

EXHIBIT 3

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 } No. 8:25-mc-28-WFJ-LSG
8 BLAKE LIVELY, }
9 Respondent. }
10

11 STATUS CONFERENCE HEARING
12

13 Heard in Courtroom 9B
14 Sam M. Gibbons United States Courthouse
15 801 North Florida Avenue
16 Tampa, Florida 33602
17 Friday - October 31, 2025
18 11:00 a.m. - 11:34 a.m.

19 BEFORE THE HONORABLE LINDSAY SAXE GRIFFIN
20

21 UNITED STATES MAGISTRATE JUDGE

22
23 Lori ANN CECIL VOLLMER, CSR, RPR
24 Federal Official Court Reporter
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

1 APPEARANCES

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1 PROCEEDINGS

2 (Open court.)

3 (Court called to order.)

4 COURTROOM DEPUTY: This Court calls *Case No.*

5 *8:25-mc-28-WFJ-LSG, Popcorned Planet, Incorporated versus*
6 *Lively.*

7 THE COURT: All right. Good morning.

8 I'll have appearances from counsel, please.

9 MR. GORDON: Good morning, your Honor.

10 Jack Gordon on behalf of Popcorned Planet.

11 THE COURT: Thank you. Good morning.

12 MS. GOVERNSKI: Good morning.

13 Meryl Governski, your Honor, on behalf of
14 Ms. Lively.

15 THE COURT: Great. Thank you, Ms. Governski.

16 All right. So we are here as a follow-up to
17 last week's hearing.

18 I think the first item really for discussion,
19 we had talked about the parties having a conference about
20 the scope of the search on the subpoena.

21 So maybe, Ms. Governski, that was an issue that
22 you raised. So maybe I can start with you.

23 Have -- have you been able to reach an agreement
24 on the scope of the search?

25 MS. GOVERNSKI: Yes, we have, your Honor.

1 On -- last Friday, we provided Mr. Gordon
2 with a list of potential repositories of information,
3 of potential custodians and search terms and then we
4 conferred on that on Wednesday. And they -- Mr. Gordon
5 confirmed that they agreed to our proposal in full.

6 THE COURT: Okay. All right. Great.

7 MR. GORDON: Well, we -- we --

8 THE COURT: Go ahead, Mr. Gordon.

9 MR. GORDON: -- we -- we -- we commend defense --
10 we -- we commend Ms. Governski for narrowing the scope
11 and making it much easier by providing her itemized
12 search terms. So we appreciate the professional courtesy.

13 THE COURT: Okay. Well, wonderful. That's
14 great.

15 So then I guess the next thing is, Mr. Gordon,
16 what -- in terms of the search, have you been able to
17 conduct the search?

18 Do you have an idea of how much was turned up
19 in that search and --

20 MR. GORDON: I -- I do, Judge. I can actually
21 talk with specificity.

22 After having --

23 THE COURT: Great.

24 MR. GORDON: -- our -- our conferral on
25 Wednesday, based upon the initial information and based

1 upon the reduction in -- I don't want to say reduction
2 in scope, but the specific search terms and identities
3 and the like, I -- I became very optimistic and I really
4 wanted to have it filed before this hearing. So I
5 apologize for not otherwise being able to do that, but
6 I fully anticipate it will be filed before the end of
7 the weekend.

8 I would suggest to you it's probably 60 to 75
9 percent complete at this point in time. We have 90- --

10 THE COURT: Are you talking about the privilege
11 log? Sorry for inter- --

12 MR. GORDON: The privilege -- the privilege log,
13 your Honor.

14 THE COURT: Okay.

15 MR. GORDON: It's approximately, we think, 98
16 pieces of material are within that privilege log and again
17 we have -- we've created essentially --

18 THE COURT: You said 98?

19 I'm sorry. Ninety-eight?

20 MR. GORDON: Currently 90- -- currently up to
21 90- -- I take that back. Currently up to 94, your Honor.

22 THE COURT: Ninety-four. Okay.

23 MR. GORDON: I will tell you again it's been a
24 little bit more exhaustive because their -- their requests
25 essentially don't limit what the materials could consist

1 of. So it could be in a variety of different media,
2 whether they be paper, whether they be picture, whether
3 they be video, whether they be again interview footage,
4 things of that nature. So it's just taking a longer
5 amount of time than I had otherwise anticipated as a
6 result of that.

7 THE COURT: Okay.

8 MR. GORDON: And again, Popcorned Planet, I
9 don't want to plead -- you know, plead deprivation or
10 anything, but they only have a few employees.

11 THE COURT: Uh-huh.

12 MR. GORDON: And, you know, they've got to
13 go through a lot of stuff. So there's only three
14 people at Popcorned Planet getting me through this
15 stuff.

16 THE COURT: Yes.

17 MR. GORDON: And then, of course, Dave and
18 I have to go through and properly certify it. So it's --
19 it's taking a little bit longer than I had anticipated.
20 So I apologize --

21 THE COURT: Okay.

22 MR. GORDON: -- to opposing counsel to the
23 extent that I thought I would have it right now.

24 THE COURT: Okay. No, that's -- that's great.
25 So I guess it sounds like you anticipate probably having

1 a privilege log filed either today or early next week,
2 is that fair?

3 MR. GORDON: Yes, your Honor.

4 THE COURT: Okay. All right. Let me ask,
5 Mr. Gordon, were there any items that you returned --
6 that came back in the search that were not privileged
7 that have been able to be produced or anticipate
8 producing?

9 MR. GORDON: I want to be careful there
10 because I don't want to make arrant -- arrant exposure
11 or disclosures, so to speak.

12 But there -- we're currently doing some research
13 on some -- there are communications initiated by Popcorned
14 Planet to certain individuals who would be considered agents
15 or representatives of the defendants. The vast majority of
16 those were not responded to.

17 We're currently -- currently researching the
18 extent to -- to what extent the privilege would apply
19 to those materials because there are some individuals
20 that did not respond within the timeframe set forth by
21 Judge Liman before February 18th, but responded thereafter.

22 So it would be our position that those initial
23 initiating communications by Popcorned Planet would become
24 privileged.

25 THE COURT: Okay. All right. Well, I -- I

1 guess when you -- do you anticipate finishing that
2 review, I guess, in the same time you would finish
3 the privilege log?

4 MR. GORDON: Yes, your Honor.

5 THE COURT: Okay.

6 MR. GORDON: Part and parcel of the same work
7 that I'm -- that I had hoped to have been completed by
8 today.

9 THE COURT: Okay. All right. So then I guess
10 what we need to figure out then is -- I mean, I can -- I
11 can set sort of an outside deadline, like, for example,
12 maybe next Wednesday is good for a deadline to file that
13 privilege log.

14 But then, Ms. Governski, you'll need an
15 opportunity to review that and then I guess to the extent
16 that you have issues with the privilege log or that there
17 are again objections or -- or challenges to that privilege
18 log, then we'll have to set a time to do that.

19 So Ms. Governski, let me ask you -- I mean, it
20 sounds like the privilege log would be fairly extensive.
21 At least it's close to 100 items at this point.

22 What kind of time do you need to review that
23 privilege log?

24 And again, I think as an initial matter, if
25 you look at the privilege log and think, hey, I -- we need

1 Popcorned Planet to include some more non-privileged
2 information to help us evaluate the claim, then we could
3 address that sooner.

4 But in terms of sort of how much time you
5 need to review the substance, what -- what are you
6 thinking?

7 MS. GOVERNSKI: Well, your Honor, my question
8 is whether you are asking to review it and then hop on
9 another call or to review it and prepare something to
10 file.

11 THE COURT: Well, you know, I don't know that
12 we -- you know, how about -- we could do this. If you
13 enjoy meeting with me everything Friday, we could have --
14 we could have a deadline of, say, Wednesday for the
15 privilege log and I could just set a status for Friday --

16 MS. GOVERNSKI: Okay.

17 THE COURT: -- kind of similar to this one
18 and we could -- if there's -- to the extent there are any
19 issues with just the form of the privilege log in terms
20 of what information is included, we could talk about that
21 and then -- and then we could discuss at that point how
22 much time you need.

23 You know, I was just thinking in terms of an
24 additional filing, I mean, the parties have sort of
25 presented their arguments generally on privilege. So I

1 guess this filing would probably be just as to the --
2 I'm just -- I'm trying to save -- like, make it as
3 most expeditious and useful as I can. So would it
4 be -- is it necessary to file something or should we
5 just have more of a hearing where we go through each
6 item or we go through -- or you --

7 MR. GORDON: To -- to -- to the --

8 THE COURT: -- maybe you find categories --
9 if there are categories of things in the privilege log
10 that you want to challenge, we can have oral arguments
11 over sort of those broad categories.

12 Well, I -- I guess -- I'm sorry. I'm thinking
13 out loud. But backing up, we might actually -- if you
14 file a chall- -- if you -- if you file something explaining
15 which ones you're challenging, then I -- then I think we'll
16 need an in camera review before we have -- right?

17 Wouldn't we need that? Wouldn't we need some
18 opportunity maybe for further oral argument on this --

19 MR. GORDON: We -- we --

20 THE COURT: -- overcoming the privilege? So...

21 MR. GORDON: Based upon the case law, we would,
22 your Honor. And then you'd have to make a determination
23 again as to whether -- what -- whether an in camera review
24 is necessary.

25 MS. GOVERNSKI: Well, your Honor, also, I mean,

1 I think there is a real question of whether the privilege
2 even attaches.

3 THE COURT: Yes.

4 MS. GOVERNSKI: So, you know, we may obviate the
5 need to get into a line-by-line discussion if the privilege
6 doesn't apply at all.

7 So, you know, and it may help your Honor to
8 review the communications -- or to -- to do an in camera
9 review to determine that question. It's just it's a
10 little bit difficult --

11 THE COURT: Yep.

12 MS. GOVERNSKI: -- you know, in this posture to
13 know what is the best path forward.

14 THE COURT: Yes, I think that's right.

15 And I -- I guess my initial instinct, as I
16 explained last week, was that in order to determine whether
17 the privilege applies, I would likely need to -- to see
18 the things that are being claimed as privileged because
19 it could depend on what it -- it depends on whether
20 there's news gathering or what -- what is being done in
21 those communications in the same --

22 MR. GORDON: For --

23 THE COURT: -- way as an attorney/client privilege.

24 MR. GORDON: For --

25 MS. GOVERNSKI: Exactly.

1 MR. GORDON: For what -- for what it's worth,
2 your Honor, as an officer of the Court, I'll tell you
3 that what we are endeavoring to do is provide sufficient
4 detail and description within the privilege log that
5 would enable this Court to make a determination as to
6 whether any in camera inspection would be necessary or
7 not.

8 THE COURT: Okay.

9 MS. GOVERNSKI: Well, I think --

10 MR. GORDON: So to that -- so two things.

11 And again, I apologize for interrupting, ladies.

12 To -- to that extent, then I -- I promise I
13 fully appreciate the timeframes within which Ms. Governski
14 is -- is working and we want to try to accommodate that
15 as best as possible.

16 I -- I'm not adverse to the Court's suggestion
17 of a case management conference. I was looking at my
18 calendar during the course of your -- your -- your verbal
19 thought process, if you will, and I see that I am available
20 on Friday. I don't know if again if Meryl is as well, but
21 that may be the most expeditious fashion.

22 And then I think given the fact that we were
23 able to make some presentation of an argument last week,
24 I think -- I think the Court has an understanding as to
25 what the parameters of the various positions are.

1 And -- and I think we would be able to make
2 a determination as to whether again either the privilege
3 applies or doesn't apply or whether an in camera
4 investigation or inspection is required based upon what
5 you -- what you look at on Friday.

6 THE COURT: Okay.

7 MR. GORDON: Or what we file on Wednesday.

8 THE COURT: Yeah.

9 All right. Ms. Governski, you were going to
10 say something.

11 MS. GOVERNSKI: Oh, I was just going to say
12 I think your Friday status conference makes a lot of
13 sense and then we can decide --

14 THE COURT: Okay.

15 MS. GOVERNSKI: -- if we -- if -- if, you know,
16 we need further briefing, if you can decide on the -- on
17 the briefing itself or if we need further argument on any
18 of the specific components.

19 Your Honor, I do have two substantive points
20 to bring up, but I can -- I can wait until you're ready
21 for that.

22 THE COURT: And that's as to the -- the
23 privilege?

24 MS. GOVERNSKI: Yeah. One is as to Mr. Gordon's
25 reference to February 18th.

1 THE COURT: Oh, yes.

2 MS. GOVERNISKI: Do you want me to proceed on
3 that?

4 THE COURT: Oh, yes. Continue. Yeah. Go
5 ahead.

6 MS. GOVERNISKI: So, you know, we have not received
7 any objections from Mr. Gordon to the subpoena itself and we
8 also have not received any objections to the -- to the date
9 range.

10 The -- Judge Liman, in SDNY, did rule an outside
11 date of February 18th based on burden to the Wayfarer
12 parties to review documents after that time.

13 We would proffer that it's an open question
14 whether February 18th should apply to this subpoena as
15 well because it's a question of undue burden and we
16 don't think, based on the number of communications that
17 they've said exist up to that date, that there would
18 necessarily be the same undue burden after February 18th.

19 So I just -- you know, and -- and at the last
20 hearing, Mr. Gordon said he didn't disagree with the
21 scope of the subpoena, including a request that specifically
22 asked for materials in June of 2025.

23 So I just -- I -- I don't think that that's a
24 valid objection and I would suggest that Mr. Gordon include
25 on the privilege log responsive materials past February

1 18th.

2 MR. GORDON: Well, again, firstly, that's
3 going to take forever if that were the -- if that were
4 proper, but I would suggest that under no uncertain
5 terms that that would be legally improper pursuant to
6 Judge Liman's rulings.

7 I have Document 711 from that New York case
8 in front of me dated August 27th and 25th in which they
9 reference Docket No. 646 at Lines 6 through 9. And the
10 Wayfarer parties respond that if it's permissible, the
11 cutoff dates should be February 18, 2025.

12 And -- and that's the -- those are the
13 guidelines and the parameters that have already been
14 determined because the information that's being sought
15 in this subpoena is a function of what's relevant to
16 that and for -- and the requested information is for
17 purposes of prosecuting or defending that case in New
18 York. So to suggest otherwise, I -- I would again
19 respectfully advise the Court that I -- I think that's
20 improper.

21 THE COURT: Okay. Well, let me -- I'm going
22 to -- I'm going to take that issue under advisement.

23 Mr. Gordon, I would just ask that -- and so
24 your search -- your search hasn't -- has the scope of
25 your search been limited to that February --

1 MR. GORDON: No, and I'll just --

2 THE COURT: -- date or have you searched broader
3 than that?

4 MR. GORDON: I have searched broader than that
5 and that's part of the reason I'm not done yet. There --
6 again, there's certainly materials that I thought might
7 have been responsive that may not necessarily have been
8 privileged or I think are privileged.

9 But I have determined again that those dates --
10 those are materials that were generated or that reflect
11 communications weeks after February 18, 2025, your Honor.

12 THE COURT: Okay. Well, as long as I guess --
13 as long as, Mr. -- Mr. Gordon, that the privilege log that
14 you're compiling is going to include -- I think Ms. Governski
15 is right. I think -- well, if it's privileged and it's
16 after that February date, I'd ask that you include it in
17 your privilege log. If it's not privileged then -- then
18 hold it. Then --

19 MR. GORDON: Then -- then -- then I --

20 THE COURT: -- I think you should hold it.

21 MR. GORDON: -- then I think we're going to have
22 a real problem then, Judge, in terms of being able to get
23 the information prior to Wednesday.

24 THE COURT: Okay. So what's the --

25 MR. GORDON: We're talking --

1 THE COURT: -- what's the --

2 MR. GORDON: -- sub- -- we're talking substantial
3 materials or at least that we have to comb through and those
4 are not things that can be combed through by virtue of a
5 computer search term. They're --

6 THE COURT: Okay.

7 MR. GORDON: It's information that's contained
8 in a different media and a different format.

9 THE COURT: Okay.

10 MS. GOVERNSKI: Your Honor, if -- if -- to the
11 ex- -- I'm sorry.

12 May I --

13 THE COURT: Go ahead.

14 MS. GOVERNSKI: -- respond to that?

15 THE COURT: Yes.

16 MS. GOVERNSKI: It may be that Mr. Gordon is
17 referring to video that Popcorned Planet has compiled
18 because he's making a documentary on the subject.

19 I would -- I think we could probably offer a
20 compromise where the initial privilege log does not log
21 all of the video content materials and rather just the --
22 you know, more of like the communications in the first
23 instance so we can see what we're dealing with as
24 opposed to logging -- going through and logging all of
25 the documentary evidence.

1 I would reserve the right to come back and
2 seek that, but I think in the interest of time, we
3 could probably reach some sort of compromise on that.

4 THE COURT: Mr. Gordon, does that -- does
5 that help?

6 MR. GORDON: Respectfully, I don't think it
7 does, Judge, because we're talking about -- there were
8 substantial interviews that were conducted.

9 Again, I -- I want to be careful here because
10 I don't want to make arrant disclosures, but there --
11 there's substantial materials as part of that documentary --
12 that are part of that documentary, but that are well beyond
13 the cutoff date. I'm not --

14 MS. GOVERNSKI: Your Honor, you know, essentially
15 Mr. Gordon has confirmed that those materials would be
16 responsive and I guess he is questioning the relevance of
17 them to the complaint.

18 The complaint expressly alleges an ongoing
19 campaign of retaliation and I would again refer the Court
20 and Mr. Gordon to the actual opinion that the Court entered
21 when it was considering a cutoff date and that it was not
22 really focused on a relevant inquiry, but rather on an
23 undue burden inquiry and I don't think there's anything
24 before the Court to properly make that determination here.

25 MR. GORDON: Well, I --

1 MS. GOVERNSKI: And he admits he's in regular
2 contact with agents for the defendants. That feels to me
3 like squarely relevant and responsive.

4 MR. GORDON: I would -- I would respectfully
5 suggest, Judge, that that's directly con- -- my understanding
6 is that's directly contrary to what the Court ruled. The
7 Court has specifically indicated that information beyond
8 that date is not relevant.

9 THE COURT: And what's the document number of
10 that ruling and that --

11 MR. GORDON: I'll give you a couple, Judge.
12 It's -- it's referenced at least -- the two that I pulled
13 is Docket No. 711, seven-one-one. I'll reference Page 11
14 of that document. It was filed on August 27, 2025. I
15 apologize. Page 11 of 16 is what it was.

16 And if the Court could look at the second
17 paragraph of that, it also references or incorporates by
18 reference Docket No. 646 at Pages 6 through 9.

19 THE COURT: All right.

20 MS. GOVERNSKI: Your Honor, let me just --
21 if -- if you could just give me one quick moment, I just
22 want to make sure that there's not another part of that
23 opinion, that is.

24 MR. GORDON: That's --

25 MS. GOVERNSKI: I know 711 is the one I'm just

1 Looking at the Court's reasoning.

2 MR. GORDON: Perhaps this may -- again, I
3 don't want to interrupt Meryl's thought process, but
4 the Court expressly stated that moreover the further
5 in time the documents are from the allegations in the
6 complaint, the more likely they are to pertain to this
7 litigation itself, not to the allegation as set forth
8 by Ms. Lively in her -- in her complaint.

9 MS. GOVERNISKI: Well, what -- what's the exact --

10 MR. GORDON: That -- that's --

11 MS. GOVERNISKI: Mr. Gordon, what page --

12 MR. GORDON: -- that's when the Court made the
13 determin- -- I'm sorry. That's where --

14 THE COURT: And what page are you reading from?

15 MR. GORDON: Page -- Page 11 of 16, your Honor,
16 in Document 711.

17 MR. GOVERNISKI: Yeah. Okay.

18 MR. GORDON: The relevance diminishes over time
19 when there's greater distance from the underlying allegations
20 in the complaint.

21 MS. GOVERNISKI: Right. So --

22 MR. GORDON: Each of the -- each of the Wayfarer
23 parties is accordingly ordered to provide responses to the
24 enumerated request for production through February 18, 2025,
25 on Page 12.

1 MS. GOVERNSKI: Well, it says also given the
2 likely relevance of these materials decreases over time,
3 the proportionality and tailoring of Lively's requests
4 do as well. Requiring the Wayfarer parties to produce
5 documents for the last nine months would not only be
6 burdensome, but likely sweep in extraneous materials
7 outside the four allegations in the suit.

8 I don't think you can divorce the relevance
9 analysis there from the unburden analysis there. They
10 didn't say -- he didn't rule that they were not relevant.
11 He ruled that relevancy decreases and that's a consideration
12 when you're looking at also the undue burden.

13 When you have seven parties with undeniably a lot
14 more responsive materials, that's a totally different burden
15 and undue burden analysis than here.

16 So, I mean, you know, I just -- I think that
17 this is not fully briefed and fully decided and I think
18 given that they're going to assert privileges on everything
19 and given that they have not raised any objections and
20 did not raise this objection when the Court asked if he
21 had any issues with the scope, I think he should log them
22 on a privilege log. If the privilege applies, then they
23 don't have to produce them.

24 And it seems to me, even based on what Mr. Gordon
25 just said, the issue is these interviews, which are videos.

1 So if you just, in the first instance, don't log the
2 videos, I just -- I can't image how burdensome this is.

3 And furthermore, the fact even that he's
4 talking about how burdensome this would be for Popcorned
5 Planet means there must be a significant amount of
6 communication with the Wayfarer defendants and with their
7 agents, which, in my -- which I would respectfully suggest
8 to the Court indicates that these are directly relevant
9 communications.

10 These are a content creator having direct
11 communications with the defendants or their agents. It's
12 hard to imagine anything more relevant than that.

13 MR. GORDON: More relevant to this litigation,
14 which is expressly outside the scope of what's permitted.

15 MS. GOVERNSKI: It's not expressly outside
16 the scope, Mr. Gordon. We specifically talk about
17 ongoing harm of retaliation --

18 THE COURT: Yeah. Well --

19 MS. GOVERNSKI: -- up to the present of when
20 you file.

21 THE COURT: Well, and I -- I -- let me -- I'm
22 not certain to the -- what extent I am controlled by that
23 order either because this is a third party subpoena and
24 in my view, I think it's -- it is pertinent what the judge
25 in New York found, but I think here, I -- nobody has --

1 I've certainly not seen the argument that this particular
2 ruling as to relevance and undue burden as to the Wayfarer
3 defendants should automatically apply in this instance.

4 And, you know, I do think, Mr. Gordon, we
5 did -- you're kind of backtracking a little bit because
6 we covered this ground last Friday when I inquired about
7 whether there were any objections to the scope of the
8 information sought in the subpoena.

9 What I'd like to do is we're going to proceed
10 as -- as planned. Mr. Gordon, if you find -- and I think
11 as -- as to what Ms. Governski said, if there is video
12 content material beyond the February deadline, do not log
13 that in your privilege log, but if there are communications
14 outside of the videos or -- or other documents again
15 outside the video content, then please do endeavor to
16 include those in your privilege log if -- if Popcorned
17 Planet is claiming privilege.

18 If you find that -- that you are needing more
19 time to do that than Wednesday, then please -- please
20 file a request and we'll -- we'll give you more time to
21 do that. But I -- I do think that that -- that should
22 be done. I'm -- and again, I'm going to look at this a
23 little bit closer because it wasn't -- it wasn't raised
24 last -- last week and I don't think it was -- I know
25 there was a burden argument raised by Popcorned Planet,

1 but I don't know that this particular one was. So I
2 need more time to look at it before I can decide the
3 issue.

4 But in the meantime I would -- I would like
5 you, Mr. Gordon, to have your client log any communications
6 outside of the videos beyond February and let us know
7 if you need more time.

8 MR. GORDON: I'll -- I'll advise the Court now
9 that I anticipate having to make that request. We'll --
10 we'll --

11 THE COURT: Okay.

12 MR. GORDON: I promise -- and we'll exercise
13 good faith effort, but I --

14 THE COURT: Okay. Well --

15 MR. GORDON: -- don't suspect that will happen.

16 THE COURT: -- just confer with Ms. Governski
17 about the time that you need and, you know, I only need,
18 like, a one pager or something --

19 MR. GORDON: Okay.

20 THE COURT: -- on the record, but not -- not
21 much. So let me know what you need and we'll -- we'll
22 get that taken care of.

23 All right. So with that, I -- I think,
24 Ms. Governski, was there -- was there another substantive
25 item you wanted to raise?

1 MS. GOVERNSKI: There was. It has to do
2 with the request for judicial notice. So I -- I will
3 hold that until we're done with the privilege conversation.

4 THE COURT: Yeah, yeah. Let's do that. Let's
5 do that.

6 Okay. Well, thank you. Mr. Gordon, was there
7 any -- I'm sorry.

8 Go ahead, Ms. Governski.

9 MS. GOVERNSKI: But I would like to address it
10 today, your Honor, I meant.

11 THE COURT: Oh, okay.

12 MS. GOVERNSKI: Just very quickly.

13 THE COURT: Sure. Well, no, I do think -- I
14 think we are finished as far as the privilege log is
15 concerned. I -- I think we're finished with that.

16 MR. GORDON: We understand the ruling on this
17 side, your Honor.

18 THE COURT: Yeah. Okay. Thank you.

19 Go ahead, Ms. Governski.

20 MS. GOVERNSKI: My only point about the -- you
21 know, I'm trying to avoid filing more on the docket in
22 terms of opposing the judicial -- request for judicial
23 notice. So I thought it might -- if -- if we could take
24 five minutes to talk about it now, it might obviate the
25 need for me to file something --

1 THE COURT: Sure.

2 MS. GOVERNNSKI: -- if that's okay with your
3 Honor.

4 THE COURT: Yes, that is. Okay.

5 (Inaudible verbiage in the background with unknown
6 individuals.)

7 THE COURT: I'm sorry. Mr. Gordon, did you have
8 something that -- to raise?

9 MR. GORDON: Yeah, Judge. My concern is that
10 again, I'm at a serious disadvantage here because the
11 vast majority of materials are sealed. I don't know how
12 intelligently I can talk about documents.

13 MS. GOVERNNSKI: My goal --

14 THE COURT: Well, I see --

15 MS. GOVERNNSKI: -- is not to talk about the
16 specific documents.

17 THE COURT: No. I think -- I think Ms. Governnski
18 is talking about Document 16 that you filed last week and
19 so I -- I -- I anticipate that Ms. Governnski's discussion
20 will be surrounding those documents, is that right?

21 MS. GOVERNNSKI: That's right, the specific
22 documents that they filed and asked for judicial notice
23 of.

24 THE COURT: Okay. Yeah, yeah. Go ahead.

25 MS. GOVERNNSKI: Yeah. So, you know, there's a

1 number -- fundamentally, we don't have an issue with the
2 Court taking judicial notice of those specific documents.

3 What we do have an issue with is the attempt
4 to essentially amend or supplement the briefing by
5 discussing why Popcorned Planet views these documents
6 as relevant.

7 The -- the back half, I think Pages 5 to 7
8 of their motion, discusses why they think that these
9 are relevant, which is outside the bounds, we think,
10 of proper judicial notice and also is, you know, contrary
11 to the local rules because it's essentially an attempt
12 to reply.

13 And given the conversation last time about,
14 well, I should have filed a motion to strike, I just
15 wanted to bring it up because if the Court is inclined
16 to just take judicial notice of these filings, that's
17 fine. But to the extent that the Court would consider
18 the substantive points as argument with respect to the
19 briefing, then we would go ahead and file an opposition
20 and potentially a cross-motion.

21 We also would say, you know, as your Honor
22 saw, we were surprised by the filing. We were not
23 conferred with in advance of the filing, which is contrary
24 to the local rules as well.

25 And so I just bring this up since we happen to

1 be on the call really in the hope to obviate more filings
2 with the Court depending on what your Honor is going to do
3 with the settlement.

4 UNIDENTIFIED MALE VOICE: Take notice of something
5 that's in the public record.

6 THE COURT: Mr. Gordon, do you have a response?

7 MR. GORDON: Yeah, yeah.

8 Firstly, we don't have to confer for -- on a --
9 on a request for judicial notice pursuant to local rules.

10 Number two, again, the -- the -- the purpose of
11 filing those documents asking the Court to take a look at
12 them was that they're -- at the time that the information
13 was provided in New York, Ms. Governski's client had the
14 opportunity to file additional motions to compel or to
15 otherwise file a motion suggesting that it was insufficiently
16 responsive. She failed to do that as it related to
17 Popcorned Planet.

18 Certainly, they did it with respect to Snapchat
19 GT, I think it's called. Here's what I say about the
20 serious disadvantages because thereafter, there was a
21 motion for spoliation filed apparently going to this
22 very issue. The problem is that's also sealed.

23 So I -- I -- I -- I can't speak intelligently
24 about what the position is about the best way for me to
25 respond to what's been suggested by Ms. Lively's counsel.

1 MS. GOVERNSKI: Well --

2 THE COURT: Go ahead, Ms. Governski.

3 MS. GOVERNSKI: Well, I would respond to that
4 twofold.

5 A significant amount of the judicial -- the
6 documents that he re- -- well, he actually just proved
7 my point, which is he's trying to use these judicial
8 arguments to supplement his exhaustion argument.

9 So to the extent that that's what Mr. Gordon
10 wants to do, he failed to seek leave to do that. If
11 your Honor is inclined, then I would file our own reply
12 that explains exactly what he just said, which is not
13 part of the judicial notice motion, which is we did
14 file a motion for spoliation.

15 While parts of that are redacted, other parts
16 are not, which indicates that there has been spoliation
17 of Signal evidence and that the defendants have confirmed
18 that they communicated with Signal with content providers.

19 So additionally, Mr. Gordon has just admitted
20 that he doesn't have the full picture. So for him to
21 submit random pieces of information from a docket as an
22 intent to bolster an exhaustion argument, is -- it puts
23 us in a position where we need to respond so that the
24 full information is out there, including our various
25 efforts at exhaustion.

1 So this all goes back to the same point,
2 which is if the Court wants to take judicial notice of
3 those documents we don't have -- we don't have issues
4 with that. In fact, we sought judicial notice in our
5 opening motion, including of some of the documents he
6 requested.

7 But if the Court is going to consider and
8 potentially rely on the argument he's trying to make,
9 including here today, that these documents somehow
10 demonstrate a lack of exhaustion, we would seek leave
11 to file an opposition and potentially a cross-motion
12 on why that is not true.

13 THE COURT: Mr. Gordon, I -- I tend to agree
14 with Ms. Governski that although just requesting judicial
15 notice is -- is one thing and certainly something you
16 do not have to confer on to request judicial notice of
17 another court proceeding, but there is -- there is more
18 than just that in Document 16.

19 You know, there is a relevance argument that
20 I think is -- it's outside of the briefs and Local Rule
21 3.01 does require that if you're going to file something
22 as -- other than, for example, a notice of supplemental
23 authority, if you're going to file something that's going
24 to supplement your brief, typically that's a reply or a
25 surreply. You need to ask relief to do that.

1 You know, I -- I -- I'll just be frank with
2 you, knowing that there was another case and having
3 it be presented by Ms. Lively here, you know, I'm more
4 likely to take judicial notice of the fact that that's
5 there and -- but I -- I think if you're going to --
6 and -- and I will do that and we can take judicial
7 notice of -- of these particular things, but I think
8 considering argument outside of the briefs is problematic
9 because either -- I mean, either -- as Ms. Governski
10 said, either we're in the position where I need to
11 permit Ms. Lively to respond substantively to this or
12 we need to not consider it.

13 And, you know, I'm going to give -- I'm going
14 to give the parties an opportunity -- we are going to
15 have an opportunity, I think, for some further argument
16 here on the issue once I get more information in the
17 form of the privilege log and potentially an in camera
18 review.

19 And so, you know, Mr. Gordon, you can -- you
20 can make your oral argument about -- about that, but
21 I think as far as it concerns the written briefs, I'm
22 not inclined to consider argument that's made outside
23 of -- outside of the briefs and outside of what's
24 permitted under the local rules.

25 So I hope that's clear. I -- I am willing to

1 take judicial notice of the -- of these -- these facts
2 that have been presented in terms of the orders and
3 the other attachments to Document 16, but I'm -- I am
4 not going to consider the argument that's raised at
5 least as far as the briefs are concerned.

6 Mr. Gordon and Ms. Governski, you can both
7 provide oral argument when we get there on the impact
8 of these things, but as far as the written record,
9 I'll enter an order to that affect on Document 16.

10 MS. GOVERNISKI: Thank you, your Honor.

11 THE COURT: All right. So anything further,
12 Ms. Governski?

13 MS. GOVERNISKI: Nothing from me, thank you.

14 THE COURT: Mr. Gordon, is there anything from
15 Popcorned Planet?

16 MR. GORDON: No, your Honor.

17 THE COURT: Anything further?

18 MR. GORDON: Anything further, no.

19 THE COURT: Okay. All right. So we'll get
20 an endorsed order on the deadline for the privilege log.

21 We'll set up a status for next Friday.

22 And then, as I said, Mr. Gordon, if you need
23 additional time just confer with Ms. Governski and let
24 us know.

25 MR. GORDON: Thank you, your Honor.

1 While we have you --

2 THE COURT: Yes.

3 MR. GORDON: -- the benefit of you on screen,
4 can we coordinate for that time on Friday?

5 THE COURT: Absolutely. Yep.

6 This Friday, I'm -- I'm good pretty much any
7 time up until 11:00 Friday morning or after about -- at
8 about 1:30 Friday. So I can do afternoon or morning.

9 MR. GORDON: I'm a little -- I would be double
10 booked in the morning. So 1:30 is better for Popcorned
11 Planet.

12 MS. GOVERNSKI: 1:30 works for me.

13 THE COURT: Okay. All right. Then why don't
14 we plan -- we'll get it -- we'll get that entered on the
15 docket for --

16 MR. GORDON: November 3rd?

17 MS. GOVERNSKI: November 7th.

18 MR. GORDON: I'm sorry.

19 THE COURT: November 7th, yeah. November 7th
20 at 1:30.

21 MR. GORDON: Ahh, a wrong date. I apologize,
22 Judge.

23 THE COURT: Okay. No, go ahead. All right.
24 I can shift things around.

25 What do you need?

1 MR. GORDON: The morning of Friday the 7th
2 would be better than 1:30. I'm schedule for a deposition
3 in the afternoon.

4 THE COURT: Okay. What about 9:30 or 10:00?
5 Do either of those times work?

6 MR. GORDON: 10:00 o'clock works great, Judge.

7 THE COURT: Okay. Ms. Governski, does that
8 work for you?

9 MS. GOVERNSKI: It works for me too.

10 THE COURT: All right. All right. So we'll
11 do 10:00 a.m. for a status next Friday.

12 MR. GORDON: Thank you for your patience, Judge.

13 THE COURT: Oh, absolutely. Thank you both.
14 Enjoy your weekend and we will convene next week.

15 MS. GOVERNSKI: You as well, thank you.

16 MR. GORDON: Be safe all.

17 (Whereupon, the Court adjourned
18 at 11:34 a.m.)

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1 UNITED STATES DISTRICT COURT)

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3 MIDDLE DISTRICT OF FLORIDA)

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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