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VIA ECF

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

Re: *Lively v. Wayfarer Studios LLC et al.*, No. 1:24-cv-10049-LJL

Dear Judge Liman:

The Wayfarer Parties (Wayfarer Studios LLC, Justin Baldoni, Jamey Heath, Steve Sarowitz, It Ends With Us Movie LLC, Jennifer Abel, Melissa Nathan, and TAG) respectfully oppose Lively's request for another multi-week extension of her time to seek sealing of summary judgment materials and various other motions. Dkt. 1128.

The Wayfarer Parties filed opening summary judgment briefs more than a month ago, on November 12, 2025. Thereafter, Lively moved to extend the deadline to submit sealing motions until one week after the motions were fully briefed. Dkt. 985. The Wayfarer Parties opposed that motion, citing Second Circuit precedent holding that the public's right of access to the summary judgment record cannot needlessly be delayed. Dkt. 987 (citing, *inter alia*, *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 126-27 (2d Cir. 2006) (warning that "each passing day may constitute a separate and cognizable infringement of the First Amendment"); *Courthouse News Serv. v. Corsones*, 131 F.4th 59, 67 (2d Cir. 2025)).

The Court granted Lively's motion and set opening sealing motions for December 19. In granting that motion, the Court emphasized that it would "act as expeditiously as possible" to resolve sealing, consistent with the First Amendment interests articulated in *Lugosch*. Dkt. 998. At the recent post-discovery conference, the Court again correctly noted the importance of addressing sealing "relatively quickly, given the First Amendment issues that are involved whenever documents are filed under seal." Dec. 9, 2025 Tr. at 9. The Court therefore instructed that sealing motions should be filed on December 19, unless the parties made a "reasonable request" for "a little bit more time, and I say, just a little bit more time...keeping in mind the interests of the public." *Id.* at 16.

On December 17, Lively asked the Wayfarer Parties to agree to an additional 2.5 week extension. Consistent with the Court's instruction, the Wayfarer Parties responded by proposing

Hon. Lewis J. Liman
December 19, 2025

a schedule that permitted a bit more time for opening briefs, while leaving the response deadline intact, as follows:

- Opening briefs due December 29, 2025
- Oppositions due January 9, 2026

Lively's new proposal is unreasonable and unfair. It pushes back the deadline for opening briefs yet again, giving Lively nearly two months to prepare her sealing motions, while giving the Wayfarer Parties just one week to address what we anticipate will be numerous, lengthy briefs. In addition, Lively's reliance on the claimed needs of third parties is disingenuous. Lively does not have standing to speak for those parties, and none of those parties raised the possibility of an extension with the Wayfarer Parties prior to Lively's filing.

Moreover, Lively herself is evidently prepared to proceed on the schedule the Wayfarer Parties have proposed: In an email this morning, Lively's counsel asserted that Lively has already identified the "majority" of the items she wishes to seal. In her proposal to this Court, Lively suggests that she will be able to provide those redactions to the Wayfarer Parties by December 29, the same day the Wayfarer Parties proposed opening motions should be submitted. It is therefore unclear why Lively requires any further delay, or what will be gained from it, other than reducing the amount of time the Wayfarer Parties have to respond to her submission. That is not good cause. Lively's motion should be denied.

Respectfully submitted,

/s/ Jonathan P. Bach

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