

# No Malice, No Case: New York Judge Tosses Baldoni Defamation Suit Against Lively

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By [Brent Lehman](#)

In a decision issued on March 26, 2025, Judge Lewis J. Liman of the Southern District of New York granted motions to dismiss the consolidated defamation claims brought by actor Justin Baldoni and others against actress Blake Lively, publicist Leslie Sloane, actor Ryan Reynolds, and The New York Times. The lawsuit served as Baldoni's attempt to quash negative press and take hold of the public narrative. Now, with his defamation claims "thrown out" by the District Court and the press reporting that Lively has been vindicated,<sup>[1]</sup> Baldoni must wonder if his defamation claims were worthwhile.

To recap: The dispute arose from a widely circulated Times article which reported on Lively's allegations of on-set misconduct and critically described what it characterized as a "smear campaign" orchestrated by Baldoni to undermine her reputation. Lively had made the claims in a filing with the California Civil Rights Department, a required precursor to filing a lawsuit in civil court.

In dismissing the complaint, Judge Liman applied the heightened standards that govern defamation claims by public figures, such as Baldoni, emphasizing both the actual-malice requirement and several long-standing privileges that shield certain journalistic and litigation-related communications.

## Actual Malice Standard

From the outset, the court recognized that Justin Baldoni and his co-plaintiffs, including Wayfarer Studios and the individual executives behind it, indisputably qualify as public figures. Under *New York Times Co. v. Sullivan*, public officials and figures cannot recover for defamation without proving "actual malice" that the defendant either knew a statement was false or acted with reckless disregard for its truth.<sup>[2]</sup> The Court analyzed the various statements at issue and determined that Baldoni was unable to show actual malice.

The fact that Baldoni denied the allegations in Lively's complaint in the strongest possible terms had no impact on the Court. Drawing on Second Circuit authority, including *Biro v. Condé Nast*<sup>[3]</sup> and *Dongguk University v. Yale University*,<sup>[4]</sup> Judge Liman reiterated that "mere denials, however vehement, are so commonplace ... that, in themselves, they hardly alert the [listener] to the likelihood of error" and that a plaintiff must plead particularized facts giving rise to a plausible inference of actual malice.

## Fair Reporting in the Litigation Context

Beyond actual malice, Judge Liman turned to several privileges that independently foreclosed liability. First, the fair report privilege shields "a fair and true report" of official proceedings, even if the underlying allegations are unproven or later disproven.<sup>[5]</sup> Under California law,<sup>[6]</sup> that privilege extends not only to publications of filed documents but also to pre-filing communications made in good faith to the press, so long as the speaker intends to initiate the judicial or quasi-judicial process.<sup>[7]</sup> Here, Lively's provision of her complaint to the Times, filed months before the administrative action was formally docketed, fell squarely within that "bridge" between litigation privilege and fair report privilege, insulating the Times' recounting of Lively's own allegations.

The heart of Baldoni's lawsuit was that the Times article went beyond fair reporting of Lively's civil rights complaint by relying on additional internal communications, text messages, and emails to support its characterization of a coordinated effort to seed negative stories. But the court concluded that, even accepting as true the plaintiff's allegations regarding cherry-picked communications, none sufficed to show that the Times or its reporters harbored serious doubts about the accuracy of their reporting. As Judge Liman observed, while access to unredacted messages might underpin a plausible suspicion of falsity in some cases, here the uncontroverted authenticity of the documents themselves tended to confirm (rather than contradict) the article's core narrative, that Baldoni and his cohorts had discussed strategic messaging against Lively.

Judge Liman also addressed whether the "smear campaign" language constituted non-actionable opinion. The fair report privilege protects not only literal recitations of filings but also "[c]lear context and structure," indicating that certain characterizations rest on disclosed facts.<sup>[8]</sup> Although a reasonable factfinder might ultimately conclude that the phrase implied reliance on undisclosed messages, prompting a jury question, the plaintiffs failed to allege that those statements were accompanied by actual malice.

Having found the pleadings insufficient both to demonstrate actual malice and to overcome these privileges, the Court dismissed the claims. While Baldoni can file an amended complaint with respect to certain claims, he and his co-parties are barred from alleging defamation moving forward.

## Implications and Best Practices

This outcome feels like a massive loss for the Baldoni side of the ledger and should act as a cautionary tale for those seeking to file defamation strike suits. Baldoni and his team took a big risk in attempting to get the upper hand in the public arena by being first to file.

Judge Liman's opinion underscores the formidable barrier posed by *New York Times Co. v. Sullivan* and its progeny. Plaintiffs must provide concrete, non-conclusory evidence, emails, internal memoranda, or credible witness testimony, showing that a defendant doubted the truth of its statements. Absent that, even the most sympathetic allegations of reputational harm will founder at the pleading stage.

Conversely, journalists and legal advisors can take comfort that fair reporting of governmental or administrative filings enjoys broad protection, and that early communications to the press in the lead-up to litigation will generally be immune under both litigation and fair-report privileges. Yet, the decision also cautions that characterizations, such as "smear campaign," should be tethered clearly to disclosed documents to ensure they are treated as opinion based on facts, rather than disguised defamatory assertions.

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[1] "Blake Livley Just Smoked Justin Baldoni in Court." <https://slate.com/life/2025/06/blake-lively-justin-baldoni-lawsuit-dismissed-taylor-swift.html>

[2] *New York Times v. Sullivan* (1964) 376 U.S. 254, 279.

[3] *Biro v. Conde Nast*, (S.D.N.Y. 2012) 883 F. Supp. 2d 441, 456.

[4] *Dongguk Univ. v. Yale Univ.*, (2d Cir. 2013) 734 F.3d 113, 123.

[5] *Healthsmart Pacific, Inc. v. Kabateck*, (Cal Ct. App. 2007) 7 Cal.App.5th 416; see also *Cal. Civ. Code* § 47(d).

[6] The litigation privilege claims were analyzed pursuant to California law based on choice of law provisions for the underlying project and based on the venue from which the claims arose.

[7] *Carver v. Bonds*, (Cal Ct. App. 2005.) 135 Cal.App.4th 328.

[8] *Argentieri v. Zuckerberg*, (Cal. Ct. App. 2017) 214 Cal. Rptr. 3d 358, 373.



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