

# EXHIBIT 2

1 IN THE UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF FLORIDA  
3 TAMPA DIVISION  
4

5 POPCORNED PLANET, INC., }  
6 Movant, } Civil Docket  
7 vs }  
8 BLAKE LIVELY, } No. 8:25-mc-28-WFJ-LSG  
9 Respondent. }  
10

11 MOTION HEARING  
12

13 Heard in Courtroom 9B  
14 Sam M. Gibbons United States Courthouse  
15 801 North Florida Avenue  
16 Tampa, Florida 33602  
17 Wednesday - October 22, 2025  
18 2:00 p.m. - 2:36 p.m.

19 BEFORE THE HONORABLE LINDSAY SAXE GRIFFIN  
20

21 UNITED STATES MAGISTRATE JUDGE

22 19 LORI ANN CECIL VOLLMER, CSR, RPR  
23 Federal Official Court Reporter  
24 Sam M. Gibbons United States Courthouse  
25 801 North Florida Avenue, Room 1221  
Tampa, Florida 33602  
Lori\_CecilVollmer@flmd.uscourts.gov  
(813) 301-5336

24 Proceedings transcribed via courtroom digital audio recording  
25 by a court reporter using computer-assisted transcription.

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

1

## APPEARANCES

2

3 PRESENT ON BEHALF OF THE MOVANT,  
4 POPCORNED PLANET, INC.:

5

6 MR. JEFFREY LEE GORDON,  
7 MANEY & GORDON, PA  
8 101 East Kennedy Boulevard  
9 Suite 3170  
10 Tampa, Florida 33602-5151  
11 (813) 221-1366  
12 j.gordon@maneygordon.com

13

14 PRESENT ON BEHALF OF THE RESPONDENT,  
15 BLAKE LIVELY:

16 MS. MERYL CONANT GOVERNISKI,  
17 DUNN ISAACSON RHEE LLP  
18 401 Ninth Street, N.W.  
19 Suite 800  
20 Washington, DC 20004  
21 (202) 240-2900  
22 mgoverniski@dir11p.com

23

24

25

26

27

28

29

30

31

32

33

34

1 PROCEEDINGS

2 (Open court.)

3 (Court called to order.)

4 COURTROOM DEPUTY: Good afternoon.

5 This Court calls **Case No. 8:25-mc-28-WFJ-LSG**,

6 ***Popcorned Planet, Incorporated versus Lively.***

7 THE COURT: All right. Good afternoon.

8 I'll have appearances from counsel beginning  
9 with counsel for the movant.

10 MR. GORDON: Good afternoon, Judge.

11 This is Jack Gordon on behalf of the movant,  
12 Popcorned Planet.

13 THE COURT: Thank you, Mr. Gordon.

14 Oh, Ms. Governski, I think you're still muted.

15 MS. GOVERNISKI: Thank you. Pardon the error.

16 Good afternoon, your Honor. Or good afternoon,  
17 rather.

18 This is Meryl Governski on behalf of Ms. Lively.

19 THE COURT: All right. Thank you.

20 Okay. So we are here to talk about the motion  
21 to quash. There's a motion, an -- an amended motion to  
22 quash. I've reviewed the parties' briefs and attachments  
23 and some of the declarations that have been filed.

24 And before we begin, I -- I do want to just say  
25 I had hoped to get to this sooner. I appreciate the parties'

1 patience, but you do have my full attention now and I'm  
2 committed to getting this resolved as expeditiously as  
3 I can.

4 So let me just start with a couple of  
5 observations and then I'll hear from counsel. I do have  
6 some specific questions and thoughts.

7 But so it seems to me -- and -- and Mr. Gordon,  
8 can you tell me how to pronounce the last name of Popcorned  
9 Planet's executive?

10 Is it Signore or Signore?

11 MR. GORDON: It is. Andy Signore, Judge.

12 THE COURT: Signore. Okay.

13 So it seems to me -- and both parties have  
14 presented information about whether Mr. Signore qualifies  
15 for this journalist privilege and the information that  
16 he has falls within that privilege.

17 And so it seems to me that there are a couple  
18 of things that can be true here. Mr. Signore could be  
19 a professional journalist and -- at certain times or  
20 potentially all the time engaged in actively gathering  
21 news.

22 But it could also be that he's a professional  
23 journalist and that some of what he was doing or all of  
24 what he was doing in this particular instance does not  
25 qualify as news gathering.

1                   So I think both of those could be true  
2 and what -- what I -- I think what I want to do today  
3 at least -- or my goal today is to get a little more  
4 specific because now I'll admit that I don't deal  
5 with the journalist privilege that often, but I do  
6 deal with a lot of other privileges. And when we deal  
7 with those, they are specific. They are specific to  
8 particular documents and instances. And so we'll get  
9 there.

10                  But -- but when I look at this, I think I  
11 look at what -- what Ms. Lively has requested and what  
12 Mr. Signore has asserted and I think -- and it seems to  
13 me that there are categories of information here that  
14 could potentially not be covered by the privilege.

15                  Well, I'll just give an example. There  
16 are -- there's a request for any agreements that were  
17 effec- -- particular agreements that were executed  
18 concerning particular subjects.

19                  Now, a contractual agreement, does that fall  
20 within some sort of news gathering? I don't know that  
21 it does. Is it a -- it seems more transactional and  
22 not necessarily -- not something that would fall within  
23 the definition of a news gathering information or  
24 confidential or nonconfidential source.

25                  So -- so let me just -- let me just ask before

1 I continue on. Mr. Gordon, what is the scope of the  
2 information that we're talking about here --

3 MR. GORDON: Well, let --

4 THE COURT: -- that has been requested?

5 MR. GORDON: -- let -- let -- let me make it --  
6 let me make it easier for this Court --

7 THE COURT: Yes.

8 MR. GORDON: -- as it relates to that very  
9 particular -- and there are no agreements.

10 THE COURT: Okay.

11 MR. GORDON: There are no contracts. There  
12 are no verbal agreements. There are no email communications  
13 that would suggest there's an agreement. It's again just --  
14 just to answer it directly, your Honor.

15 THE COURT: Okay. All right. Well, then --  
16 then what -- I guess in terms of other information --  
17 because there -- there has to be -- I guess if you're  
18 asserting a privilege, then there has to be some information  
19 that you view as potentially responsive to this subpoena  
20 that would fall within the privilege.

21 Do you -- do you know what the scope of that  
22 information is? Like, how big are we talking? Like --

23 MR. GORDON: We're talking essentially  
24 communications --

25 THE COURT: Okay.

1 MR. GORDON: -- with the parties.

2 And in all of those communications, I can  
3 tell you, Judge, were -- were -- occurred subsequent  
4 to Ms. Lively filing her lawsuit against the Wayfarer  
5 defendants. So one of the talisman of determining  
6 whether or not the journalistic privilege applies is  
7 whether or not the information being gathered is being  
8 gathered for purposes of being disseminated and published  
9 to the -- to the audience.

10 And -- and clearly the -- the catalyst for  
11 the information gathering performed by Mr. Signore and  
12 Popcorned Planet was the very initiation of Ms. Lively's  
13 lawsuit in the Southern District of New York in front  
14 of front of Judge Liman against the Wayfarer defendants.

15 THE COURT: Okay. Have you -- I guess, have  
16 you -- have you gathered that information and have --  
17 like, has there been -- what I'm used to, Mr. Gordon,  
18 is -- is -- there's a volume of information that's been  
19 reviewed and there's been some sort of privilege log  
20 produced.

21 Have you produced a privilege log as to this  
22 information?

23 MR. GORDON: No, your Honor.

24 THE COURT: No.

25 Okay. But you do have -- you do have a sense

1 that all of this information is after the filing of the  
2 lawsuit in December of 2024?

3 MR. GORDON: I can absolutely say without any  
4 reservation, yes.

5 THE COURT: Okay. And --

6 MS. GOVERNISKI: Can I respond to that, your  
7 Honor?

8 THE COURT: Yeah. Go ahead.

9 MS. GOVERNISKI: Okay. Well, I'm holding a  
10 document in my hand from 2024 that Mr. Signore is on.  
11 So I don't think that that representation is fully accurate  
12 and we literally, moments ago, just filed a spoliation  
13 motion in the underlying litigation against all of the  
14 defendants for spoliating evidence between August of 2024  
15 and January of 2025.

16 So what we have here is taking the benefit  
17 of the doubt of what an individual has said when there  
18 hasn't necessarily been a search, there hasn't been a  
19 privilege log produced and it's simply just not credible  
20 that Mr. Signore organically decided to publish the  
21 precise anti-Miss Lively narrative, the precise month  
22 and year that the smear campaign began without any  
23 communications with any of the Wayfarer defendants.

24 So not only is the claim that there were no  
25 2024 communications not credible, it's belied by the

1 scant amount of evidence that we have received. We  
2 received one communication from -- between Mr. Signore --  
3 I'm sorry -- between Popcorned Planet and the defendant  
4 and we know that the defendants were using Voice Memos  
5 and Signal to communicate with content providers and  
6 that they have spoiled that evidence. So that's first  
7 and foremost.

8 Second of all, this focus on we're excused  
9 from anything post-2025 is flatly irrelevant and  
10 inconsistent with the hearings -- with these rulings  
11 in the -- in the underlying court.

12 The Wayfarer defendants made a similar argument  
13 that they don't have to produce anything into 2025. The  
14 judge in that case -- in that -- and Judge Liman rejected  
15 that claiming that communications into 2025 are relevant  
16 because Ms. Lively filed an amended complaint that claims  
17 the retaliatory smear campaign continued into 2025,  
18 including by filing their own lawsuit against Ms. Lively  
19 that has been dismissed and we have reason to believe  
20 that Mr. Signore was communicating with the Wayfarer  
21 defendants about that retaliatory lawsuit into 2025.

22 So Mr. Gordon makes a big deal out of this  
23 pre-2024 and post-2024. It's -- it's not true. And  
24 then on top of it not being true, it's really irrelevant.  
25 Communications in 2025 would be responsive and we proffer

1 we would not be subject to the Reporter's Privilege.

16 THE COURT: Okay.

17 MR. GORDON: That's a bullshit statement.

18 THE COURT: Mr. Gordon, did you want to respond?

19 MR. GORDON: Again, I -- I -- I can reiterate  
20 there are no agreements, formal or informal, written  
21 contracts, email. There are no verbal agreements to which  
22 he could testify to. There are simply no agreements.

23 THE COURT: But there are communications and --

24 MR. GORDON: There are.

25 THE COURT: -- you're -- and what you're saying

1 today is that the scope of the communications that --  
2 that -- that you've been able to get your hands around  
3 is 2025?

4 Are you saying there's no communications  
5 in 2024 that would be responsive to the subpoena?

6 MR. GORDON: That -- that -- that is unequivocally  
7 correct, your Honor.

8 THE COURT: Okay.

9 MS. GOVERNSKI: Can I ask your Honor if --

10 THE COURT: Yes.

11 MS. GOVERNSKI: -- if he searched  
12 popcornedplanet@gmail.com for responsive communications  
13 in 2024?

14 THE COURT: Yeah. So I think that's where --  
15 that's where -- let me -- let me kind of go to the next --  
16 the next part of this.

17 So what I would -- what you would typically  
18 see in -- is that we would have these requests. The  
19 parties would discuss them to the extent that there are  
20 objections to the breadth of -- of the request or -- or  
21 any other objections.

22 Then the -- the responding party would do a  
23 search and would produce things that are responsive and  
24 not privileged and withhold privileged information and  
25 produce a privilege log. That way, the subpoenaing party --

1 I think it's difficult here -- a little difficult here,  
2 Mr. Gordon, because it is a qualified privilege and  
3 Ms. Lively can overcome it with a certain showing,  
4 but we're kind of talking about this all in a -- in  
5 very broad sense.

6 I mean, you typically would have -- I think  
7 about it just the way I would a claim of attorney/client  
8 privilege, right? Attorneys are not always engaged in  
9 privileged or protected activities, but they make -- you  
10 have to make a specific claim to that privilege and then  
11 the other side can look -- and certainly here, we wouldn't --  
12 if there are confidential sources, they would have to be  
13 on a privilege log identified as a confidential source,  
14 but there would at least be some information given about  
15 what the item is that's -- that is claimed to be privileged.

16 That way, Ms. Lively can look at that and make  
17 her own evaluation and then bring it to me and then I could --  
18 I could look at that potentially in camera or whatever and  
19 make a decision.

20 But looking at this sort of in a vacuum, I -- I  
21 can't decide that these items -- that all of this information  
22 falls within a journalist privilege just based on, you know,  
23 let's say I -- I did -- I'm not finding this, but what if  
24 I did find that Mr. Signore is a journalist and could  
25 potentially fall under this category? It's the same thing

1 as finding he's a lawyer, right?

2 MR. GORDON: It's --

3 THE COURT: I mean, he might not always be  
4 engaged in -- in news gathering -- active news gathering.  
5 And so there may be things that -- that are particularly  
6 here that are being asked for that don't fall within that  
7 privilege.

8 Do you see what I'm saying, Mr. Gordon?

9 MR. GORDON: I -- I -- yes and no, Judge.

10 Res- -- and I say this with the utmost respect. I -- I  
11 promise.

12 THE COURT: Please disagree with me. I understand  
13 you're doing your job.

14 MR. GORDON: The attorney/client privilege is a  
15 pretty good analogy, but it's like a "spork," right?

16 THE COURT: Yeah.

17 MR. GORDON: It's not quite a fork. It's not  
18 quite a spoon.

19 Here's the problem, and this is a motion to  
20 quash a subpoena, Judge, because the subpoena itself is  
21 improper. They haven't exhausted all the remedies for  
22 purposes of garnering information.

23 You pointed specifically at one of the --  
24 one of the seven requests. I would ask the Court to take  
25 another -- a glance through those for the following

1 reason. All of the information that's being requested  
2 would otherwise be within the course and scope of --  
3 of -- of -- it would be in the scope and control of the  
4 party -- to the Wayfarer defendant parties or their  
5 agents and the case law, especially in the Eleventh  
6 Circuit -- we can talk about the three various privileges,  
7 the Florida common law privilege, we can talk about the  
8 statutory privilege, but then again the Eleventh Circuit  
9 privilege is the most consuming.

10 I mean, this circuit has always, in the state  
11 of Florida, staunchly, staunchly is -- is -- it protects  
12 the journalistic privilege more so -- and again, the  
13 Eleventh Circuit **Price** case, if you remember, the Alabama  
14 case. That was the Crimson Tide head coach where he was  
15 involved in that scandal in Pensacola with some -- some  
16 exotic dancers, they determined that the Alabama statute  
17 didn't apply.

18 But again, the Eleventh Circuit precedent as  
19 it relates to the First Amendment does apply. And  
20 again, respectfully, the defendant has not exhausted all  
21 opportunities to garner the very same information from  
22 these party defendants.

23 If we look at the Court, and the Court can take  
24 judicial notice, I'm hopeful that it will, we had recently  
25 filed a request for the Court to take judicial notice of

1 what's been occurring in the Southern District of New  
2 York. There was some delay apparently on the part of  
3 the defendants. His Honor, Judge Liman, ordered on  
4 September -- had an order to compel information. If  
5 I remember correctly, there was something like 80,000  
6 documents provided and the Court granted another ten  
7 days to take depositions to do more discovery and at  
8 that point in time Ms. Lively had the opportunity to  
9 object to the information that was -- that was sought  
10 to be discovered or to object to the responsive -- the  
11 proper responsive nature of what was provided.

12 There, she didn't object to anything that  
13 related to Andy Signore and there were very specific  
14 production requests, which I've asked this Honorable  
15 Court to take judicial notice of, relating to Popcorned  
16 Planet and Andy Signore.

17 In that -- in the Southern District in  
18 front of Judge Liman, Ms. Lively specifically filed a  
19 motion to compel because she found that the information  
20 was not sufficiently responsive as it related to Signal  
21 chat information, but there was never any effort whatsoever,  
22 deposition-wise or motion to compel-wise, to ask these  
23 defendants to give me more relating specifically to  
24 Mr. Signore and Popcorned Planet.

25 Again, I've cited the **Price** case, and that cites

1 obviously the *Overstreet* case, where they found taking  
2 117 depositions didn't exhaust all opportunities to  
3 garner the information pursuant to the rule from the  
4 other parties.

5 THE COURT: Well, so that's -- I think that's  
6 a question -- I'm sorry, Mr. Gordon, I --

7 MR. GORDON: No, not at all.

8 THE COURT: -- don't mean to interrupt.

9 I think that's a question of whether Ms. Lively  
10 can overcome the -- the privilege, but whether the subpoena  
11 itself -- I mean, you can serve a Rule 45 subpoena. The  
12 rule doesn't require you necessarily to exhaust all of your  
13 other efforts before serving a third party.

14 I mean, there is a burden analysis in Rule 45  
15 that's different than what you have with a party, but --  
16 and that is something that -- that is looked at, but I  
17 think what you're getting at is her overcoming the  
18 privilege.

19 So I think we have to first establish that  
20 the privilege applies and what I'm saying is I think to  
21 establish that the privilege applies, Popcorned Planet  
22 and Mr. Signore need to make that -- need to start that  
23 privilege expressly and specifically as they would --  
24 as anyone -- as anyone else would with asserting a  
25 privilege because other -- you know, I can't just decide

1 broadly that he isn't -- because he qualifies as a  
2 journalist that everything he does is privileged.

3 I think there has to be -- I think there  
4 has to be a more specific assertion that -- that --  
5 that the communication at issue here falls within the  
6 privilege because there can be communications or things  
7 that he is doing that don't qualify as news gathering --

8 MR. GORDON: I would respect- --

9 THE COURT: -- that don't qualify as -- you  
10 know as to the extent he is doing something that's --  
11 that's not -- that doesn't qualify as actively gathering  
12 the news, then it wouldn't fall within the privilege.

13 MR. GORDON: I would respectfully suggest that  
14 the content doesn't define what the scope of the journalistic  
15 privilege is. It's whether or not the activities that are  
16 being pursued are done in furtherance of and with the  
17 intention of garnering information that can be disseminated  
18 to the -- to the public.

19 So it's information that he has otherwise  
20 published. If he hasn't used it, there's no reason for  
21 them to otherwise request it. I would respectfully  
22 suggest again -- again, there's three opportunities for  
23 the journalistic privilege to apply.

24 One is by virtue by Florida common law and  
25 that's not -- the scope of that is not super well-defined,

1 I'll agree with you. It basically just says once the  
2 privilege is invoked.

3 Well, by virtue of filing the motion to quash  
4 and calling himself a journalist, that's probably sufficient  
5 under the common law privilege.

6 Under the statute, it's a little bit more  
7 specifically defined by Section (1)(a) -- I mean, under  
8 the definition of Section (1)(a); if you're gainfully  
9 employed, if you're doing it for livelihood, whether  
10 you're an independent contractor, whether you're a salaried  
11 employee. And again, I think that showing has been made  
12 by virtue of the declaration and by virtue of the information  
13 that's otherwise been provided.

14 And then we get to the Eleventh Circuit, which  
15 I think again it's not so much a function of whether he's  
16 required to provide a privilege log or what the substance  
17 of the information that he's seeking to protect is. It's  
18 a function of whether or not it was garnered during the  
19 course of -- of performing journalism, your Honor.

20 THE COURT: Well, and I think that's -- that's  
21 the contextual question that I can't -- that I don't  
22 think can be answered just through a declaration from  
23 Mr. Signore saying that he is a journalist engaged in  
24 news gathering activities.

25 I mean, Rule 26 requires a specific express

1 showing of -- expressed -- it requires you to expressly  
2 make the claim and then describe the nature of the  
3 documents and to do so in a manner without revealing  
4 the information that enables the other party to assess  
5 the claim.

6 And the Eleventh Circuit also requires whether  
7 it's the attorney/client privilege or a Fifth Amendment  
8 privilege, you can't make a blank assertion of a privilege.  
9 It has to be specific.

10 And if you think you have a -- if they apply  
11 that with a Constitutional right such as the Fifth  
12 Amendment, why wouldn't we be required to make a specific  
13 showing with the journalistic privilege?

14 It just doesn't seem to me to fit that Mr. Signore  
15 can come in here and say, well, I'm a journalist engaged  
16 in news gathering activities and so everything I -- every --  
17 all the documents that I have, their responses fall within  
18 that privilege. I -- I don't think I can make that  
19 determination on -- on the record that I have here. I think  
20 that -- I think it needs to be made specifically.

21 MR. GORDON: I -- I -- I understand and we are  
22 not in any way opposed to otherwise providing a privilege  
23 to you, your Honor.

24 THE COURT: Okay. Ms. Governski, Mr. Gordon  
25 and I have been going for a while. I wanted to give you

1 an opportunity to jump in if you have points to raise.

2 MS. GOVERNISKI: I appreciate that, your Honor.

3 First of all, I think what you're saying makes  
4 exact sense. For instance, how can we even evaluate  
5 exhaustion when we don't know exactly the nature of the  
6 communications?

7 I do fervently disagree with Mr. Gordon's  
8 explanation of depositions to which he was not part of  
9 and I don't believe he has privy access to or the docket  
10 in that case, which we filed seven motions to compel.  
11 We filed a motion for spoliation.

12 The -- the test -- the standard in the Eleventh  
13 Circuit, when there are potentially two sources, Mr. Signore  
14 and another individual, is not you have to go out and depose  
15 100 people in order to get those communications.

16 I would refer your Honor and Mr. Gordon to see  
17 ***CNN v. Black*** and ***Christ Covenants v. Town***, which we cite  
18 in our motion, which expressly says when there's a chance  
19 that documents have been destroyed or spoliated, exhaustion  
20 is met. So, you know, if we get to exhaustion, if we want  
21 to get into that, we can get into that, including in the  
22 context of a privilege log.

23 But I would proffer, your Honor, this all or  
24 nothing, black or white approach that Mr. Gordon is trying  
25 to take does not work for many of the reasons that your

1 Honor has articulated, but also because if -- if we --  
2 if the Court were to adopt that standard, it would  
3 basically mean anyone who throws the website out,  
4 collects money for merch, pays himself a salary, can  
5 say he is a reporter and be exempt from the rules of  
6 discovery. That is not what Florida's privilege protects  
7 and that's not what the Eleventh Circuit or the common  
8 law privilege protects.

9 They are intended to protect independent  
10 journalism, which even if the cases that they cite,  
11 BuzzFeed or the Street, both of those websites have  
12 editorial standards. They -- they subscribe to editorial  
13 standards. They are not for-profit organizations designed  
14 to push content to create more clicks for clients or  
15 points of view that happen to be in a particular  
16 individual's daily wick or -- or a preference, political  
17 preference, personal preference, however you want to  
18 describe it.

19 So I think we need to take a real hard look  
20 at whether the privileges apply, not only the Florida  
21 privilege, but whether the common law privilege applies  
22 when we look at the animating privilege -- the animating  
23 principle of these privileges.

24 When we look at *Schoen*, when we look at some  
25 of the cases that even Mr. Signore cites, all of those

1 cases show that the privilege attaches to an independent  
2 journalist who is holding people accountable and there's  
3 some indicia of a traditional professional journalist  
4 and none of that is -- is favored here.

5 But again, the Court can avoid that by saying  
6 that it is overcome or even by considering a waiver. You  
7 know, Mr. Signore filed what amounts to an improper reply.  
8 I understand he may say it was in opposition to a motion  
9 to compel, but really he should have narrowly then be --  
10 probably just the last two pages is probably what was  
11 proper.

12 The affidavit, talking about how he's a  
13 professional journalist, should have come in his motion.  
14 So they're not even necessarily properly before the  
15 Court, but he also attached two emails that he sent to  
16 counsel for Ms. Lively, but he didn't attach any of his  
17 communications with counsel for the Wayfarer parties. So  
18 he is selectively using his privilege when it serves him  
19 and not whether it doesn't and that potentially is waiver,  
20 your Honor.

21 So I do think there are many ways for the Court  
22 to approach this waiver finding it doesn't attach. If it  
23 does attach, it's overcome. I do think your Honor could  
24 find waiver now. I think it could find it doesn't attach  
25 now and I think it could find the three factors met, but

1 we certainly do not object to a privileged log as long as  
2 that's accompanied by a thorough search of Mr. Signore's  
3 Signal, of his text communications, of Popcorned Planet's  
4 Gmail, of Mr. Signore's own Gmail, of his X. We know, for  
5 instance, based on the first response -- the first request  
6 in the subpoena that he's receiving communications from  
7 the Wayfarer defendants -- defendants through some sort  
8 of a Dropbox or a Google drive. We -- those are not sure  
9 communications. We would expect him to search those.

10                   We would expect Popcorned Planet to search --  
11 they claim now they have employees. The YouTube channel  
12 doesn't list any employees. So we would expect a search  
13 of the employees' communications.

14                   So as long as there's good faith effort to do  
15 a full collection and search and a robust privilege log,  
16 we think that that's a good way to go. I'm just a little  
17 bit skeptical that we'll get a full privileged log as  
18 opposed to, you know, whatever happens to be searched on  
19 a phone and then we're stuck kind of debating the merits  
20 of a privilege log.

21                   THE COURT: Well, I mean, so let's -- let's --  
22 let's step back.

23                   I mean, I think again to do this sort of  
24 systematically, we need to begin with their requests and  
25 talk a little bit about their requests and that -- and

1 then -- which is, you know, typically what -- what counsel  
2 would do, and then talk about the scope of the search and  
3 the custodians or whatever -- whatever is being done, but  
4 let's just talk initially about the requests.

5 How -- let me ask you before -- counsel, before  
6 we do that, have you all had any discussions already  
7 about -- other than about the privilege, but about the  
8 scope of the requests and -- and any sort of -- I guess,  
9 Mr. Gordon, any request to narrow those or to get specific --  
10 more specific in those requests?

11 MR. GORDON: I think I'll give you my spork  
12 response again, Judge, and I apologize for doing so, but  
13 we -- there was another subpoena that was issued to Google.  
14 So I had -- we had an opportunity to conference and confer  
15 with Meryl about those. But in terms of this particular --  
16 these particular responses, I would have to say no.

17 THE COURT: Well --

18 MS. GOVERNSKI: I --

19 THE COURT: Yes, go ahead.

20 MS. GOVERNSKI: I'm sorry, your Honor.

21 THE COURT: No, go ahead.

22 MS. GOVERNSKI: Yeah. I don't think that's  
23 entirely accurate. I think it was reversed. We did --  
24 we did confer on this one, not on the Google subpoena,  
25 because my client was handling that one.

1                   We conferred on this one. I suggested that  
2 I would be willing to talk about ways to narrow if there  
3 are specific ways and they said they would file a motion  
4 to quash. So I did -- I did have an overture of attempting  
5 to narrow it.

6                   I think I emailed that and followed up with a  
7 phone call suggesting that we would be willing to narrow  
8 it and that was rejected in --in lieu of a motion to quash.

9                   We also haven't even received responses and  
10 objections. So -- so -- so that's where we are.

11                  I would note that we intentionally drafted these  
12 to be quite narrow, to be targeted towards what we believe  
13 exists. And so, you know, I think it's -- it's difficult  
14 for me to sit here and imagine specific ways to narrow it,  
15 but certainly we are always open to conferring with counsel  
16 as we have been this whole time on -- on their ideas to  
17 narrow it.

18                  THE COURT: Mr. Gordon, do you have a particular --  
19 again, aside from the privilege that -- objection that you've  
20 raised, do you have particular concerns about some of these  
21 document requests in terms of their scope?

22                  MR. GORDON: Not -- not in terms of their scope.  
23 I just don't think there's a tremendous amount of responsive  
24 information. But I -- I -- again, it appears to me the  
25 vast -- and maybe I'm ahead of myself now. But again, the

1 vast majority of them appear to be for communications  
2 with the Wayfarer defendants, with parties, and I -- I  
3 think that garnering them from a third party on the  
4 premise that there's been some type of spoliation when  
5 there -- again, when there's no effort on the part of  
6 the defendant to otherwise get those documents elsewhere  
7 given the nature again of the journalist attic privilege,  
8 which I believe applies and we can have further discusses  
9 about that.

10                   But I think it's -- it's respectfully similar  
11 to the complaints that I'm now hearing for the first time  
12 about our reply to their motion to compel. If -- when  
13 you say it's not -- when defense -- when Ms. Lively's  
14 counsel says it's not before this Court, well, if it was  
15 improper, file a motion to strike then.

16                   In other words, do what you're supposed to do  
17 pursuant to the rules before you go digging into somebody's  
18 journalistic privilege. That being said, again, I -- I  
19 don't have a problem with the scope, your Honor.

20                   MS. GOVERNSKI: I'm sorry, your Honor.

21                   THE COURT: Okay. Well -- well, yeah. No.  
22 It's -- if it's about the, you know -- I didn't frankly  
23 notice that issue until more recently. Typically --  
24 typically, we'd be the enforcer of that rule and, you  
25 know, I -- I guess I'm sort of -- it's a little -- it's

1 a little difficult to say, well, she should've moved to  
2 strike it because that -- you know, we didn't follow the  
3 rule.

4 In any event, I think it's there -- it's there  
5 and it's -- and I'd just be inclined to consider it in  
6 the scope of what we're doing even though it was -- I  
7 think it's questionable given there was, like, a  
8 counter-request to compel and then maybe it was sort of  
9 responsive to that. In any event, I don't want to get  
10 sidetracked with that.

11 Let's -- let's focus on -- on the issue of  
12 the request. So -- so it sounds like, Mr. Gordon, you're  
13 saying that in terms of the scope of the request, you  
14 don't -- you're not searching for any particular type  
15 of -- of any narrowing of those. Your view is just that  
16 what -- what's responsive here is going to be covered by  
17 the privilege, is --

18 MR. GORDON: Yes, your Honor.

19 THE COURT: -- that accurate? Okay.

20 MR. GORDON: Yes, yes.

21 THE COURT: Okay. Then I think then we need  
22 to -- unless the parties want to do this on their own,  
23 I mean, I think in terms of the scope of the search, you  
24 know, that's -- again, that's typically something that  
25 counsel would do with here's the custodians or the

1 accounts you're going to search and here's the search  
2 terms.

3 You know, you all know -- certainly, Ms. Governski  
4 and Mr. Gordon, since you've been involved, know this case  
5 better than I do. So that may be something that's easier  
6 for you to do after this hearing than to do it right now.

7 But what -- here's -- I guess here's what I'm  
8 thinking and here's what I'm inclined to do. I'm inclined  
9 to tell the parties that you need to -- you need to confer  
10 about the scope of the search and if you can't agree on  
11 the scope of the search -- what I -- actually, what I think  
12 I might do is just I can set a status conference for next  
13 week and ask you all to confer about the scope of the  
14 search.

15 If you can't agree on it, then let's talk about  
16 it next week and we can -- can I decide it. You can bring  
17 it to me and I can decide it, but see if you can agree on  
18 it first because I think that would be a better result for  
19 everybody.

20 And then once we've got that down, Mr. Gordon,  
21 you do the search and you put together a privilege log  
22 for what believe is covered under this journalist  
23 privilege. And in that privilege log, of course, you  
24 know, do not include any details that would reveal the  
25 information that is itself privileged or protected. If

1 there's a confidential source, just call it a confidential  
2 source.

3                   But -- but it would need to track -- and I would  
4 suggest you're probably familiar with the Middle District  
5 Civil Discovery Handbook. It has a suggestion for what a  
6 privilege log should include. It's not binding, but it's  
7 a suggestion and I think it's a good one.

8                   And provide that privilege log and then that  
9 way, Ms. Governski, once we've -- once we've got that,  
10 then we can -- I think we can have a more meaningful  
11 discussion about overcoming the privilege and we can --  
12 we can do that then.

13                   So why don't -- let me -- let me get a time  
14 from you all for next week when we can reconvene and  
15 we'll do it by Zoom. I'm -- I'm pretty open next week  
16 if you wanted to do -- what, today's Wednesday. So we  
17 can do after Wednesday maybe. Thursday or Friday?

18                   Do you all have any time Thursday or Friday  
19 next week?

20                   MS. GOVERNSKI: Either of those days is fine  
21 for me, your Honor.

22                   THE COURT: Okay.

23                   MR. GORDON: In the afternoon on Thursday or  
24 Friday, either the 30th or 31st, that would be fine for --  
25 for us, your Honor.

1                   THE COURT: Okay. How does -- how does 3:00  
2 o'clock on Thursday look?

3                   Does that --

4                   MS. GOVERNSKI: Perfect.

5                   THE COURT: Does that work --

6                   MR. GORDON: With the --

7                   THE COURT: -- for you, Mr. Gordon?

8                   MR. GORDON: With -- I -- with the caveat that  
9 I am scheduled for a mediation in a -- again, I don't know  
10 how to put this lightly, but a dead baby case.

11                  THE COURT: Oh, okay.

12                  MR. GORDON: But it -- it should be fine. Again,  
13 I -- I would say Friday is probably a little bit better.

14                  THE COURT: How about -- okay. Friday? Let's  
15 see here.

16                  What about -- what about November at 11:00?

17                  MR. GORDON: That'll work really, really well,  
18 Judge.

19                  THE COURT: Okay.

20                  MS. GOVERNSKI: That's fine for me, your Honor.

21                  THE COURT: Okay. So let's do -- let's do  
22 Friday at 11:00 a.m. on the 31st and I'll just enter an  
23 endorsed order directing the parties to confer about the  
24 scope of the search on the subpoena and be prepared to  
25 discuss any issues with that scope on next Friday.

1                   If you all are able to agree to the scope  
2 of the search, then you can email my chambers and let  
3 us know and we can -- like, I would say we could cancel  
4 the status, but we will need -- after that search, I  
5 will probably need to talk, Mr. Gordon, about if there  
6 is additional searching that you need to do, what kind  
7 of time you need to do that and prepare a privileged  
8 log.

9                   So sorry. I'm sort of thinking out loud.  
10 Why don't we just go ahead and we'll have the status  
11 and we'll talk about next steps. But just be prepared  
12 to discuss whether if you haven't agreed, then what  
13 the disagreement is. And then if you have agreed, let's  
14 think about what time you need, Mr. Gordon, to do the  
15 search and to create the privilege log and then we can  
16 move from there and then set further deadlines.

17                   MR. GORDON: Yes. Yes, your Honor.

18                   THE COURT: As I said, I know this has been  
19 sitting for a couple months and I'd like to get it  
20 resolved expeditiously, but I know you need time to do  
21 this appropriately. So...

22                   MR. GORDON: Yes, your Honor.

23                   I -- I understand and I appreciate the opportunity  
24 to have been heard. So thank you.

25                   THE COURT: Okay.

1 MS. GOVERNSKI: Your Honor?

2 THE COURT: Yes. Go ahead.

3 MS. GOVERNSKI: Just on the timing, you know,  
4 our summary judgment is due November 12th, I think, or  
5 14th. So it -- and discovery is closed. So I do  
6 appreciate your sensitivity to the timing. I think it  
7 will make collection and search have to be pretty  
8 compressed here.

9 THE COURT: It sounds like Mr. Gordon has  
10 already -- already has sense or maybe has already done  
11 some amount of searching already.

12 I mean, given that there's a declaration from  
13 Mr. Signore about agreements or contracts, I mean, it  
14 sounds like there has already been some search.

15 MS. GOVERNSKI: Yeah.

16 THE COURT: So I'm sort of expecting that --  
17 again, leaving open, Mr. Gordon, of course, that you  
18 need time to do this, but my anticipation is that based  
19 on our conversation today, a lot of searching has already  
20 happened, maybe there's some additional searching that  
21 needs to be done and then it's just a matter of putting  
22 together a privilege log.

23 MS. GOVERNSKI: Yeah. Given that he said there's  
24 none -- no comms in 2024 and I have some -- I have one, you  
25 know, I just want to make sure that we're not relying on a

1 search that is not comprehensive, but -- but the point is  
2 obviously very well taken.

3 One thing I just -- I didn't want to let go  
4 unchecked, Mr. Gordon referred to a judicial notice filing.  
5 I haven't seen that or received that.

6 THE COURT: I haven't seen it either.

7 MS. GOVERNSKI: I don't know what you're talking  
8 about. I do take significant umbrage with claiming that  
9 we have not been persistent or attempted to seek these  
10 communications from the defendants. I think the -- the  
11 record seven motions to compel and a motion for spoliation  
12 blatantly contradicts that. So I -- I just didn't want  
13 that to go unsaid.

14 THE COURT: Thank you. I appreciate that.

15 We -- we will have -- I think that's -- I  
16 think that's going to be -- I've -- I've heard both  
17 parties and I've read your briefs and I think that's  
18 probably going to be our topic for another day that  
19 we'll get into more thoroughly, but I do understand what  
20 you're saying, Ms. Governski.

21 MS. GOVERNSKI: Thank you so much.

22 THE COURT: All right. Well, thank you all  
23 for your time.

24 We will be adjourned.

25 MR. GORDON: Thank you, your Honor.

--00000--

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 UNITED STATES DISTRICT COURT )

2 )

3 MIDDLE DISTRICT OF FLORIDA )

4

5 REPORTER TRANSCRIPT CERTIFICATE

6

7 I, LORI ANN CECIL VOLLMER, Official Court Reporter  
8 for the United States District Court, Middle District of  
9 Florida, certify pursuant to Section 753, Title 28, United  
10 States Code, that the foregoing transcript is a true and  
11 correct transcription of the stenographic notes taken by the  
12 undersigned in the above-entitled matter, Pages 1 through 34,  
13 and that the transcript page format is in conformance with  
14 the regulations of the Judicial Conference of the United States  
15 of America. I further certify that I am not attorney for, nor  
16 employed by, nor related to any of the parties or attorneys to  
17 this action, nor financially interested in this action.

18 IN WITNESS WHEREOF, I have set my hand at Tampa,  
19 Florida, this 18th day of January 2026.

20

21 /s/ Lori Ann Cecil Vollmer

22 Lori Ann Cecil Vollmer, CSR, RPR  
23 United States Court Reporter

24

25

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION