Proskauer

Lights, Camera … Legal Power: Lively v. Wayfarer and the Expanding Reach of FEHA

California Employment Law Update on **April 13, 2026**

The recent court opinion in *Lively v. Wayfarer Studios LLC et al* involves quite literally a Hollywood drama, but it's chock-full of practical lessons for employers in and outside Tinseltown —particularly those with connections to California. The case touches on alleged worker misclassification, retaliation, and the geographic reach of California's strict employment laws.

The well-publicized dispute stems from the production of the 2024 film *It Ends With Us*. Actress Blake Lively, who starred opposite Justin Baldoni (also the film's director and affiliated with Wayfarer Studios), alleges that after she raised concerns about sexual harassment, the defendants retaliated against her by orchestrating a campaign to damage her reputation.

On April 2, a federal court in New York dismissed several of Lively's claims, including those brought under Title VII of the federal Civil Rights Act and California's whistleblower law (Labor Code § 1102.5). However, the court allowed Lively's retaliation claim under the California Fair Employment and Housing Act ("FEHA") to proceed, an outcome with important implications for employers.

A key issue was whether Lively was as an employee or an independent contractor. Despite the highly structured and collaborative nature of film production, the court concluded she was an independent contractor based on factors such as her significant creative control over this discrete film project. The court also clarified that working under direction—even in a literal sense on a film set—does not automatically establish an employment relationship. Instead, traditional factors such as independence and economic reality remain central.

While this classification analysis may appear favorable to employers, the court's treatment of retaliation claims under FEHA complicates the picture. Notably, the court took the view that FEHA applies equally to independent contractors and employees. As a result, even though Lively was deemed an independent contractor, her retaliation claims survived. The court found that the alleged reputational campaign, if proven, could constitute unlawful retaliation for her complaints.

Importantly, the decision also addresses the extraterritorial reach of California employment law. Although Lively filed suit in New York, she asserted claims under California law. The court rejected the application of California law to Lively's harassment claims, finding insufficient connection to the state, as the alleged unlawful conduct occurred primarily in New Jersey, where most of the picture was shot. However, the court allowed the retaliation claims to proceed, concluding that the defendants allegedly orchestrated a "smear campaign" against her from California.

Ultimately, *Lively v. Wayfarer* serves as a reminder that even carefully structured independent contractor relationships may result in employment-related legal risks—and employers with interstate commercial connections must remain mindful of California's expansive protections, particularly in the retaliation context. The case is scheduled for trial in New York in May. Until then, we will continue to monitor the litigation for any updates.

Related Professionals

- **Anthony J. Oncidi**
  Partner
- **Dixie M. Morrison**
  Associate