

**November 24, 2025**

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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BLAKE LIVELY,

Plaintiff,

vs.

CASE NO. 24-CV-10049-LJL (LEAD CASE)  
25-CV-449 (LJL) (MEMBER CASE)

WAYFARER STUDIOS LLC, ET AL.

Defendants.

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JENNIFER ABEL,

Third-party Plaintiff,

vs.

JONESWORKS, LLC,

Third-party Defendant.

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WAYFARER STUDIOS LLC, et al.

Consolidated Plaintiffs,

vs.

BLAKE LIVELY, et al.

Consolidated Defendants.

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**\*\*CONFIDENTIAL\*\***

VIDEO-RECORDED DEPOSITION OF MICHAEL ROBBINS

Los Angeles, California

Monday, November 24, 2025

Stenographically Reported by: Ashley Soevyn,  
CALIFORNIA CSR No. 12019

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Page 1

1 time. I wrote my report, and I shredded the notes.

2 BY MS. ZELDIN:

3 Q Were you told to preserve those notes?

4 A No.

5 Q Did you understand that you had an  
6 obligation to preserve those notes?

7 A Nope.

8 MS. ROESER: Belated objection.

9 BY MS. ZELDIN:

10 Q Where in your report does it reflect  
11 anything that Ms. Rikard told you?

12 A It doesn't specifically refer to her.  
13 But I can tell you, if you wish, what we discussed  
14 and how that impacted my views.

15 Q Go ahead.

16 A So one thing that we discussed was the  
17 birthing scene. I had looked at the birthing scene  
18 before that as well. My view of the birthing scene  
19 was that it involved intimacy such that there should  
20 have been a nudity rider and a closed set. She said  
21 the same thing. I don't remember exactly what words  
22 she said, but her view was the same.

23 With respect to the dancing scene, I had  
24 looked at the dancing scene several times. My  
25 thoughts were that Mr. Baldoni was trying to kiss

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1 Ms. Lively, that she was avoiding the kiss but  
2 staying within character for the most part doing so.  
3 And Ms. Rikard said the same thing.

4 More importantly, I knew about production  
5 companies establishing definitions of intimacy so  
6 that they could establish protocols which then would  
7 inform them as to when to bring in an intimacy  
8 coordinator, when to -- when to ensure that there  
9 was a nudity rider, and when to have a closed set.

10 But I hadn't focused on that issue in  
11 this case. I just didn't see anything indicating  
12 that they had or didn't have definitions. She said  
13 they didn't. Assuming she's correct, that then  
14 caused me to say, well, then, these other things  
15 should have happened and didn't happen.

16 So that was primarily what she -- how she  
17 impacted my opinion to cause me to focus on the lack  
18 of definitions.

19 Q Okay. Let's go backwards. Laura Rikard  
20 is a director, actor, teacher, intimacy  
21 choreographer, intimacy coordinator, and a founding  
22 member and head faculty of Theater Intimacy  
23 Education. That's located in North Carolina, right?

24 MS. ROESER: Objection.

25 THE WITNESS: I don't remember all those

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1 A I am aware of those facts, yes.

2 Q And you're also aware that filming  
3 stopped on June 14th, 2023, due to the strikes by  
4 the Writers Guild and by SAG-AFTRA?

5 A Correct. Above-the-line strikes.

6 Q And then the filming -- there was a  
7 hiatus in filming, and it did not start up again  
8 until January 5th, 2024, and concluded on  
9 February 9th, 2024, correct?

10 A Yes.

11 Q All right. So there's two phases of the  
12 film. Phase one that occurred in 2023 and ended in  
13 June of 2023. And the other in 2024. And that was  
14 phase two?

15 A That's my understanding.

16 Q All right. Do you agree that none of  
17 the -- Lively's intimate scenes were rehearsed or  
18 filmed during phase one of production?

19 MS. ROESER: Objection.

20 THE WITNESS: I disagree.

21 BY MS. ZELDIN:

22 Q Do you know how SAG-AFTRA defines  
23 intimate scenes?

24 A To the extent there is a definition, yes.

25 Q What is the definition by SAG-AFTRA?

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1           A     So nudity, simulated sex, hyper exposure,  
2     and other intimate scenes.

3           Q     Isn't it just nudity or simulated sex?

4           A     No.

5           Q     What is the third thing you think that is  
6     in there?

7           A     It is in there. Hyper exposure.

8           Q     Hyper exposure. What does that mean?

9           A     There is no specific definition, which is  
10    why a studio or production company needs to be  
11    specific, for the reasons I've described. But it  
12    means a situation where the actor is pulled into a  
13    vulnerable situation, not necessarily involving  
14    nudity. Though, it could. But involving something  
15    sexual to some degree.

16          Q     Okay. What were the intimate scenes that  
17    were filmed in phase one of production?

18          A     I didn't say there were scenes. But  
19    there was one scene.

20          Q     One scene. What was the scene that you  
21    believe was intimate in phase one?

22          A     The birthing scene.

23          Q     And why do you believe it was intimate if  
24    there was no definition of "intimate"?

25          A     Two reasons. Reason number one is

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1 because according to Ms. Talbot, the -- there was  
2 profile nudity which she said an actor could  
3 consider to be nudity. So that was early part of  
4 her deposition.

5 And in the later part of her deposition,  
6 she said there was nudity in the scene, and that  
7 would mean that an intimacy coordinator would get  
8 involved. So that is one reason. Both comments  
9 that Ms. Fromholz ignores. And then, secondly --

10 Q So I'm going to ask you, please, to not  
11 comment on Ms. Fromholz's report until and unless I  
12 ask you about it. All right?

13 A If I feel like I should do it, I will do  
14 it. And you shouldn't be stopping me in the middle  
15 of a question. But if you feel like you're going to  
16 do it, do it.

17 MS. ROESER: Agreed. Objection.

18 BY MS. ZELDIN:

19 Q If I ask a question, answer the question.

20 A Can I continue with my answer?

21 Q Yes.

22 A And secondly, in my opinion, there was  
23 hyper exposure. And the reason I say that is  
24 because if you look at the scene, which I have,  
25 Ms. Lively is laying on an examination table or

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1 ever, ever testified that it was necessary to  
2 conduct an investigation when a witness was --  
3 strike that.

4 When a -- an actor and director called  
5 his co-actress, the person that he was directing,  
6 sexy in her costume?

7 MS. ROESER: Objection.

8 THE WITNESS: I have no idea.

9 BY MS. ZELDIN:

10 Q Let's look at page 3 of your report, if  
11 you would.

12 A Sure.

13 Q There is a section called "Policies and  
14 Procedures."

15 Do you see that?

16 A I do.

17 Q And you begin talking about Sony.

18 A Yes.

19 Q Why are you discussing Sony in this  
20 report?

21 A Because my view was that Sony didn't do  
22 what the policy said they would do, should do.

23 Q So are you intending to opine that Sony  
24 did not follow its practices and did not conduct an  
25 investigation, which it should have conducted in

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1 this case?

2 A Yes. So says my report as well.

3 Q Then go through Sony's policy language,  
4 and first you state that:

5 (As read):

6 "All harassment complaints must be  
7 reported to the HR department or other  
8 departments."

9 A Show me where you are, please.

10 Q For example, second paragraph under  
11 "Policies and Procedures"?

12 A Oh, so I'm just quoting the policy.

13 Q Right. Understood. Okay.

14 And the question is: Where in the policy  
15 does it say what a harassment complaint is?

16 MS. ROESER: Objection.

17 THE WITNESS: I don't think it defines  
18 harassment in the Sony -- what harassment complaint  
19 is in the Sony policy.

20 BY MS. ZELDIN:

21 Q Okay. Does Wayfarer policy define what a  
22 harassment complaint is?

23 A It defines "harassment".

24 Q Does it define what a harassment  
25 complaint is?

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1 his or her findings, then that means the studio  
2 knows what to do as a result of the investigation.  
3 So then they have to take disciplinary or remedial  
4 action, which is what their policy says as well.  
5 And that varies according to what the investigator  
6 finds. So you don't know what is appropriate until  
7 you conduct the investigation.

8 Q And I've asked you to assume that the  
9 investigation found that the director was saying  
10 that about her personally. And there was,  
11 therefore, a violation of the policy. What would be  
12 appropriate remedial action under those  
13 circumstances?

14 MS. ROESER: Objection.

15 THE WITNESS: So I have two things to say  
16 about that. Thing number one is that is not what  
17 you had asked me. And thing number two is I haven't  
18 been asked to give an opinion as to what is or isn't  
19 appropriate remedial action. I have been asked to  
20 give an opinion as to what kinds of remedial action  
21 exist but not specifically what appropriate action  
22 was in a particular circumstance.

23 BY MS. ZELDIN:

24 Q What remedial actions exist?

25 A So one thing is to take actions to stop

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1 the harassment from occurring, assuming that the  
2 investigator determines that harassment did occur.  
3 If the investigator determines that harassment  
4 occurred, then disciplinary action with respect to  
5 the people who violated the policy either by  
6 conducting the harassment themselves, committing the  
7 harassment themselves, or, alternatively, by  
8 otherwise not following the policy -- for example,  
9 Wayfarer's policy said that reported incidents had  
10 to be -- I'm sorry -- that incidents about which a  
11 supervisor was made aware had to be reported so that  
12 it could be investigated.

13 So if supervisors knew about possible  
14 harassment violations and didn't report it, that's  
15 also a violation. There should be some kind of  
16 discipline. The company's own policy talks about  
17 termination as a type of discipline. That aside  
18 from that, you want to take other remedial actions,  
19 especially if the investigator determined that  
20 harassment had occurred.

21 So, for example, you would say, do our  
22 employees understand what harassment is and isn't,  
23 and do the supervisors understand their obligation  
24 under the policy to report the allegations? Have we  
25 sufficiently distributed the policy to our employees

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1 so that they know about that? And if it's unclear,  
2 which it was, then we should redistribute the  
3 policy. And also, we should write the policy in a  
4 way that's consistent with what our own procedures  
5 are, which their policy wasn't.

6 Additionally, maybe do training again if  
7 the investigator concluded that people didn't  
8 understand their obligations or didn't understand  
9 what harassment is.

10 So there are a variety of things you can  
11 do.

12 Q Under the circumstances that I outlined,  
13 the director calling the actress sexy while she was  
14 in her costume, what would be the appropriate  
15 remedial actions? You're not going to fire him for  
16 that, right?

17 MS. ROESER: Objection. Form and scope.

18 THE WITNESS: Yeah, I wasn't asked to  
19 form an opinion about what remedial action should be  
20 taken in a particular situation.

21 BY MS. ZELDIN:

22 Q If --

23 A But there are a variety that are  
24 available. And if you find someone harassed, then  
25 you normally would discipline in some way.

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1 Q Do you intend to offer an opinion that  
2 Sony failed to follow its own policies?

3 A Yes. Same answer as before.

4 Q Are you offering an opinion on the  
5 adequacy of Sony's policies?

6 A No.

7 Q Do you intend to offer an opinion that  
8 Wayfarer failed to follow Sony's policies?

9 A No.

10 Q You agree that Wayfarer had a set of  
11 industry-standard policies and procedures in place  
12 to prevent harassment, discrimination and  
13 retaliation --

14 MS. ROESER: Objection.

15 BY MS. ZELDIN:

16 Q Correct?

17 MS. ROESER: Sorry.

18 THE WITNESS: I'm sorry. I missed one  
19 word, and so if you wouldn't mind repeating.

20 BY MS. ZELDIN:

21 Q Would you agree that Wayfarer had a set  
22 of industry-standard policies and procedures in  
23 place to prevent harassment, discrimination, and  
24 retaliation?

25 MS. ROESER: Objection.

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1 THE WITNESS: I do not agree with that.

2 BY MS. ZELDIN:

3 Q Okay. Did -- what don't you agree with?

4 A So many things. First, one of the things  
5 that the policy said was that if supervisors or  
6 managers became aware of a possible violation of the  
7 policy, that they had to report it to human  
8 resources and that an investigation would be  
9 conducted. So focusing on the report to human  
10 resources, Mr. Heath testified that he never asked  
11 the person who did human resources for the studio to  
12 be involved with the film, and that there was no  
13 human resources department or anybody who was  
14 handling the film other than the AD. I assume he  
15 meant first AD, but I'm not sure. And Ms. Saks, who  
16 was a producer. So having a policy that says  
17 supervisors should report to HR when HR doesn't  
18 exist is not consistent with standard practices in  
19 the industry.

20 Similarly, the policy said that employees  
21 who felt that the policy had been violated should  
22 either report to their supervisor or any member of  
23 management or to HR, a department that not did not  
24 exist. It's not consistent with standard practices.  
25 You tell people to report to people or departments

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1 that exist, not ones that don't exist.

2 Also, having a policy is just having  
3 words. You need to do more than just have the  
4 words. You need to distribute the policy. Standard  
5 practice in the industry and otherwise is to  
6 distribute harassment policies and retaliation  
7 policies.

8 Mr. Heath said, "I don't know if the cast  
9 and crew were given a copy of the policy."

10 Ms. Lively said she never got any resources in terms  
11 of how to raise a complaint. The question should  
12 have been asked but wasn't: Well, did you get the  
13 policy? But if you didn't get the resources, then  
14 presumably, she didn't get the policy.

15 Mr. Baldoni, who is one of the people  
16 being accused of harassment, said, "I don't think I  
17 ever saw that policy before." Well, standard  
18 practice is to distribute the policy. So that's  
19 also not consistent with standard practices.

20 And more than anything else, standard  
21 practice is not just to have a policy sitting there,  
22 much less one that wasn't distributed or at least  
23 may not have been, but actually do what the policy  
24 says. The policy says all reported allegations will  
25 be investigated, and they didn't.

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1 Q There was a policy, a written policy,  
2 correct?

3 A Sorry. Yes, there was a written policy.

4 Q All right. And Wayfarer had an HR  
5 department with dedicated staff, yes or no?

6 MS. ROESER: Objection.

7 THE WITNESS: Wayfarer had an HR  
8 department, but I've already explained what the  
9 problem was. And dedicated staff, Mr. Heath only  
10 talked about one person, but maybe there was more  
11 than one.

12 BY MS. ZELDIN:

13 Q All right. But there was one -- at least  
14 one person with an HR department at Wayfarer,  
15 correct? It's a yes or no.

16 MS. ROESER: Objection.

17 THE WITNESS: I don't know if there was a  
18 department. There was a person who did HR services.

19 BY MS. ZELDIN:

20 Q Prior to filming It Ends with Us movie --  
21 prior to filming that, the movie itself held  
22 anti-discrimination training administrated --  
23 administrated by a law firm that you respect,  
24 correct?

25 MS. ROESER: Objection.

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1 BY MS. ZELDIN:

2 Q So your opinions are summarized on the  
3 first and second pages of your report; is that  
4 right?

5 A Not my opinions about Ms. Fromholz's  
6 opinions because, obviously, they didn't exist  
7 before I wrote the report.

8 Q Okay. But your opinion -- let's just  
9 stick with the report, and we'll talk about  
10 Ms. Fromholz at the end. Okay?

11 A Sure. Yeah.

12 Q With respect to your report, there you  
13 basically offer three opinions; is that right?

14 MS. ROESER: Objection.

15 THE WITNESS: Yes.

16 BY MS. ZELDIN:

17 Q Okay. And your first opinion is that:

18 (As read):

19 "Defendants violated standard practices  
20 in their own policies by failing to  
21 investigate harassment and retaliation  
22 allegations."

23 Correct?

24 A Yes.

25 Q And what were the harassment and

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1 retaliation allegations that they failed to  
2 investigate?

3 A So on May 23rd, we had the incident we  
4 talked about earlier relating to Mr. Baldoni making  
5 the "sexy" and "hot" comments and Ms. Slate's  
6 response to that, and then his joke in response to  
7 that. So that's the first one. And they had a  
8 conversation, they say, with him, Ms. Slate and  
9 Ms. Lively about the impropriety of making  
10 statements like that. So that's first one.

11 Q Okay.

12 A Should I keep going?

13 Q Yes, please. Just I want you to list  
14 them, please.

15 A Sure. So then on May 26th, Ms. Lively  
16 went to Ms. Giannetti and talked to her about her  
17 concerns. There is a slight disagreement about what  
18 was discussed, but it appears that she discussed the  
19 trailer incident, the birthing incident.  
20 Ms. Giannetti did not recall whether she talked  
21 about any comments made by Mr. Baldoni. But the  
22 timeline that was produced by the company shows that  
23 Ms. Giannetti told Mr. Baldoni about the "sexy"  
24 comments. So it appears that she did say that to  
25 Ms. Giannetti; otherwise, Ms. Giannetti wouldn't

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1 know to say that to Mr. Baldoni.

2 So then on -- late -- in late May,  
3 Ms. Slate went to Ms. Giannetti, talked to her about  
4 her concerns. Said there was a problem with the  
5 atmosphere on the set as a result of the concerns;  
6 and Ms. Lively had concerns as well. And  
7 Ms. Giannetti then spoke to Mr. Baldoni about that.  
8 Ms. Slate also went to Ms. Saks. Ms. Saks -- and  
9 about the same thing she had told Ms. Giannetti.

10 Ms. Saks then says she went to  
11 Mr. Baldoni and to Mr. Heath. Mr. Baldoni says,  
12 yes, she came to me. But -- and basically, she  
13 talked -- she mentioned her own -- Ms. Slate's own  
14 discomfort about the "sexy" comment that he had made  
15 to her.

16 Ms. Saks said she went to Mr. Heath, but  
17 there is a dispute about what was said. Ms. Saks  
18 says she told Mr. Heath basically the same thing she  
19 told Mr. Baldoni and also that she told Mr. Heath on  
20 several occasions that an investigation needed to be  
21 conducted. Mr. Heath said, well, maybe she came to  
22 talk to me, but she didn't talk to me about an  
23 investigation. And I didn't say what she said I  
24 said.

25 Q Okay. I'm sorry. My question, then,

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AFTERNOON SESSION

MONDAY, NOVEMBER 24, 2025

THE VIDEOGRAPHER: We're back on the record. The time is 1:23 p.m.

BY MS. ZELDIN:

Q Mr. Robbins, we were trying to summarize on a high level, what your big opinions are, not your sub-opinions. And the first one we said was that it -- Defendants violated standard practices and their own policies by failing to investigate harassment and retaliation allegations; is that correct?

A Yes.

Q And then the second one is that the investigation would have resulted in disciplinary remedial actions. Is that another big opinion?

A No, I don't have an opinion like that.

Q You don't have an opinion like that?

A No.

Q Okay. So I'm looking at the first page again, the penultimate paragraph, the last sentence.

(As read):

"Further appropriate disciplinary remedial actions would be taken as a

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1 result of such investigations."

2 A Right. That's not saying that I have an  
3 opinion as to what actions should be taken, if any,  
4 because I can't -- I don't know what an investigator  
5 would determine, and I'm just saying that normally  
6 you take disciplinary and/or remedial action, and so  
7 that was something that's available depending on  
8 what an investigator determined.

9 Q And then the second opinion is that the  
10 studio violated -- we're going to say that's not a  
11 major opinion. The first opinion is the major  
12 opinion, which is the Defendants violated standard  
13 practices in their own policies by failing to  
14 investigate; is that right?

15 A Yeah.

16 Q The second one is that the studio  
17 violated the entertainment industry specific  
18 protocols?

19 A I look at the first and second as you  
20 describe them to be part of the same thing.

21 Q Okay.

22 A That it's taking steps to prevent  
23 harassment and retaliation from occurring, and I  
24 list the four steps, which you pointed out earlier,  
25 including investigating. And the intimacy protocols

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1 are part of preventing harassment and not  
2 retaliation so much, but harassment.

3 Q And your third opinion or maybe your  
4 second opinion, then, is that entertainment -- the  
5 entertainment industry differs from most other  
6 industries and businesses with respect to issues  
7 concerning retaliation?

8 MS. ROESER: Objection.

9 BY MS. ZELDIN:

10 Q Is that correct?

11 A Yes. And then I have an opinion about  
12 Ms. Fromholz's opinion as well.

13 Q Okay. And then so, and finally, you have  
14 an opinion about Ms. Fromholz. We will do that  
15 last, okay?

16 A Whatever order you like.

17 Q Thank you. In your report, you mentioned  
18 various incidents. We talked about some of those  
19 earlier. Your report also refers to a fat shaming  
20 incident. Do you recall that?

21 MS. ROESER: Objection.

22 THE WITNESS: Is that in the report?

23 BY MS. ZELDIN:

24 Q I believe you discuss that.

25 A I don't remember.

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1 Q Footnote 34 on page 12?

2 A Let's see. Yes. That, I am not saying  
3 anything about the incident other than what people  
4 said was complained about or what people were upset  
5 about.

6 Q Is that an -- is that a sexual harassment  
7 allegation?

8 A No.

9 MS. ROESER: Objection.

10 BY MS. ZELDIN:

11 Q Is the incident where Jamey Heath showed  
12 a video of his wife after the birth of their child,  
13 is that an incident of sexual harassment?

14 MS. ROESER: Objection. Form and scope,  
15 beyond that expert.

16 MS. ZELDIN: Go ahead.

17 THE WITNESS: Obviously, I'm not forming  
18 opinions about whether something is or isn't  
19 harassment. In part, that would be a legal opinion.  
20 But is it an allegation of a potential violation of  
21 the company's policy, sure.

22 BY MS. ZELDIN:

23 Q And it is one that warrants an  
24 investigation in your opinion?

25 A Yes. Unless there was no dispute about

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1 BY MS. ZELDIN:

2 Q Correct?

3 A It's not what he wrote.

4 Q She.

5 A Sorry. Oh, that was sexist. But I would  
6 say it's reasonable to assume that it included no  
7 investigation.

8 Q Was on the list of the 17 things, was  
9 there a requirement to hire a new producer?

10 A I don't remember the things that really  
11 aren't relevant to my opinion very much. But, so I  
12 don't remember one way or the other. Since you're  
13 asking me, the answer is probably yes, but I don't  
14 remember it.

15 Q Did the 17-point list include a  
16 requirement that Ange Giannetti be on the set?

17 A Yes.

18 Q This was the same Ange Giannetti that you  
19 criticized for not having conducted any  
20 investigation, correct?

21 A No.

22 Q Is it a different Ange Giannetti?

23 A No. I never criticized her for not  
24 conducting an investigation. I criticized Sony for  
25 not conducting an investigation.

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1 Q I see. And do you know whether she told  
2 anybody at Sony about the allegations that  
3 Ms. Lively made?

4 A I don't know. But if she didn't, she  
5 should have. And I would criticize her for that.

6 Q Okay. One of the requirements was to  
7 give Alex Saks more power. How does that have  
8 something to do with sexual harassment?

9 MS. ROESER: Objection.

10 THE WITNESS: I don't think it  
11 necessarily does. I don't think every -- each one  
12 of the 17 protections had to do with sexual  
13 harassment. Some did; some didn't.

14 BY MS. ZELDIN:

15 Q How about the protection with regard to  
16 COVID, did that have anything to do with sexual  
17 harassment?

18 A No.

19 Q Did Lively and her team threaten Wayfarer  
20 and Sony that she would not return to complete the  
21 film unless they accepted the protections?

22 MS. ROESER: Objection.

23 THE WITNESS: Whether it was Lively or  
24 her team, I don't know. But that was what was  
25 communicated.

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1 record. The time is 2:50 p.m.

2 (Recess.)

3 THE VIDEOGRAPHER: We're back on the  
4 record. The time is 3:04 p.m.

5 BY MS. ZELDIN:

6 Q So, Mr. Robbins, I know you wanted to  
7 talk about your opinions about Ms. Fromholz's  
8 report. And while I don't agree that you have an --  
9 will have an opportunity at trial to do so, I  
10 welcome now for you to give me whatever your  
11 opinions are. And if you could just tell me what  
12 are -- how many opinions do you have or you intend  
13 to offer, and then we'll go through them one by one?

14 A Sure. So she has four opinions.

15 Q Uh-huh.

16 A So I will respond to each of the four.

17 Q Okay.

18 A So her first opinion relates to whether  
19 the company met its legal obligations -- using her  
20 words -- to respond to the harassment complaints  
21 because she says they implemented the 17  
22 protections, and therefore, there was no reason to  
23 conduct an investigation. And furthermore, that was  
24 all the remedial acts that would need to be taken.  
25 So that's her first opinion.

1 Q Okay.

2 A Then continuing to list, her second  
3 opinion is that she knows, somehow, what an  
4 investigator would determine. And what an  
5 investigator would determine is that the incidents  
6 alleged by Ms. Lively either didn't occur or, at  
7 least, not in the form that Ms. Lively raised.

8 Her third opinion relates to the intimacy  
9 issues, which we've talked about a little bit. And  
10 her fourth relates to the reputation issue, which we  
11 talked a little bit about.

12 So what would you like me to do?

13 Q Well, she's rebutting you. So she had  
14 these four opinions in rebuttal to you. But why  
15 don't you go through each one and tell me what your  
16 opinion is, and then that's all I need to know.

17 A So her first opinion is not a rebuttal of  
18 mine because I never gave an opinion about legal  
19 obligations. I wouldn't give an opinion about the  
20 law, and I didn't talk about obligations. But  
21 otherwise, it's perfect rebuttal. So in other  
22 words, she's not rebutting me. The --

23 Q In your opinion.

24 A I didn't say anything in my -- about  
25 legal obligations, to the contrary. So I didn't

1 give opinions on the law, and I didn't talk about  
2 obligations. So she's not rebutting me. But  
3 regardless -- so basically, she says this: The  
4 company studio implemented the 17 protections  
5 granted at Ms. Lively's behest, not theirs. But,  
6 okay, she says nothing more occurred, with which I  
7 don't agree, but -- and so they met their legal  
8 obligations, and there was no reason to conduct an  
9 investigation. So I have several things to say  
10 about that.

11 Thing number one is Ms. Fromholz says  
12 that she went through AWI National Training  
13 Institute, and she earned designation AWI-CH, AWI's  
14 certificate holder, which is a program accredited by  
15 ANSI, the American National Standards Institute.  
16 I've taught at, I think, 13 of them -- it might be  
17 14, but I think 13.

18 So I know what we teach. We do not teach  
19 that there's no reason to conduct an investigation  
20 if you stop the alleged incidents from occurring.  
21 We teach if there's an allegation of a possible  
22 violation of your harassment or retaliation  
23 policies, you need to conduct an investigation.

24 And so -- and then we talk about what the  
25 investigation should consist of as well. So what

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1 she's saying is contrary to the training that she  
2 got, at least from AWI.

3           Additionally, we all know she's  
4 conducting investigations. She's not saying, gee,  
5 stop it, and there's no reason to conduct an  
6 investigation. Taking -- taking her position to its  
7 logical extreme, a potential client calls her up,  
8 says, "We have a harassment allegation. A  
9 supervisor is making sexual comments. Would you  
10 investigate?" If she's being honest in her opinion,  
11 she should say -- would say, "There's no reason for  
12 me to conduct an investigation, just tell the  
13 supervisor to stop making sexual comments. And if  
14 he never makes a sexual comment again, well, then  
15 there's no reason to investigate."

16           Or one other example, she gets called by  
17 a potential client who says, "We have sexual  
18 harassment allegations. We would like you to  
19 investigate. One of the allegations is that he  
20 sexually assaulted an employee." So if she's being  
21 honest, she would say, "Well, just tell him to stop  
22 sexually assaulting people. And if he stops, well,  
23 then there's no reason to conduct an investigation."  
24 But we know in the real world, she would accept both  
25 of those, and she would investigate.

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1           And part of the problem with her opinion  
2           is that she says that's all you need to do in this  
3           circumstance. All you need to do is stop the  
4           incidents. And aside from the fact that, as I said,  
5           I don't agree that the incidents were stopped.  
6           The -- part of the reason to conduct an  
7           investigation is to stop the incidents, sure. But  
8           part of the reason to conduct an investigation is to  
9           find out if somebody violated the company's  
10          policies.

11           So in a situation here, had there been an  
12          investigation, the investigator would have to decide  
13          did Mr. Baldoni or Mr. Heath recognize that there  
14          was potential sexual harassment, and did they follow  
15          the company's policy to report it so that it could  
16          be investigated? And if so, they should be  
17          disciplined for that. Not necessarily the  
18          recommendation of the investigator depends whether  
19          internal or external.

20           And secondly, did anybody here violate  
21          our policy by harassing Ms. Lively or any of the  
22          others? And if so, they should be disciplined for  
23          that. So it's not enough just to stop incidents.  
24          And Ms. Fromholz knows that, too, because we talked  
25          about that in the AWI Institute.

1           And also, another reason to reach  
2           conclusions and take action, even if one of the  
3           actions you've taken is to stop the harassment, is  
4           because you need to see if there's some kind of  
5           remedial action that needs to be taken. For  
6           example, we don't know if we distributed our policy,  
7           we better distribute it because people don't  
8           understand what's happening, assuming that the  
9           investigator would determine that there was  
10          harassment going on. And also, maybe we need to  
11          train people again because, obviously, if the  
12          investigator determined there was harassment, people  
13          don't understand.

14                 So those are all things that are contrary  
15          to what Ms. Fromholz said. It's contrary to her own  
16          training, and it's contrary to what she does as  
17          well. And that's my first opinion about her first  
18          opinion.

19                 Q        Okay.

20                 A        Want me to keep going?

21                 Q        Yes. Please.

22                 A        Okay.

23                 Q        When you're done --

24                 A        Oh, okay.

25                 Q        Thank you.

1           A       So her second opinion is basically this:  
2       She says that she knows what an investigator would  
3       determine if there was an investigation conducted.  
4       There is no possible way for her to know what an  
5       investigator would determine because you can't  
6       determine what an investigator would determine based  
7       on -- on reading documents, reading depositions or  
8       reading documents because that doesn't place you in  
9       a position to determine credibility.

10                   And clearly, despite what she wrote in  
11       one part of her report, she understands that  
12       credibility would have to be determined here. And  
13       the reason is because she wrote that the  
14       investigator would determine that the incidents that  
15       were alleged by Ms. Lively either didn't occur, or  
16       at least in the form that she said they did. In  
17       other words, that the investigator would not believe  
18       Ms. Lively. Therefore, she knows the credibility  
19       needs to be determined, and there are many issues  
20       here that do require a determination of credibility.

21                   So -- but aside from that, let me talk  
22       about things that she's forgotten. Totality of the  
23       circumstances and also credibility. So what has she  
24       forgotten? She's forgotten that there are a number  
25       of other allegations beyond the ones that she lists.

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1           So in her report, she says well, here are  
2 the facts. There's no dispute about them, even  
3 though there is. And then, here's what the  
4 investigator would determine.

5           But she didn't list all of the  
6 allegations. And I listed them earlier today.  
7 Talking about his wife and he having simultaneous  
8 orgasms, teasing her about not seeing porn, never  
9 having seen porn, talking about his own porn  
10 addiction, continuing to come into the trailer --  
11 and Mr. Heath coming into the trailer -- even after  
12 the trailer incident occurred, supposedly biting her  
13 lip. Those are all additional allegations. She  
14 doesn't even list them, and then says, well, I know  
15 what the investigator would determine without even  
16 listing those as things to be determined.

17           She also forgets that you need to look at  
18 the totality of the circumstances, which we treat --  
19 we teach at AWI. And so what that means is you need  
20 to look at not only things that were directed toward  
21 Ms. Lively but things that she heard about. And, in  
22 fact, if you look at the company's policy, it says  
23 you can be harassed not just by things that are  
24 directed toward you, which is true, of course. So  
25 that means anything she knew about Ms. Slate and her

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1 allegations and anything she knew about Ms. Ferrer's  
2 allegations. And we know she knew about  
3 Ms. Slate's, and according to Ms. Ferrer, she knew,  
4 at least, about one of those.

5 Also, an investigator would interview  
6 similarly situated people, other female actors  
7 working with Mr. Baldoni. That would include  
8 Ms. Ferrer, who has three incidents with  
9 Mr. Baldoni. Ms. Slate, maybe some others as well,  
10 but she forgets all of that.

11 And then also, there are a bunch of  
12 issues that clearly need to be determined in terms  
13 of credibility. She says the facts are not in  
14 dispute. They absolutely are in dispute. So let me  
15 just give you some examples.

16 The incident in the trailer. There are  
17 completely different stories about what happened.  
18 And mostly, Ms. Lively, Ms. Carroll, and Ms. Baker  
19 giving one side of the story and Mr. Heath a  
20 completely different -- almost completely different  
21 side of the story. So if you believe him, he was  
22 invited in. He may have seen somebody  
23 breastfeeding. He was there for a short period of  
24 time, and that was it.

25 And if you believe them, as soon as he

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1 started opening the door, all three of them said  
2 "don't come in" or "wait" or "stop"; that she told  
3 him to turn around, which he also admits; that he  
4 then, despite promising to not turn around, he did  
5 turn around, saw her with her breasts exposed, and  
6 did so for five minutes, maybe through the mirror.  
7 That has to be determined by an investigator as to  
8 which story is true.

9 The same with the naked video incident.  
10 Ms. Fromholz says, well, Ms. Lively only saw the  
11 very first few minutes of the video where there is  
12 no naked wife -- at least you can't see her naked.  
13 Because -- I guess because Mr. Heath said that. She  
14 didn't explain why she thinks that was the case.  
15 But Ms. Lively said I saw the video of his wife  
16 naked, but how would Ms. Lively know that unless she  
17 saw the video of the wife naked? One of the factors  
18 an investigator would consider is plausibility. How  
19 plausible is it that Ms. Lively, having never seen  
20 the wife naked in the video, would know that the  
21 wife was naked in the video? Not very. So you have  
22 to determine credibility.

23 On the "hot" comment and "sexy" comments,  
24 the investigator would have to determine, as we've  
25 talked about before, what -- was he directing this

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1 toward the person? Was he directing it toward the  
2 costume? Was he directing it toward the scene or to  
3 the character? An investigator would have to make a  
4 determination of that. Ms. Fromholz can't do that  
5 by simply reading deposition transcripts.

6 One incident which I found interesting is  
7 that Ms. Fromholz mentions the incident about  
8 Mr. Baldoni saying "nice outfit" -- or "I like your  
9 outfit." That's what it was. Well, she didn't --  
10 she says it's an undisputed fact. She doesn't talk  
11 about the parts that are undisputed, which are the  
12 important parts of that incident, if they occurred,  
13 which is that he glanced at her chest and then  
14 gestured toward her chest. That's in dispute.

15 And also there's an issue here about him  
16 making the scenes more intimate. More sexual. The  
17 question is, Why?

18 Did he do that because Sony wanted him to  
19 do that? Maybe. Or because Ms. Hoover wanted him  
20 to do that? Maybe. Or because he thought it was a  
21 better film? Maybe. Did he do that because he  
22 wanted to be more intimate with Ms. Lively? Maybe.  
23 Did he ask her to do an orgasm scene because he  
24 wanted to see that for sexual reasons or because he  
25 thought it would help the film? And there's an

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1 allegation that he wanted her to do a nude scene as  
2 well. Same questions. An investigator would  
3 determine those things.

4 And so Ms. Fromholz couldn't possibly  
5 know what an investigator would determine because  
6 she's not in a position to determine credibility.  
7 And taken to its logical extreme -- not even  
8 extreme, it's just an extension. A client calls her  
9 up and says, "We'd like you to do an investigation.  
10 A supervisor's making sexual comments." She should  
11 say no. If she's being honest about her views in  
12 her report. No, there's no reason to spend money on  
13 an investigation. Get someone to give me witness  
14 statements. Give me relevant documents. I will  
15 determine credibility based on those, which we all  
16 know is not what she does.

17 It's not what she was trained to do. At  
18 AWI, we trained her to know when an investigation  
19 should be conducted, and when conducted, to  
20 interview witnesses and determine credibility. In  
21 fact, we do a one-day mock where the students, in  
22 small groups, conduct an investigation from  
23 beginning to end. Then, as the presenters, we put  
24 up the evidence on either side, and then say, "Now  
25 your job is to determine credibility." And she had

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1 to pass a witness examination, a witness interview  
2 examination. So she knows what she's saying is not  
3 true.

4 The remaining two are faster. So,  
5 hopefully, you won't get too much bored any further.

6 So with respect to the issue of intimacy,  
7 she doesn't understand that the issue here is that  
8 you want to be proactive. Yes, following SAG-AFTRA  
9 guidelines and recommended standards is part that.  
10 But the overriding concern is safety on the work --  
11 in -- in the workplace of preventing harassment,  
12 which is what the guide actually says. And so you  
13 have to be proactive about that.

14 In my opinion, as you know, the birthing  
15 scene was -- involved intimacy and hyper exposure  
16 and nudity. And so there should have been a closed  
17 set, and there should have been a nudity rider  
18 before filming the scene. The nudity rider wasn't  
19 signed until seven months after the scene.  
20 Ms. Fromholz has decided the set was closed. And  
21 "closed" doesn't mean closed to the public; it means  
22 closed within closed protocols, which they didn't  
23 even develop until a month after the scene.

24 So here's the evidence about the set  
25 being closed. Ms. Carroll said I wasn't an

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1 essential person, I was there during the filming of  
2 the scene. Ms. Lively says Mr. Sarowitz was there  
3 during the scene. He's certainly not an essential  
4 person. He said he wasn't there. I will get back  
5 to that in a second. Ms. Talbot said I reviewed the  
6 call sheet, which I have to. It doesn't say it is a  
7 closed set. It doesn't say only essential people  
8 should be there, et cetera.

9 So when Ms. Fromholz says that it was  
10 not -- that it was a closed set, the only evidence  
11 she has is that Mr. Sarowitz wasn't there, which  
12 just means he wasn't there. It doesn't mean it was  
13 a closed set. It just means he wasn't there. So it  
14 should have been a closed set.

15 And then most importantly, because it  
16 affects all this, they should have established  
17 definitions of "intimacy," created a protocol as to  
18 when to bring the intimacy coordinator in. And that  
19 means talk to director, talk to the actors involved,  
20 be present for the rehearsal, be present for the  
21 filming. None of that happened with respect to the  
22 birthing scene. Ms. Fromholz says, well, they had  
23 trained, experienced intimacy coordinators. That's  
24 great. They were. What she doesn't understand is  
25 the intimacy coordinators don't get involved until

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1 the studio calls them to get involved. And the  
2 studio is not going to call them to get involved  
3 unless they have a definition of intimacy protocols  
4 that say, "Here's an intimate scene. We need to get  
5 the intimacy coordinator involved to do all the  
6 things that the intimacy coordinator did not do in  
7 the birthing scene."

8 So now you have my opinion about that.

9 And the last one is the fast one. She  
10 says the entertainment industry is just like any  
11 other industry. Doctors, lawyers, investigators,  
12 even me, electricians all depend on their  
13 reputation. Sure they do. But nobody except in  
14 that industry and related has the ability to try to  
15 destroy somebody's career. And I will give you two  
16 examples.

17 You mentioned lawyers. A female lawyer  
18 at one the defense firms claims that the male  
19 managing partner of the firm sexually harassed her.  
20 She complains. No investigation is done. She  
21 decides to go to another firm.

22 The managing partner of the firm, the  
23 first firm, can't do anything to stop her from her  
24 career -- her future career and going to the next  
25 place. Speaking as a former equity partner in an

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1 international law firm, equity partner in a  
2 medium-sized firm, a hiring partner for the West  
3 Coast of the international firm and --

4 Q And a man.

5 A I'm sorry?

6 Q And a man.

7 A And the managing partner of the --

8 MS. ROESER: Objection.

9 THE WITNESS: -- managing partner of a  
10 medium-sized firm. The firm is -- the next firm is  
11 concerned about this: What experience and expertise  
12 does she have? Does that complement what we are  
13 doing, or does it add to an area in which we want to  
14 get into? What clients are going to come to her?  
15 Do they conflict in some way with our clients? How  
16 much business is she bringing? And during  
17 interviews, does she get along with the other  
18 partners?

19 The managing partner in the first firm  
20 cannot destroy her career going forward. And as to  
21 me and our investigators, I'm a pretty well-known  
22 investigator, and I'm a very well-known  
23 investigator -- expert on workplace investigations,  
24 particularly in the industry, which is why you  
25 contacted me as well.

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1 BY MS. ZELDIN:

2 Q No, we don't know why I contacted you, do  
3 we?

4 A Well, I know what the email said. And so  
5 I'm pretty well-known in this business. I have no  
6 ability to destroy Ms. Fromholz's career, nor would  
7 I want to or try to because there's nothing like the  
8 entertainment industry. I can't destroy her career  
9 and I wouldn't destroy her career.

10 And now you have my opinions.

11 BY MS. ZELDIN:

12 Q You said one thing that I had a question  
13 about. You said the incidents weren't stopped.  
14 What do you mean by that?

15 A So after the hiatus and after the  
16 November 9 protections went in, then on May 6th  
17 there was a conversation at dinner with Mr. --  
18 Ms. Hoover or Mr. Heath and Mr. Baldoni and  
19 Ms. Hoover's best friend, where if what Ms. Hoover  
20 is saying is true, could be con- -- or considered  
21 either additional harassment or retaliation.

22 And then, of course, the whole publicity  
23 thing. I'm not reaching a conclusion about whether  
24 it was retaliation, but it could be considered that,  
25 in which case, that's a big incident that continued.