Lively’s attorney explained that the purpose of the Protections Document was to ensure that Ms. Lively and others “feel safe returning to the production” and further warned Wayfarer’s attorney that “[i]f production is unwilling to accept or uphold these protections, our client is prepared to pursue her full legal rights and remedies.” (*Id.*) Mr. Baldoni

and the Wayfarer Defendants who received the document [REDACTED]

[REDACTED].⁴ Text messages, dated November 11, 2023, from Mr. Baldoni to Mr. Heath and Mr. Sarowitz remove any doubt as to their understanding: [REDACTED]

[REDACTED] (Ex. 13 (BALDONI_000020294) (emphasis added).)

Mr. Heath testified that he understood this document [REDACTED]

[REDACTED] (Ex. 9 (Deposition of Jamey Heath, dated Oct. 9, 2025, (“Heath Dep. Tr. Vol. II”)) at 27:10-29:5.) Later, Mr. Heath took active steps to prepare for such litigation, [REDACTED]

[REDACTED] (Ex. 14 (TOSKOVIC_00000677); Ex. 17 (HEATH_000046882); Ex. 8 (Deposition of Jamey Heath, dated Oct. 8, 2025, (“Heath Dep. Tr. Vol. I”)) at 313:18-324:22, 329:23-330:4.) That same day, June 17, 2024, Mr. Baldoni asked for the recommendation of “[REDACTED],” to which Ms. Abel suggested [REDACTED].” (Ex. 15 (JONESWORKS_00039919).)

B. Defendants Decide To “[REDACTED]” Against Ms. Lively In August 2024.

Since at least early August 2024, Defendants have engaged in a retaliatory campaign against Ms. Lively, designed to “bury” and “destroy” her career. (Ex. 18 (NATHAN_000005552);

⁴ Immediately upon receiving the Protections Document, Mr. Baldoni and Mr. Heath wrote to [REDACTED] (Ex. 12 (BALDONI_000020412.); *see also* Ex. 3 (Deposition of Jennifer Abel, dated September 26, 2025 (“Abel Dep. Tr. Vol. II”) at 209:12-210:210:19 ([REDACTED])).

see also Ex. 55.) Among other things, Defendants’ planned digital efforts have included “amplifying” or “boosting” trends or narratives that are favorable to Mr. Baldoni or to manufacture and perpetuate negative narratives about Ms. Lively. (Ex. 24 (HEATH_000028186).)

Fearing that Mr. Baldoni and Mr. Heath’s misconduct on the set of the Film would become public as the Film’s August 9, 2024 release date neared, on or about August 3, 2024, Wayfarer retained TAG as a crisis PR firm to prepare to discredit Ms. Lively in the court of public opinion should she dare to tell the truth about what happened. (Ex. 19 (CHURLEY_00000020); Ex. 16 (WAYFARER_000135368).) To that end, on August 2, 2024, TAG developed a document, entitled “SCENARIO PLANNING – IT ENDS WITH US,” plainly already anticipating litigation. (Ex. 20 (WAYFARER_000141577).) As part of this initiative, TAG anticipated “[w]orking with legal” to “provide information to ensure [Wayfarer and Mr. Baldoni’s] narrative is properly represented in any and all coverage.” (*Id.*) In terms of messaging, TAG took aim at Ms. Lively directly. One of the “Key Messaging Points” included highlighting: “[Ms. Lively’s] less than favorable reputation in the industry spans decades and has been reported.” (*Id.*) When Mr. Baldoni expressed concern that this document seemed less aggressive than what TAG had conveyed to him over the phone, Ms. Nathan admitted to Ms. Abel that the Scenario Planning document was deliberately written that way because of the danger of recording their true intentions in writing. (Ex. 18 (NATHAN_000005552); *see also* Dkt. No. 521 ¶¶ 33-34.)

Shortly after her first conversation with Wayfarer, Ms. Nathan reached out to the Wallace Defendants, TAG’s regular collaborators, [REDACTED] and shared details of Ms. Lively’s Protections Document on August 5. (Ex. 48 (WAYFARER_000142867; *see also* Ex. 21 (STREET 1.000001).) Realizing they needed an experienced social media manipulator, on or about August 7, “due to the uptick in social chatter,” TAG recommended retaining, and Wayfarer did

retain, the Wallace Defendants for a rate of \$30,000/month.⁵ (Ex. 27 (SR 1.00000044); Ex. 24 (HEATH_000028186).) TAG employee Katie Case detailed the Wallace Defendants' services with bullet points in the August 7 proposal (which Ms. Lively refers to throughout this Motion as the "**Digital Campaign**"):

The team will focus on the social and digital elements-- boosting SEO efforts and updating with new content to enforce SEO efforts, monitoring and directly influencing forums that are working against Justin and Wayfarer to adjust the narrative in real time, and collate assets and background to work in conjunction with Jen and her team, as well as TAG PR.

The integral part here is to execute all without fingerprints.

Specific efforts include:

- Monitor and report forums, threads, sites, links, and more that are working against Wayfarer Studios,
- Justin, and the overall narrative, as well as derogatory comments.
- Leverage relationships with Discord, Reddit, X, IG, TikTok, YouTube, etc. to expose behavior of Blake and other parties, both current and past and engage directly with communities to adjust or influence the conversations taking place in real time.
- Utilize CTR manipulation and contextual links to push up positive PR to change subject matter opinion on the first page of Google.
- Work to remove links that are harmful to Wayfarer Studios, Justin, and the narrative alongside the appropriate teams.
- Disavow and report outdated or cached non-relevant links, and cleanup spam and/or negative links that are ranked within the SERPs as needed.
- Properly and strategically monitor damaging Reddit/Subreddits, X, Discord, etc. -- including threads related to concerning opposition and manage the narrative. This can be done with legacy admin for each platform. As part of this, expert admins will also monitor and protect peripheral elements like Wikipedia, fan pages, and more to ensure threads and narratives are handled appropriately.
- Actively sway the algorithm with one SEO charged hub/site, created and overseen by the team.
- Taking down full Reddit and all social accounts as needed.
- Organically engaging with audiences in the right way, starting threads with theories the team approves of, and asking questions that no longer place Wayfarer and Justin on the back foot.
- Changing the overall narrative and helping keep it on track.

The social team are now worried about Blake activating the Taylor Swift fan base, which is a major concern. With this in mind and to ensure Justin and the studio are 100% protected moving forward, they have now changed the fee to \$30,000 per month due to the uptick in social chatter.

(Ex. 24 (HEATH_000028186); Dkt. No. 698-3; *see also* Abel Dep. Tr. Vol. II at 272:15-275:21

(confirming that the "specific efforts" listed "[redacted]

").⁶)

In this proposal, Ms. Case took care to note that "[t]he integral part here is to execute all *without fingerprints*," demonstrating that *the decision to conduct business with no paper trail, including via the use of ephemeral messaging capabilities for digital services, was not an accident, but rather the plan all along.* (*Id.* (emphasis added).) That plan has enabled Defendants to hide, in part, how they implemented the Digital Campaign against Ms. Lively. Documents

⁵ *See also* Ex. 21 (STREET 1.000001) ([redacted]); *see also* Ex. 10, Deposition of Jed Wallace ("Wallace Dep. Tr.") at 197:20-198:1 ([redacted]).

⁶ Despite being a list created and prepared by TAG, Ms. Nathan incredibly claimed that [redacted]. (*See* Ex. 4 (Deposition of Melissa Nathan, dated Sept. 29, 2025 ("Nathan Dep. Tr.") at 203:20-209:16.)

produced during discovery pursuant to Court orders (*see* Dkt. Nos. 390, 727 (ordering the Wallace Defendants to disclose the identities of their clients)), however, show that the TAG and Wallace Defendants are not only capable of implementing the above social manipulation tactics but that they have done so [REDACTED]. Those documents include, for example, discussions of [REDACTED]

[REDACTED]

[REDACTED] (Ex. 35 (STREET 3.000199) [REDACTED]

[REDACTED]

[REDACTED]; Ex. 34 (STREET 3.000486) (Mr. Wallace requesting client call to [REDACTED]

[REDACTED]

[REDACTED]; Ex. 36 (STREET 3.000204) (Mr. Wallace expressing the need to [REDACTED]

[REDACTED] Ex. 33

[REDACTED]

[REDACTED] Ex. 37 (STREET 3.000366) (Mr.

Wallace saying to client, [REDACTED]

[REDACTED] and asking the client [REDACTED]

[REDACTED]

[REDACTED]). When confronted with these documents at his deposition, Mr. Wallace [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁷

⁷ Wallace's testimony [REDACTED]

By no later than August 12, 2024, Defendants took to the offensive—using their own words, it was time to “lawyer up,” get “[REDACTED],” and “[REDACTED].” (Ex. 29 (NATHAN_000002151); Ex. 32 (TOSKOVIC_000000707); Ex. 30 (NATHAN_000002237); Ex. 31 (KCASE-000003354) (“[REDACTED].” . . . “[REDACTED]. [REDACTED]”).)

Even though Defendants touted their use of clandestine tactics to avoid leaving any “fingerprints,” they were not entirely successful and still managed to leave a significant paper trail that evidences their extensive efforts to engage in a retaliatory campaign. (See Ex. 55, at 6-29 (Ms. Lively’s 23+ page interrogatory response summarizing and consolidating the evidence demonstrating some of Defendants’ conduct directed at Ms. Lively).) For example, consistent with the Scenario Planning Document’s “key messaging points,” Defendants were strategic and deliberate in *successfully* “planting seeds of doubt and speculation” about Ms. Lively’s “experience on set,” amplifying positive narratives about Mr. Baldoni “designed to provide a contrast with negative messaging regarding Ms. Lively,” and amplifying negative stories and content focusing on Ms. Lively. (*Id.* at 6-25; *see also* Ex. 20 (WAYFARER_000141577).)

Following the early August scenario planning, Defendants began communicating through Signal and (as for Mr. Wallace) voice memos, which are the focal point of this motion. (Ex. 8, Heath Dep. Tr. Vol. I at 359:1-365:12; Ex. 29 (NATHAN_000002151).)

C. Defendants Used Ephemeral Communications As Early As August 2024.

Consistent with their efforts to run an “untraceable” campaign with “no fingerprints,” Defendants communicated frequently through Signal—an encrypted messaging platform that

[REDACTED] (Ex. 10, Wallace Dep. Tr. at 132:1-136:8, 169:19-174:21, 199:2-202:5.) Similarly, despite having known Mr. Wallace for “[REDACTED],” Ms. Nathan was unable to [REDACTED] (Nathan Dep. Tr. at 292:13-15, 304:15-306:3.) And, although Wayfarer contracted with Mr. Wallace for almost \$100,000, Mr. Heath claims he [REDACTED] (Heath Dep. Tr. Vol. I at 356:19-358:25.)

features auto-deletion capabilities—and voice memos that delete automatically (unless saved by the recipient). [REDACTED]

[REDACTED]. (Ex. 23 (BBKOSLOW-000004099) [REDACTED]
[REDACTED].) Just days later, on August 10, Mr. Heath emailed Mr. Wallace to [REDACTED]

[REDACTED]. (Ex. 28 (SR 1.00000054) (“[REDACTED]
[REDACTED]”)) Two days later, the TAG Defendants started a new Signal thread with Wallace, “[j]ust in case” they needed Wallace to connect them with “Bryan [Freedman] *because they’re very close.*” (Ex. 29 (NATHAN_000002151 (emphasis added); see also Dkt. No. 658-9.)⁸; Ex. 1 (Deposition of Katherine Case (“Case Dep. Tr.”) 75:3-7, 163:18-20 (Acknowledging that [REDACTED])).)

Later in this text thread, Ms. Nathan instructed Ms. Abel to “[d]efinitely contact [Mr. Freedman] on Signal.” (Ex. 29 (NATHAN_000002151).) Documents from this same period (August 2024) also confirm that Mr. Wallace communicated [REDACTED]
[REDACTED]). (Ex. 26 (BBKOSLOW-000001988) (referencing “[REDACTED]”); Ex. 10, Wallace Dep. Tr. at 234:23-235:19 ([REDACTED])); see also iPhone User Guide, *Send and receive audio messages in Messages on iPhone*, APPLE, <https://support.apple.com/en-ie/guide/iphone/iph2e42d3117/ios> (“Tap Keep to save an incoming or outgoing audio message. . . . Otherwise, *the recording is deleted from the conversation.*” (emphasis added).)

⁸ At his deposition, Mr. Wallace testified that [REDACTED]. (Wallace Dep. Tr. 226:10-17.)

At his deposition, Mr. Heath confirmed [REDACTED]
[REDACTED] and [REDACTED]
[REDACTED]. (Heath Dep. Tr. Vol. I at 359:1-365:12.) Both Ms. Nathan and Ms. Abel admitted to [REDACTED]. (Ex. 4 (Deposition of Melissa Nathan, dated Sept. 29, 2025 (“Nathan Dep. Tr.”)) at 49:11-16 ([REDACTED]) [REDACTED]; Ex. 2 (Deposition of Jennifer Abel, dated Sept. 25, 2025 (“Abel Dep. Tr. Vol. I”) at 78:22-79:6); Abel Dep. Tr. Vol. II at 296:24-298:18 ([REDACTED]) [REDACTED]).) The same is true for Mr. Wallace, who confirmed that [REDACTED]
[REDACTED]. (Ex. 10, Wallace Dep. Tr. at 72:15-73:17, 315:7-22.) Third party productions confirm that [REDACTED]
[REDACTED]. (Ex. 25 (BBKOSLOW-000006742); *see also* Dkt. No. 658-5.)

In addition, after Ms. Lively filed her complaint with the California Civil Rights Department (the “CRD Complaint”) and served Defendants with cease-and-desist letters on December 20, 2024, TAG created a new Signal chat. (Ex. 38 (BBKOSLOW-000005795) (“[REDACTED]”).) The very next day, TAG started a new Signal thread with [REDACTED] (Ex. 39 (BBKOSLOW-000001753).) In a separate text chain that same day, [REDACTED]
[REDACTED]
[REDACTED] (Ex. 40 (BBKOSLOW-000007083).)

Even since the filing of this action, Defendants have continued to use Signal and (as for Mr. Wallace) voice memos to communicate covertly about their ongoing retaliation against Ms. Lively. For example, recently-produced Signal communications show that days after Ms. Lively commenced this action, Defendants and Mr. Freedman were working with content creators to further their pro-Baldoni and anti-Lively campaign. On January 3, 2025—

[REDACTED] (Ex. 41 (NATHAN_000018774).) Two days later, on January 5, [REDACTED]

[REDACTED]—a recording that was not produced. (Ex. 42 (ABEL_000019523).) [REDACTED]

[REDACTED] (*Id.*) On January 7, Ms. Steele posted her carefully-curated video from her official TikTok Account (@officialsagesteele) that covered [REDACTED] and has garnered over 1.5 million views. In her video post, Ms. Steele slams Ms. Lively, accusing her of “abusing her power” and “hurting other women” and claiming that Ms. Lively’s actions “discredit[] other women that are true victims of sexual harassment.” *See* @officialsagesteele, TikTok, at 0:43-1:00 (Jan. 7, 2025), <https://www.tiktok.com/@officialsagesteele/video/7457284296856866091>.

Signal communications from February 1, 2025, which were produced by third party The Skyline Agency, LLC (“Skyline”), also show Defendants working with Mr. Freedman, his law firm, and Skyline to launch a website that would post communications between Ms. Lively and Mr. Baldoni, in relation to the ongoing litigation. (Ex. 44 (SKYLINE_000000235); Ex. 45

(SKYLINE_000000312).) In one Signal thread, dated February 1, [REDACTED]

[REDACTED] (Ex. 44 (SKYLINE_000000235).)

The handful of Signal communications and voice memos that were produced by Skyline during this period demonstrate [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(Ex. 43, at 0:15-1:45 (emphasis added) (SKYLINE_000000214).) Skyline's production not only demonstrates [REDACTED]

[REDACTED]. (*See id.*) Despite this, not one Defendant (including the Wallace Defendants) has produced a single voice memo from Mr. Wallace prior to December 20, 2024, during their implementation of the Digital Campaign. (Hudson Decl., ¶ 8.)

D. Defendants Admit That They Anticipated Litigation By August 2024 And

[REDACTED].

In their verified interrogatory responses, Mr. Baldoni, Mr. Heath, Mr. Sarowitz, Ms. Nathan, Ms. Abel, and TAG, each [REDACTED]

[REDACTED] (Exs. 49-54.) It is clear, however, that they anticipated litigation even before then. Indeed, Wayfarer compiled a timeline of Ms. Lively's "alleged incidents" in June, interviewed TAG as early as July 25 (after which time

TAG created its August 2 Scenario Planning Document, contemplating “[w]orking with legal”), and shortly thereafter retained Street Relations. (Ex. 14 (TOSKOVIC_000000677); Ex. 17 (HEATH_000046882); (Ex. 19 (CHURLEY_00000020); Nathan Dep. Tr. at 91:2-94:2; Ex. 10, Wallace Dep. Tr. at 197:20-198:1.) And, [REDACTED]

See supra Section II.C.⁹

Still, *not one Defendant has produced a single Signal communication or (for Mr. Wallace) any voices memo that pre-date December 20, 2024.* (Ex. 46 (Email from Wayfarer Defendant’s counsel dated Sept. 22, 2025).) That is because Defendants [REDACTED]. (Nathan Dep. Tr. at 48:2-19 (Ms. Nathan claims that she began preserving [REDACTED]);¹⁰ Heath Dep. Tr. Vol. I at 370:11-373:8 (Mr. Heath admitted [REDACTED])¹¹; Ex. 5 (Deposition of Steve Sarowitz (“Sarowitz Dep. Tr.”)) at 94:14-17, 95:20-96:14 (Mr. Sarowitz confirmed [REDACTED]); Ex. 7 (Deposition of Justin Baldoni, dated Oct. 7, 2025 (“Baldoni Dep. Tr. Vol. II”)) at 347:17-348:7 (Mr. Baldoni testified [REDACTED]); Wallace Dep. Tr. at 148:8-149:5, 232:6-235:19 (discussing [REDACTED]); Abel Dep. Tr. Vol. II at 322:21-323:16, 326:1-12 ([REDACTED])

⁹ Because Signal communications were not preserved, [REDACTED]

¹⁰ These representations are difficult to accept at face value when third parties produced documents dated *after* the CRD Complaint that were not included in party productions.

¹¹ Mr. Heath testified that, [REDACTED] Dep. Tr. Vol. I at 372:25-373:14.) Despite this admission, no such Signal communications have been produced.

[REDACTED]

[REDACTED]).)

E. Defendants’ Obstructive Conduct In This Litigation Confirms That Sanctions Are Appropriate.

The facts discussed immediately above were only recently obtained by Ms. Lively after overcoming substantial discovery hurdles created by Defendants.¹² There is no dispute that each of the Defendants used Signal as an ephemeral messaging platform to discuss issues related to this litigation—this Court has already acknowledged as much. (Dkt. No. 711, at 12.) Ms. Lively first requested these Signal communications on February 20, 2025, and the Parties thereafter explicitly agreed in the ESI Protocol governing discovery to *manually review* Signal communications among any party to the action. (Dkt. No. 212 at 7.) Yet for almost six months, Defendants refused to produce any of them and forced Ms. Lively to file repeated motions to compel. (*See* Dkt. No. 553, at 5-6; Dkt. No. 695, at 9-11.) In response, the Wallace Defendants admitted that, because they did not disable Signal’s auto-deletion feature, no responsive communications remained in their possession, custody, or control. (Dkt. No. 707, at 6-9.) The Court accepted this representation in denying Ms. Lively’s motion on this score. (Dkt. No. 727, at 5-6.) The Court ordered the Wayfarer Defendants to produce Signal communications no later than September 8, 2025. Instead of complying, the Wayfarer Defendants made an eleventh-hour request for a one-week extension to complete this production, which this Court denied for failure to demonstrate good cause. (Dkt. No. 752.) Ignoring the Court’s order, the Wayfarer Defendants engaged in self-help and produced just a handful of Signal communications late,¹³ and then unilaterally continued to produce more at

¹² In addition to five discovery-related motions with third parties, Ms. Lively had to file *seven* separate motions to compel Defendants’ compliance with various discovery obligations. (*See* Dkt. Nos. 203, 228, 295, 344, 552, 694, 803.)

¹³ On September 8, at 11:56 p.m. EST, certain Wayfarer Defendants produced some Signal communications—totaling only seven unique messages—which were buried in an 80,000 page document dump and were not even accessible until days later. (Hudson Decl., ¶ 5).

random intervals with no explanation for another month until October 9. Critically, however, *none of the Signal communications pre-date December 20*. (Hudson Decl., ¶¶ 7, 9.) The Wayfarer Defendants have established a clear pattern of failing to comply with their discovery obligations and this Court’s orders. (Dkt. No. 770, at 3 (explaining that “Lively did not know at that time . . . that the Wayfarer Parties would fail to honor the Court’s orders regarding the timing of discovery.”).) The Wayfarer Defendants also have not produced a compliant privilege log for all withheld Signal communications, which will (again) require further motion practice. (*See* Dkt. No. 806; *see also* Dkt. No. 832 (reserving judgment).)

Furthermore, inexplicably, Mr. Heath, Mr. Wallace, and Ms. Abel have not produced any of the Signal communications that were produced by Skyline—documents that were improperly withheld for privilege by Skyline and produced only after an order from this Court. *See* Case No. 25-mc-347, Dkt. No. 31 (S.D.N.Y. Sept. 3, 2025) (Hudson Decl., ¶ 8). Nor have Defendants produced any other Signal communications or (for Mr. Wallace) any voice memo that pre-date December 20, 2024, including in the August through December timeframe, when they were actively discussing, among other things, an offensive strategy to protect Mr. Baldoni and Wayfarer’s reputations and to “bury” Ms. Lively—communications that strike at the very heart of this case. (Hudson Decl., ¶¶ 8-10).

III. LEGAL STANDARD

Under Rule 37(e), a party may be sanctioned “[i]f electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery.” Fed. R. Civ. P. 37(e). “Where a party seeks a jury instruction for the spoliation of ESI, it must establish that (1) the spoliating party had control over the evidence and an obligation to preserve it at the time of destruction or loss; (2) the spoliating party acted with a culpable state of

mind upon destroying or losing the evidence; and (3) the missing evidence is relevant to the moving party's claim." *Ottoson v. SMBC Leasing and Finance, Inc.*, 268 F.Supp.3d 570, 580 (S.D.N.Y. 2017) (issuing adverse inference under Rule 37(e)(2); *Charlestown Capital Advisors, LLC v. Acero Junction, Inc.*, 337 F.R.D. 47, 59 (S.D.N.Y. 2020); *ELG Utica Alloys, Inc. v. Niagra Mohawk Power Corp.*, 144 F.4th 360, 374 (2d Cir. 2025). "Determining the appropriate sanction under Rule 37(e) is left to the Court's sound discretion." *Barbera v. Grailed, LLC*, 2025 WL 2098635, at *8 (S.D.N.Y. July 25, 2025) (Liman, J.) (granting spoliation sanctions).

IV. ARGUMENT

A. Defendants Intentionally Violated Their Duty To Preserve Ephemeral Communications.

In evaluating this first prong under Rule 37(e), courts consider the following predicate elements: (i) whether there is ESI "that should have been preserved in the anticipation or conduct of litigation"; (ii) whether the ESI "is lost because a party failed to take reasonable steps to preserve it"; and (iii) whether the ESI "cannot be restored or replaced through additional discovery." Fed. R. Civ. P. 37(e); *see also Barbera*, 2025 WL 2098635, at *7-8 (discussing each element); *see also Karsch v. Blink Health Ltd.*, 2019 WL 2708125, at *17-18 (S.D.N.Y. June 20, 2019) (same). Here, each of these elements is clearly established.

1. *The duty to preserve ephemeral messages was triggered no later than August 2024, and as early as November 2023.*

"The obligation to preserve evidence arises when [a] party has notice that the evidence is relevant to litigation or when a party should have known that the evidence may be relevant to future litigation." *Fujitsu Ltd. v. Fed. Exp. Corp.*, 247 F.3d 423, 436 (2d Cir. 2001). This obligation "arises when the party has notice that the evidence is relevant to litigation . . . for example when a party should have known that the evidence may be relevant to future litigation." *Skyline Steel, LLC v. PilePro, LLC*, 101 F.Supp.3d 394, 407-08 (S.D.N.Y. 2015) (citations omitted) (granting motion

for spoliation sanctions). When triggered, the litigant must do “more than refrain from intentionally destroying relevant evidence; *the litigant must also ‘take affirmative steps to prevent inadvertent spoliation.’*” *Id.* at 408 (emphasis added and quoting *R.F.M.A.S., Inc. v. So*, 271 F.R.D. 13, 24 (S.D.N.Y. 2010)). Ms. Lively addresses each Defendant’s preservation obligation in turn.

2. *Wayfarer, IEWU, their principals, and Ms. Abel had an obligation to preserve no later than November 2023.*

It is well-settled that a duty to preserve is triggered when a party receives a demand letter. *See Karsch*, 2019 WL 2708125, at *18 (collecting cases); *Leidig v. Buzzfeed, Inc.*, 2017 WL 6512353, at *8 (S.D.N.Y. Dec. 19, 2017) (demand letter triggered duty to preserve). Here, based on the service of the Protections Document, Wayfarer, IEWU, and their principals had a duty to preserve beginning on November 9, 2023. The same is true for Ms. Abel, [REDACTED] (See *supra* n.4.) As explained in the transmittal email issued by Ms. Lively’s counsel, the Protections Document outlined “a list of protections that will need to be guaranteed and observed by the Film’s producers.” (Ex. 11.) One such protection included prohibiting retaliation of any kind “including during publicity and promotional work.” (*Id.*) Further, Ms. Lively’s counsel included a customary warning that “[i]f the production is unwilling to accept or uphold these protections, *our client is prepared to pursue her full legal rights and remedies.*” (*Id.*) (emphasis added). There can be no dispute that this letter put Wayfarer, IEWU, their principals, and Ms. Abel on notice of Ms. Lively’s forthcoming suit—[REDACTED] [REDACTED]. (See Ex. 13.)

At the latest, each Wayfarer Defendant acknowledges [REDACTED] [REDACTED]. (See Exs. 49-54.) Indeed, it was at this point that Wayfarer made the strategic decision to “[REDACTED]” with Ms. Lively. (See Exs. 30-31.)

3. *The TAG Defendants and the Wallace Defendants had an obligation to preserve no later than August 2024.*

The TAG Defendants similarly do not dispute that litigation relating to the Film was anticipated by August 2024, although, as noted above, Ms. Abel [REDACTED] [REDACTED] (See Exs. 15, 52, 54.) This is consistent with the TAG Defendants’ plan to “lawyer up” and to get ready for “[REDACTED]” with Ms. Lively. (See Exs. 29-31.) For their part, the Wallace Defendants were aware of the Protections Document, and thereby Ms. Lively’s underlying allegations as well as the provision explicitly prohibiting retaliation, when they were onboarded in early August 2024 to support TAG’s offensive. (See *supra* n.5.)

B. Defendants Failed To Preserve Ephemeral Messages.

Defendants took no affirmative steps to preserve their ephemeral messages. They did just the opposite: at a critical moment, they elected to communicate primarily through Signal, which they knew full-well would automatically delete their messages and took no steps to ensure that their messages would be preserved. See *Herzig v. Ark. Foundation for Med. Care, Inc.*, 2019 WL 2870106, at *4 (W.D. Ark. July 3, 2019) (“Signal allows users to send and receive encrypted text messages accessible only to sender and recipient, and to change settings to automatically delete these messages after a short period of time.”); see also *F.T.C. v. Noland*, 2021 WL 3857413, at *2 n.1 (D. Az. Aug. 30, 2021) (“The key security features of Signal are its end-to-end encryption and its assurance that all messaging data, including the content of the communications, cannot be tracked or observed by Signal itself or any party that does not have access to the user’s device.”). In fact, the Wallace Defendants admitted as much in response to Ms. Lively’s motion to compel—acknowledging that their “Signal messages were automatically deleted.” (Dkt. No. 707, at 7.)

It is no answer that the TAG and Wallace Defendants appear to have used ephemeral messaging as a part of their regular business practice, because settled law requires a party to

suspend auto-deletion or ephemeral features upon anticipating litigation. *See In re Google Play Store Antitrust Litig.*, 664 F.Supp.3d 981, 991-95 (N.D. Cal. 2023) (monetary sanctions for failure to suspend its auto-deletion function for chat messages); *Glaukos Corp. v. Ivantis, Inc.*, 2020 WL 5914552, at *4 (C.D. Cal. July 30, 2020) (adverse inference under Rule 37(e)(2) based upon the defendant’s failure to “suspend its automatic email deletion policy even when litigation was reasonably foreseeable.”); *DR Distributors, LLC v. 21 Century Smoking, Inc.*, 513 F.Supp. 3d 839, 977-80 (N.D. Ill. 2021) (sanctions based upon the defendant’s failure to disable email autodeletion setting); *Allied Property v. Zenith Aviation, Inc.*, 2019 WL 10960568, at *3-4 (E.D. Va. Feb. 8, 2019) (adverse inference instruction, based upon the plaintiff’s failure to suspend email autodeletion policy); *WeRide Corp. v. Kun Huang*, 2020 WL 1967209, at *10 (N.D. Cal. Apr. 24, 2020) (sanctions issued where the defendant “left in place the autodelete setting on its email server”). Indeed, courts have issued spoliation sanctions where, as here, the parties (upon anticipating litigation) began communicating through Signal, to avoid preserving responsive communications. *Noland*, 2021 WL 3857413, at *2-3, 10-15; *Herzig*, 2019 WL 2870106, at *4-5. Because Defendants have done the same here, spoliation sanctions are warranted.

C. The Ephemeral Messages Are Lost And Cannot Be Replaced.

It is beyond dispute that the ephemeral messages (*i.e.*, the Signal communications and voice memos) at issue here are lost and incapable of being retrieved. The Court previously acknowledged as much in denying Ms. Lively’s prior motion to compel the Wallace Parties to produce all Signal communications. (*See* Dkt. No. 727, at 5 (emphasis added).) Accordingly, because there is no cognizable way to obtain these ephemeral communications, this final element for ESI spoliation is met. *See Barbera*, 2025 WL 2098635, at *8 (defendant “established the elements of ESI spoliation under Rule 37(e),” where, among other things, there was “no alternative method[] for obtaining the lost information.”).

D. Defendants Intentionally Used Ephemeral Communications To Execute Their Plans In An “Untraceable” Manner “Without Fingerprints.”

The decision to use ephemeral communications was deliberate and intentional: to prevent documentary evidence of their “social manipulation” plan from falling into the “wrong hands,” whether those hands belonged to Ms. Lively, anyone sympathetic to her, or the Court. Courts in this Circuit have held that intent under Rule 37(e)(2) can be demonstrated where, as here, the defendants knew “they had a duty to preserve” and “allowed the original data on the event recorder to be overwritten, and destroyed or recycled ... without ever confirming that the data had been preserved in another repository.” *Moody v. CSX Transp., Inc.*, 271 F.Supp.3d 410, 431 (W.D.N.Y. 2017) (awarding sanctions under Rule 37(e)(2)); *see also Ottoson*, 2017 WL 2992726, at *9 (failure to take steps to preserve relevant evidence “satisfies the requisite level of intent”). In fact, at least two district courts have held that the defendants’ use of Signal as a means to avoid discovery obligations met the requisite intent under Rule 37(e)(2). *Herzig*, 2019 WL 2870106, at *5 (Defendants’ “manually configuring Signal to delete text communications . . . was intentional and done in bad faith”); *Noland*, 2021 WL 3857413, at *12-13 (intent established where defendants downloaded Signal upon discovering FTC investigation, then deleted it before imaging devices).

A similar outcome is warranted here. By November 2023 (and no later than August 2024), Wayfarer, IEWUM, their principals, and Ms. Abel anticipated litigation, [REDACTED] and Mr. Heath, Mr. Baldoni, Ms. Abel and Mr. Sarowitz’s verified interrogatory responses, [REDACTED]. (Exs. 11-12, 49-53.) The same is true for the TAG Defendants, [REDACTED]. (Ex. 54.) And while the Wallace Defendants did not provide similar interrogatory responses, they were onboarded in August 2024 and retained as part of Mr. Baldoni and Wayfarer’s offensive efforts to discredit Ms. Lively in the event her allegations

became public. (*See supra* n.5.) Despite being admittedly aware that litigation was on the horizon, Defendants elected to communicate through Signal and voice memos, and possibly other ephemeral means. That is because an “[i]ntegral part” of their plan was to execute their mission without leaving “fingerprints” or a trace. (Ex. 24 (HEATH_000028186).) In fact, deposition testimony confirms [REDACTED]

[REDACTED] (*See supra* Section II.D.)

Worst of all, as early as August 2024, Mr. Freedman was aware of Defendants’ use of Signal (as evidenced by the fact that he was included on Signal threads)¹⁴ ***and did nothing to ensure the ongoing preservation of these communications.*** *See Regulatory Fundamentals Grp. LLC v. Governance Risk Mgmt. Compliance, LLC*, 2014 WL 3844796, at *14 (S.D.N.Y. Aug. 5, 2014) (“licensed attorney who undoubtedly was aware of the basic document retention requirements” had “culpable state of mind” in deleting emails). Instead, recently produced communications confirm that Mr. Freedman was not only a participant on Signal at relevant times, but even *after* the lawsuit was brought, he was *directly involved in* [REDACTED]

[REDACTED] (*See supra* Exs. 41-42.) Taken together, these actions more than meet the “requisite level of intent.” *Ottoson*, 268 F.Supp.3d at 582 (collecting cases).

E. Ms. Lively Has Been Severely Prejudiced By Defendants’ Failure To Preserve Relevant Communications.

The prejudice to Ms. Lively is obvious. Among other things, Defendants failed to preserve more than *four months’ worth of communications from a platform that “[i]t is undisputed that the Wayfarer [Defendants] used . . . to discuss topics relevant to this litigation.”* (Dkt. No. 711, at 12 (emphasis added).) This, in turn, has impaired Ms. Lively’s ability to fully prosecute her

¹⁴ (Ex. 29 (NATHAN_000002151) (discussing the creation of a Signal thread between the TAG Defendants, Wallace Defendants, and Attorney Freedman); *see also* Ex. 2, Abel Dep. Tr. Vol. I at 78:22-79:19 ([REDACTED]).)

claims and to rebut Defendants’ defenses, particularly Defendants’ widely publicized claim that the Wallace Defendants decided, after being retained, that no proactive Digital Campaign work was required given “organic” online sentiment and [REDACTED]

[REDACTED] *See CAT3, LLC v. Black Lineage, Inc.*, 164 F.Supp.3d 488, 497 (S.D.N.Y. 2016) (reasoning that “Plaintiff’s case against Defendants is weaker when it cannot present the overwhelming quantity of evidence it otherwise would have to support its case.”); *Lokai Holdings LLC v. Twin Tiger USA LLC*, 2018 WL 1512055, at *12 (S.D.N.Y. Mar. 12, 2018) (same); *see also In re Google*, 664 F.Supp.3d at 994 (finding prejudice where “substantive business communications were made on Chat that plaintiffs will never see, to the potential detriment of their case”); *Victor Stanley, Inc. v. Creative Pipe, Inc.*, 269 F.R.D. 497, 532 (D. Md. 2010) (accord). In addition, Ms. Lively has suffered “economic prejudice” based on the time and expense incurred to prove the use and disappearance of Defendants’ Signal messages and voice memos—as evidenced by the many motions to compel that Ms. Lively was forced to file (*see supra* n.12.) *See Karsch*, 2019 WL 2708125, at *25 (recognizing “economic prejudice” where the defendants incurred fees and expenses to prove the loss of ESI); *Fashion Exchange LLC v. Hybrid Promotions, LLC*, 2021 WL 1172265, at *5 (S.D.N.Y. Mar. 29, 2021) (same).

F. The Willful Destruction Of Evidence Warrants Severe Sanctions.

Based upon Defendants’ willful misconduct—intentionally utilizing ephemeral messaging and (as to Mr. Wallace) self-deleting voice memos to avoid the production of relevant communications—and the prejudice caused to Ms. Lively as a result, relief under Rule 37(e)(2) is warranted. An appropriate sanction under Rule 37(e) should, “(1) deter parties from engaging in spoliation; (2) place the risk of an erroneous judgment on the party who wrongfully created the risk; and (3) restore ‘the prejudiced party to the same position he would have been in absent the wrongful destruction of evidence by the opposing party.’” *West v. Goodyear Tire & Rubber Co.*,

167 F.3d 776, 779 (2d Cir. 1999)); *Victor Stanley*, 269 F.R.D. at 533-34. A court should also consider “whether the sanctions it imposes will ‘prevent abuses of the judicial system’ and ‘promote the efficient administration of justice.’” *Victor Stanley*, 269 F.R.D. at 539 (citation omitted). Under Rule 37(e)(2), where a court finds that “the party acted with the intent to deprive another of the information’s use in the litigation,” it may: “(A) presume that the lot information was unfavorable to the party; (B) instruct the jury that it may or must presume the information was unfavorable to the party; or (C) dismiss the action or enter default judgment.” *Barbera*, 2025 WL 2098635, at *8 (discussing available relief).

Because Defendants acted culpably in failing to preserve relevant communications, an adverse inference instruction is warranted to remedy the prejudice to Ms. Lively in pursuing her claims. “When, as here, a spoliating party has acted willfully or in bad faith, a jury can be instructed that ‘certain facts are deemed admitted and must be accepted as true.’” *Ottoson*, 268 F.Supp.3d at 584 (citation omitted). Accordingly, to remedy the prejudice caused by the spoliated evidence, Ms. Lively respectfully seeks the following adverse inference:

Defendants intentionally deleted and failed to preserve relevant evidence for this litigation. Defendants anticipated litigation with Ms. Lively by at least August 2024, but nonetheless elected to use methods of communication that automatically delete, such as Signal and (as to the Wallace Defendants) voice memos, to discuss the execution of the Digital Campaign against Ms. Lively, and Defendants failed to take affirmative steps to preserve such communications prior to December 20, 2024. You may presume from Defendants’ failure to preserve these Signal communications and voice memos that Defendants did, in fact, execute the plan that TAG recommended and for which the Wayfarer Parties retained the Wallace Defendants and that Defendants intentionally failed to preserve their communications in order to hide this fact.

In addition, the Court should issue sanctions precluding Defendants from asserting that they did not execute the Digital Campaign to develop a negative narrative about Ms. Lively. *See Barbara*, 2025 WL 2098635, at *11 (issuing preclusion sanctions). Alternatively, Ms. Lively

should “be permitted to present evidence and argument to the jury regarding the lost documents” and seek a curative instruction under Rule 37(e)(1), based upon the instruction proposed above, with the exception of the adverse instruction. *See Barbara*, 2025 WL 2098635, at *11.

With respect to the Wallace Defendants, the Court should further order an adverse inference that the Wallace Defendants possessed the requisite knowledge of their co-conspirators in-forum actions to support a finding of personal jurisdiction under CPLR 302(a)(1) and (a)(2), and that the Wallace Defendants independently understood that their actions would have the requisite consequences in New York under CPLR 302(a)(3). As is well-established, evidentiary sanctions may supply the basis for a finding of personal jurisdiction where, as here, the sanctions are consistent with the *Hammond Packing* presumption, namely “the presumption that the refusal to produce evidence . . . was but an admission of the want of merit in the asserted defense.” *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 709 (1982) (quoting *Hammond Packing Co. v. Arkansas*, 212 U.S. 322, 351 (1909)). “[T]he requirement of personal jurisdiction may be intentionally waived, or for various reasons a defendant may be estopped from raising the issue,” including for discovery misconduct, and the Wallace Defendants’ intentional efforts to cover their tracks in and after August 2024 amply supports such a result here. *Ins. Corp. of Ireland*, 456 U.S. at 704. At a minimum, the Court should order a permissive adverse inference and leave the issue for trial.

Finally, Defendants should be penalized with monetary sanctions and ordered to repay Ms. Lively for the reasonable attorneys’ fees and costs for bringing this motion. *See Karsch*, 2019 WL 2708125, at *26; *Fashion Exchange*, 2021 WL 1172265, at *5.

V. CONCLUSION

For the above reasons, Ms. Lively respectfully requests that her motion for spoliation sanctions be granted in its entirety.

Dated: October 22, 2025

/s/ Esra A. Hudson

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DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BLAKE LIVELY,

Plaintiff,

v.

WAYFARER STUDIOS LLC, et al,

Defendants.

No. 24-cv-10049-LJL (lead case)
No. 25-cv-449 (LJL) (member case)

JENNIFER ABEL,

Third-Party Plaintiff,

v.

JONESWORKS LLC,

Third-Party Defendant.

WAYFARER STUDIOS LLC, et al.,

Consolidated Plaintiffs,

v.

BLAKE LIVELY, et al.

Consolidated Defendants.

**DECLARATION OF ESRA A. HUDSON IN SUPPORT OF BLAKE LIVELY'S MOTION
FOR SPOILIATION SANCTIONS**

I, Esra A. Hudson, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney admitted to practice before this Court, a partner in the law firm of Manatt, Phelps & Phillips LLP, located at 2049 Century Park East, Suite 1700, Los Angeles, CA 90067, and counsel of record for Plaintiff Blake Lively in the above-captioned action.

2. I respectfully submit this declaration in support of Ms. Lively's Motion and Memorandum of Law in Support of Spoliation Sanctions against Defendants Wayfarer Studios LLC ("Wayfarer"), Justin Baldoni, Jamey Heath, Steve Sarowitz, It Ends With Us Movie LLC, Melissa Nathan, The Agency Group PR LLC ("TAG"), and Jennifer Abel (the "Wayfarer Defendants"), and Defendants Jed Wallace and Street Relations, Inc. (the "Wallace Defendants") (and collectively "Defendants").

3. I also submit this declaration to place before the Court certain facts and documents related to Ms. Lively's Motion.

4. On August 27, 2025, the Court granted that portion of Ms. Lively's motion seeking to compel the Wayfarer Defendants to produce their Signal communications, which the Court ordered "be produced no later than September 8, 2025." (Dkt. No. 711, at 12-16.)

5. On September 8, 2025, at 11:56 pm ET, the Wayfarer Defendants produced over 80,000 pages of documents from the custodial files of Defendants Wayfarer, Baldoni, Heath, Sarowitz, TAG, Nathan, and Abel. I caused such documents to be reviewed by members of Ms. Lively's litigation team and have personally overseen the due diligence process to confirm the following: after several days of processing, it was determined that of the 80,000 pages of documents, only 62 Signal communications were produced from Abel, Heath, Nathan, TAG, and Wayfarer. The 62 Signal communications were largely duplicates and triplicates of the same

Signal communications, which were produced several times over by different custodians and, after de-duplicating, yielded a total of only seven unique Signal communications.

6. Also on September 8, the Wayfarer Defendants filed a request for a one-week extension to complete the court-ordered production of Signal communications for Defendants Nathan and Sarowitz and Attorneys Bryan Freedman and Summer Benson, which this Court denied for failure to demonstrate good cause. (*See* Dkt. Nos. 746, 752.)

7. Despite the Court's order denying leave to do so, the Wayfarer Defendants have made subsequent rolling productions of Signal communications on September 12 (Defendant Nathan), September 18 (Defendant Wayfarer), and October 9 (Defendants Heath, Sarowitz, and Wayfarer).

8. Since receiving these productions, I caused an internal review of Defendants' productions to be performed, which I personally oversaw. Among other things, based on this internal review, I understand that Defendants have not produced any of the Signal communications previously produced by third-party The Skyline Agency LLC. I further understand that none of the Defendants, including Defendant Wallace, has produced a single voice memo from Defendant Wallace pre-dating December 20, 2024.

9. In addition, based on the internal review of Wayfarer Defendants' productions, I understand that none of the Wayfarer Defendants has produced Signal communications that pre-date December 20, 2024.

10. Counsel for Ms. Lively has raised concerns with the Wayfarer Defendants' counsel, including requesting confirmation as to whether any "Signal communications prior to December 20, 2024" exist. *See infra* Exhibit 46 at 3. In response, counsel for the Wayfarer Defendants

confirmed that they “have produced non-privileged Signal messages within [their] client’s possession, custody, or control.” *See id.*

11. A true and correct copy of excerpts from the transcript of the deposition of non-party Katherine Case, dated September 5, 2025, is attached hereto as Exhibit 1.

12. A true and correct copy of excerpts from the transcript of the deposition of Defendant Abel dated September 25, 2025, is attached hereto as Exhibit 2.

13. A true and correct copy of excerpts from the transcript of the deposition of Defendant Abel dated September 26, 2025, is attached hereto as Exhibit 3.

14. A true and correct copy of excerpts from the transcript of the deposition of Defendant Nathan, dated September 29, 2025, is attached hereto as Exhibit 4.

15. A true and correct copy of excerpts from the transcript of the deposition of Defendant Sarowitz, dated October 3, 2025, is attached hereto as Exhibit 5.

16. A true and correct copy of excerpts from the transcript of the deposition of Defendant Baldoni, dated October 6, 2025, is attached hereto as Exhibit 6.

17. A true and correct copy of excerpts from the transcript of the deposition of Defendant Baldoni, dated October 7, 2025, is attached hereto as Exhibit 7.

18. A true and correct copy of excerpts from the transcript of the deposition of Defendant Heath, dated October 8, 2025, is attached hereto as Exhibit 8.

19. A true and correct copy of excerpts from the transcript of the deposition of Defendant Heath, dated October 9, 2025, is attached hereto as Exhibit 9.

20. A true and correct copy of excerpts from the transcript of the deposition of Defendant Wallace, dated October 9, 2025, is attached hereto as Exhibit 10.

21. A true and correct copy of an email correspondence and attachment, dated November 9, 2023, produced by Defendant Wayfarer bearing the Bates stamp WAYFARER_000140991, is attached hereto as Exhibit 11.

22. A true and correct copy of text messages, dated November 10, 2023, produced by Defendant Baldoni bearing the Bates stamp BALDONI_000020412, is attached hereto as Exhibit 12.

23. A true and correct copy of text messages, dated November 12, 2023, produced by Defendant Baldoni bearing the Bates stamp BALDONI_000020294, is attached hereto as Exhibit 13.

24. A true and correct copy of text messages, dated June 17, 2024, produced by non-party Mitz Toskovic bearing the Bates stamp TOSKOVIC_000000677, is attached hereto as Exhibit 14.

25. A true and correct copy of text messages, dated June 17, 2024, produced by Third-Party Defendant Jonesworks, LLC bearing the Bates stamp JONESWORKS_00039919, is attached hereto as Exhibit 15.

26. A true and correct copy of a document with the subject line "Scope of Work," dated July 26, 2024, produced by Defendant Wayfarer bearing the Bates stamp WAYFARER_000135368, is attached hereto as Exhibit 16.

27. A true and correct copy of an email correspondence with attachment, dated July 31, 2024, produced by Defendant Heath bearing the Bates stamp HEATH_000046882, is attached hereto as Exhibit 17.

28. A true and correct copy of text messages, dated August 2, 2024, produced by Defendant Nathan bearing the Bates stamp NATHAN_000005552, is attached hereto as Exhibit 18.

29. A true and correct copy of a Letter of Engagement, dated August 2, 2024, produced by non-party Carolina Hurley bearing the Bates stamp CHURLEY_00000020, is attached hereto as Exhibit 19.

30. A true and correct copy of text messages, dated August 2, 2024, and attachments produced by Defendant Wayfarer bearing the Bates stamp WAYFARER_000141577, is attached hereto as Exhibit 20.

31. A true and correct copy of an email correspondence, dated August 5, 2024, produced by the Wallace Defendants bearing the Bates stamp STREET 1.000001, is attached hereto as Exhibit 21.

32. A true and correct copy of text messages, dated August 5, 2024, produced by Third-Party Defendant Jonesworks, LLC bearing the Bates stamp JONESWORKS_00012744, is attached hereto as Exhibit 22.

33. A true and correct copy of text messages, dated August 6, 2024-August 7, 2024, produced by non-party Breanna Butler Koslow bearing the Bates stamp BBKOSLOW-000004099, is attached hereto as Exhibit 23.

34. A true and correct copy of an email correspondence, dated August 7, 2024, produced by Defendant Heath bearing the Bates stamp HEATH_000028186, is attached hereto as Exhibit 24.

35. A true and correct copy of text messages, dated August 8, 2024, produced by non-party Breanna Butler Koslow bearing the Bates stamp BBKOSLOW-000006742, is attached hereto as Exhibit 25.

36. A true and correct copy of text messages, dated August 9, 2024, produced by non-party Breanna Butler Koslow bearing the Bates stamp BBKOSLOW-000001988, is attached hereto as Exhibit 26.

37. A true and correct copy of email correspondences, dated August 9, 2024, produced by the Wallace Defendants bearing the Bates stamp SR 1.00000044, is attached hereto as Exhibit 27.

38. A true and correct copy of text messages, dated August 10, 2024-January 10, 2025, produced by the Wallace Defendants bearing the Bates stamp SR 1.00000054, is attached hereto as Exhibit 28.

39. A true and correct copy of text messages, dated August 12, 2024, produced by Defendant Nathan bearing the Bates stamp NATHAN_000002151, is attached hereto as Exhibit 29.

40. A true and correct copy of email correspondence, dated August 13, 2024, produced by Defendant Nathan bearing the Bates stamp NATHAN_000002237, is attached hereto as Exhibit 30.

41. A true and correct copy of text messages, dated August 13, 2024-August 14, 2024, produced by non-party Katherine Case bearing the Bates stamp KCASE-000003354, is attached hereto as Exhibit 31.

42. A true and correct copy of text messages, dated August 13, 2024, produced by non-party Mitz Toskovic bearing the Bates stamp TOSKOVIC_000000707, is attached hereto as Exhibit 32.

43. A true and correct copy of text messages, dated October 28, 2024-November 12, 2024, produced by the Wallace Defendants bearing the Bates stamp STREET 3.000499, is attached hereto as Exhibit 33.

44. A true and correct copy of text messages, dated November 11, 2024-November 14, 2024, produced by the Wallace Defendants bearing the Bates stamp STREET 3.000486, is attached hereto as Exhibit 34.

45. A true and correct copy of text messages, dated November 19, 2024, produced by the Wallace Defendants bearing the Bates stamp STREET 3.000199, is attached hereto as Exhibit 35.

46. A true and correct copy of text messages, dated November 19, 2024-November 22, 2024, produced by the Wallace Defendants bearing the Bates stamp STREET 3.000204, is attached hereto as Exhibit 36.

47. A true and correct copy of email correspondences, dated November 19, 2024, produced by the Wallace Defendants bearing the Bates stamp STREET 3.000366, is attached hereto as Exhibit 37.

48. A true and correct copy of text messages, dated December 20, 2024-December 21, 2024, produced by non-party Breanna Butler Koslow bearing the Bates stamp BBKOSLOW-000005795, is attached hereto as Exhibit 38.

49. A true and correct copy of text messages, dated December 21, 2024, produced by non-party Breanna Butler Koslow bearing the Bates stamp BBKOSLOW-000001753, is attached hereto as Exhibit 39.

50. A true and correct copy of text messages, dated December 21, 2024, produced by non-party Breanna Butler Koslow bearing the Bates stamp BBKOSLOW-00007083, is attached hereto as Exhibit 40.

51. A true and correct copy of text messages, dated January 3, 2025, produced by Defendant Nathan bearing the Bates stamp NATHAN_000018774, is attached hereto as Exhibit 41.

52. A true and correct copy of text messages, dated January 5, 2025, produced by Defendant Abel bearing the Bates stamp ABEL_000019523, is attached hereto as Exhibit 42.

53. A true and correct copy of an audio recording, dated January 18, 2025, produced by non-party The Skyline Agency LLC bearing the Bates stamp SKYLINE_000000214, is attached hereto as Exhibit 43.

54. A true and correct copy of Signal chat messages, dated February 1, 2025, produced by non-party The Skyline Agency LLC bearing the Bates stamp SKYLINE_000000235, is attached hereto as Exhibit 44.

55. A true and correct copy of Signal chat messages, dated February 2, 2025, produced by non-party The Skyline Agency LLC bearing the Bates stamp SKYLINE_000000312, is attached hereto as Exhibit 45.

56. A true and correct copy of an email dated September 22, 2025, from counsel for the Wayfarer Defendants is attached hereto as Exhibit 46.

57. A true and correct copy of an audio recording, dated August 5, 2024, produced by non-party Katherine Case bearing the Bates stamp KCASE-000004957, is attached hereto as Exhibit 47.

58. A true and correct copy of Defendant Nathan's phone records for the period of July 22, 2024 through August 21, 2024 produced by Defendant Wayfarer bearing the Bates stamp WAYFARER_000142867 is attached hereto as Exhibit 48. For the Court's convenience, the relevant entries reflecting phone calls between Defendants Nathan and Wallace are highlighted on pages 3, 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 19, and 20.

59. A true and correct copy of Defendant Abel's Responses & Objections to Ms. Lively's Seventh Set of Interrogatories, dated September 29, 2025, served on all counsel of record, is attached hereto as Exhibit 49.

60. A true and correct copy of Defendant Baldoni's Responses & Objections to Ms. Lively's Fifth Set of Interrogatories, dated September 29, 2025, served on all counsel of record, is attached hereto as Exhibit 50.

61. A true and correct copy of Defendant Heath's Responses & Objections to Ms. Lively's Fifth Set of Interrogatories, dated September 29, 2025, served on all counsel of record, is attached hereto as Exhibit 51.

62. A true and correct copy of Defendant Nathan's Responses & Objections to Ms. Lively's Seventh Set of Interrogatories, dated September 29, 2025, served on all counsel of record, is attached hereto as Exhibit 52.

63. A true and correct copy of Defendant Sarowitz's Responses & Objections to Ms. Lively's Fifth Set of Interrogatories, dated September 29, 2025, served on all counsel of record, is attached hereto as Exhibit 53.

64. A true and correct copy of Defendant TAG's Responses & Objections to Ms. Lively's Fifth Set of Interrogatories, dated September 29, 2025, served on all counsel of record, is attached hereto as Exhibit 54.

65. On September 30, 2025, Ms. Lively served her Responses and Objections to Defendant TAG's Second Set of Interrogatories, which, among other things, requested that Ms. Lively:

Identify in reasonable detail the "negative content about Ms. Lively (including through engagement of comments on social media)" that You allege was amplified by The Agency Group PR LLC, as alleged in paragraph 230 of the Second Amended Complaint, including, but not limited to, for each item of content identified: (a) the actual words or other content that was negative; (b) the name of the person posting the content; (c) the date the content was publicized; and (d) a link to the content.

Based on new information, including deposition testimony, that was subsequently discovered, Ms. Lively supplemented her responses and objections to this Second Set of Interrogatories on October 2, October 9, and October 17. A true and correct copy of Ms. Lively's Third Amended Responses & Objections to Defendant TAG's Second Set of Interrogatories, dated October 17, 2025, is attached hereto as Exhibit 55.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dated: October 22, 2025

/s/ Esra A. Hudson

Esra A. Hudson

EXHIBIT 24

From: Katie Case [REDACTED]
Sent: Wed, 7 Aug 2024 14:50:11 -0400 (EDT)
To: Jamey Heath [REDACTED]; Jennifer Abel [REDACTED]
Cc: Melissa Nathan [REDACTED] Breanna B [REDACTED]
Subject: Social / Digital Mitigation / Remediation

Hi all,

I hope everyone is well. Following up on the social/digital conversation this morning, with specifics re: social and digital mitigation and remediation.

The team will focus on the social and digital elements – boosting SEO efforts and updating with new content to enforce SEO efforts, monitoring and directly influencing forums that are working against Justin and Wayfarer to adjust the narrative in real time, and collate assets and background to work in conjunction with Jen and her team, as well as TAG PR.

The integral part here is to execute all without fingerprints.

Specific efforts include:

- Monitor and report forums, threads, sites, links, and more that are working against Wayfarer Studios,
- Justin, and the overall narrative, as well as derogatory comments.
- Leverage relationships with Discord, Reddit, X, IG, TikTok, YouTube, etc. to expose behavior of Blake and other parties, both current and past and engage directly with communities to adjust or influence the conversations taking place in real time.
- Utilize CTR manipulation and contextual links to push up positive PR to change subject matter opinion on the first page of Google.
- Work to remove links that are harmful to Wayfarer Studios, Justin, and the narrative alongside the appropriate teams.
- Disavow and report outdated or cached non-relevant links, and cleanup spam and/or negative links that are ranked within the SERPs as needed.
- Properly and strategically monitor damaging Reddit/Subreddits, X, Discord, etc. – including threads related to concerning opposition and manage the narrative. This can be done with legacy admin for each platform. As part of this, expert admins will also monitor and protect peripheral elements like Wikipedia, fan pages, and more to ensure threads and narratives are handled appropriately.
- Actively sway the algorithm with one SEO charged hub/site, created and overseen by the team.
- Taking down full Reddit and all social accounts as needed.
- Organically engaging with audiences in the right way, starting threads with theories the team approves of, and asking questions that no longer place Wayfarer and Justin on the back foot.
- Changing the overall narrative and helping keep it on track.

The social team are now worried about Blake activating the Taylor Swift fan base, which is a major concern. With this in mind and to ensure Justin and the studio are 100% protected moving forward, they have now changed the fee to \$30,000 per month due to the uptick in social chatter.

Please let us know either way, as well as if you have any questions.


Thank you,
Katie

EXHIBIT 25

Short Message Report

Conversations: 1	Participants: 5
Total Messages: 2	Date Range: 8/8/2024

Outline of Conversations

	Justin Baldoni / Wayfarer • 2 messages on 8/8/2024 • Breanna Butler [REDACTED] • Jed Wallace [REDACTED] • Katie Case (AEAC8486-CB1E-47C0-84A8-92B8CF372587) • Melissa Nathan [REDACTED] • System Message (System Message)
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Messages in chronological order (times are shown in GMT -04:00)



Justin Baldoni / Wayfarer

SM

System Message (System Message)

8/8/2024, 1:19 PM

SM

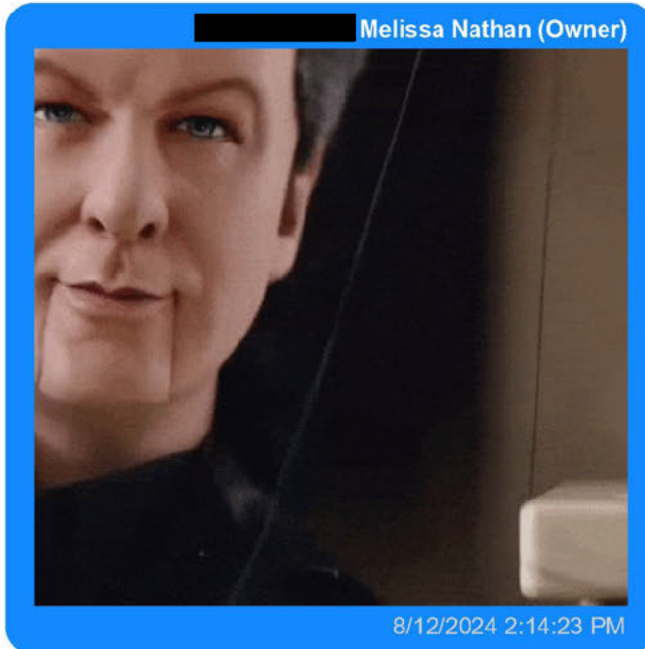
System Message (System Message)

8/8/2024, 1:19 PM

EXHIBIT 29

+19047422954

Thread Participants: [REDACTED] Melissa Nathan (Owner); [REDACTED] Jen Abel DO NOT USE
Active Participants: [REDACTED] Melissa Nathan (Owner); [REDACTED] Jen Abel DO NOT USE
First Message: 8/12/2024 2:14:23 PM
Last Message: 8/12/2024 11:56:44 PM



[REDACTED] Melissa Nathan (Owner)
Could you send me his email just so I can say thank you for the call because I feel like I was a little bit flippant due to the bug flowing in my hair.

8/12/2024 2:29:12 PM

[REDACTED] Jen Abel DO NOT USE
IM DEAD

8/12/2024 2:30:10 PM

[REDACTED] Jen Abel DO NOT USE
Hey are you available? I'm on with Jamey and we need to fill you in on something that's fairly urgent

8/12/2024 2:30:30 PM

[REDACTED] Melissa Nathan (Owner)
I'm right mid nova walk through surrounded by PR.

8/12/2024 2:31:06 PM

[REDACTED] Jen Abel DO NOT USE
And Danny is [REDACTED]

8/12/2024 2:31:23 PM

[REDACTED] Melissa Nathan (Owner)
I can call in 15? Is that ok ?

8/12/2024 2:31:32 PM

[REDACTED] Jen Abel DO NOT USE
Ok just give us a ring when you're somewhere quiet
8/12/2024 2:31:40 PM

[REDACTED] Melissa Nathan (Owner)
I will
8/12/2024 2:32:52 PM

[REDACTED] Jen Abel DO NOT USE
Katie Warren just called me lol
8/12/2024 3:47:25 PM

[REDACTED] Melissa Nathan (Owner)
Omg
8/12/2024 3:47:38 PM

[REDACTED] Jen Abel DO NOT USE
Like I can't deal with this today HA
8/12/2024 3:49:09 PM

[REDACTED] Melissa Nathan (Owner)
What the actual fuck?
That is the craziest shit I've heard
8/12/2024 3:56:29 PM

[REDACTED] Jen Abel DO NOT USE
A STATEMENT?!?!?
8/12/2024 3:56:38 PM

[REDACTED] Melissa Nathan (Owner)
I've done a lot of stuff and I don't think I've ever heard
something like this before
8/12/2024 3:59:43 PM

[REDACTED] Jen Abel DO NOT USE
EVER
8/12/2024 3:59:48 PM

[REDACTED] Jen Abel DO NOT USE
SERIOUSLY EVER
8/12/2024 3:59:51 PM

[REDACTED] Melissa Nathan (Owner)
I'm nearly home to write the email, but I'm so confused
8/12/2024 4:18:07 PM

[REDACTED] Melissa Nathan (Owner)
<https://www.dailymail.co.uk/femail/article-13728743/blake-lively-criticized-isabela-ferrer-style-movie-ends-us.html>
📎
<__Library_SMS_Attach_1_48_08_D19013_1_B9F8D8_1
>
📎
<__Library_SMS_Attach_1_48_08_63316F_1_7FF179_1
>
8/12/2024 4:49:52 PM

[REDACTED] Melissa Nathan (Owner)
Bryan has no conflict I asked him
Ashley doesn't, but she's hesitant as a firm to take on
WME if it comes to that- whereas Bryan isn't

Plus he's representing a lot of women so plays there in
terms of recent clients all women
8/12/2024 6:08:34 PM

[REDACTED] Jen Abel DO NOT USE
It's so funny I actually recommended Bryan and Steph
was the one who shut that down lol
8/12/2024 6:12:29 PM

[REDACTED] Melissa Nathan (Owner)
Well, I would say is whatever she shuts down literally do
the opposite
8/12/2024 6:14:04 PM

[REDACTED] Jen Abel DO NOT USE
Laughed at "Well, I would say is whatever she shuts down
liter..."
8/12/2024 6:16:37 PM

[REDACTED] Melissa Nathan (Owner)
Jen.
I'm flying to Puerto Rico in a hurricane and the hotel just
sent a message they might have put us in bunkers
8/12/2024 6:42:07 PM

[REDACTED] Jen Abel DO NOT USE
OH MY GOD
8/12/2024 6:46:26 PM

[REDACTED] Jen Abel DO NOT USE
lol Belloni asked about Bahai faith
8/12/2024 8:01:13 PM

[REDACTED] Melissa Nathan (Owner)
..... oh boy what did he say
8/12/2024 8:01:42 PM

[REDACTED] Jen Abel DO NOT USE
Just to confirm that Justin's partner with wayfarer is of the same congregation. Jamey sidestepped it well.
8/12/2024 8:02:06 PM

[REDACTED] Jen Abel DO NOT USE
But interesting
8/12/2024 8:02:09 PM

[REDACTED] Melissa Nathan (Owner)
Numbers don't lie though
50m box office
8/12/2024 8:02:35 PM

[REDACTED] Melissa Nathan (Owner)
No matter what
8/12/2024 8:02:42 PM

[REDACTED] Jen Abel DO NOT USE
Blake and Ryan want Justin to put out a statement
8/12/2024 9:52:11 PM

[REDACTED] Jen Abel DO NOT USE
This is unbelievable
8/12/2024 9:52:16 PM

[REDACTED] Melissa Nathan (Owner)
Call if you can
8/12/2024 10:02:16 PM

[REDACTED] Melissa Nathan (Owner)
Career killer for them and wayfarer.
No.
Have to fight it
8/12/2024 10:08:20 PM

[REDACTED] Melissa Nathan (Owner)
At what point do you fight?
8/12/2024 10:08:26 PM

[REDACTED] Melissa Nathan (Owner)
It's now.
8/12/2024 10:08:28 PM

[REDACTED] Melissa Nathan (Owner)
Lawyer up. Now.
8/12/2024 10:10:56 PM

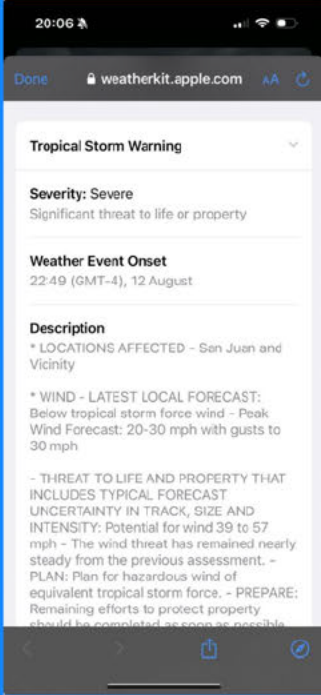
[REDACTED] Jen Abel DO NOT USE
This is SO CRAZY
8/12/2024 10:31:31 PM

[REDACTED] Melissa Nathan (Owner)
Honestly, I've never had anything like it.
Can he please hire a lawyer?
8/12/2024 10:32:19 PM

Jen Abel DO NOT USE
He needs to. He has one. But he needs a litigator
8/12/2024 10:32:36 PM

Melissa Nathan (Owner)
Get bf he's waiting and will also take on wme
8/12/2024 10:33:15 PM

Melissa Nathan (Owner)



8/12/2024 11:42:26 PM

Melissa Nathan (Owner)
Can I start a Signal thread with you, me and Jed
Just in case you need him to connect you to Bryan
because they're very close
8/12/2024 11:42:47 PM

Melissa Nathan (Owner)
So that you can all have a conversation
8/12/2024 11:43:04 PM

Melissa Nathan (Owner)
Because apparently I might be dead soon
8/12/2024 11:43:11 PM

Jen Abel DO NOT USE
I can reach out to Bryan too, we've worked together. And
omg what is that?!
8/12/2024 11:43:42 PM

Jen Abel DO NOT USE
That's where you're going???
8/12/2024 11:43:48 PM

[REDACTED] Jen Abel DO NOT USE

No way

8/12/2024 11:43:50 PM

[REDACTED] Melissa Nathan (Owner)

I don't know what to do
But yes lol

8/12/2024 11:43:59 PM

[REDACTED] Melissa Nathan (Owner)

Definitely contact him on Signal though - feel free to add me obviously because of the crisis

I really really strongly want you guys to hire today. There is no way you put out a statement.
I don't know what you're answering to still

8/12/2024 11:44:45 PM

[REDACTED] Jen Abel DO NOT USE

We just got them to agree not to do a letter

8/12/2024 11:55:58 PM

[REDACTED] Jen Abel DO NOT USE

We are waiting to hear from Justin since he's in Sweden

8/12/2024 11:56:08 PM

[REDACTED] Jen Abel DO NOT USE

Can you send me his number and I'll handle by signal when I get the green light

8/12/2024 11:56:36 PM

[REDACTED] Jen Abel DO NOT USE

I can't believe they haven't done this yet

8/12/2024 11:56:44 PM

MOTION TO SEAL



Esra A. Hudson
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Direct Dial: 310-312-4381
ehudson@manatt.com

October 22, 2025

VIA ECF

The Honorable Lewis J. Liman
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Room 1620
New York, NY 10007

Re: Lively v. Wayfarer Studios LLC, et al., No. 1:24-cv-10049-LJL [rel. No. 1:25-cv-00449]

Dear Judge Liman:

On behalf of Plaintiff Blake Lively, we write pursuant to Rule 4.b of Attachment A to Your Honor's Individual Rules to respectfully request that the Court preliminarily seal certain portions of Ms. Lively's Brief in Support of Spoliation Sanctions Against Defendants Wayfarer Studios, LLC; Justin Baldoni; Jamey Heath; Steve Sarowitz; It Ends With Us Movie LLC; Melissa Nathan; The Agency Group PR LLC; and Jennifer Abel (the "Wayfarer Defendants"); and Defendants Jed Wallace and Street Relations, Inc. (the "Wallace Defendants"), and Exhibits 1-16, 18-23, 26-28, 30-45, and 47-55 to Ms. Lively's Motion, filed contemporaneously herewith.¹ Exhibits 1-16, 18-23, 26-28, 30-45, and 47-55 are excerpts from deposition transcripts and documents that were produced in this litigation, each of which have been designated "Confidential" or "Attorneys' Eyes Only" by parties to this litigation, as well as third parties pursuant to the Protective Order in this case. *See* Dkt. No. 125. The redacted portions of Ms. Lively's Motion similarly refer to documents and deposition testimony that were designated as Confidential or "Attorneys' Eyes Only" pursuant to the Protective Order.

In accordance with Rule 4.b of Attachment A, Ms. Lively respectfully requests that the Court not rule on this letter-motion to seal for one week, so that the parties have the opportunity to meet and confer, and the Wayfarer Defendants or Wallace Defendants may file a motion for continued sealing if they so choose.

¹ Ms. Lively is not seeking to seal documents that were marked "Confidential" but later unsealed by the Court.

manatt

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Respectfully submitted,

/s/ Esra A. Hudson

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