

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

Plaintiff,

No. D-101-CR 2023-00040

vs.

Judge Mary Marlowe Sommer

HANNAH GUTIERREZ-REED,

Defendant.

**RUST MOVE PRODUCTIONS, LLC'S EXPEDITED MOTION FOR  
PROTECTIVE ORDER AND TO QUASH SUBPOENA**

COMES NOW subpoenaed nonparty Rust Movie Productions, LLC (hereinafter "Rust") by and through its counsel of record, Lewis Brisbois Bisgaard & Smith, LLP (Karie J. Valentino, Abigail R. Wolberg, and Julia H. Purdy), hereby submits its Motion for Protective Order and to Quash Subpoena.

**FACTUAL BACKGROUND**

The State filed criminal charges against Hannah Gutierrez-Reed ("Defendant") on or about January 31, 2023. On or about May 9, 2023, Defendant served a Subpoena upon Rust Movie Productions, LLC demanding the production of the following:

1. All written agreements, contracts, memoranda of understanding(s) and letters of intent by and between Rust Movie Productions, Inc. and Alexander R. Baldwin III for the period of January 1, 2020 through October 21, 2021
2. All written agreements, contracts, memoranda of understanding(s) and letters of intent by and between Rust Movie Productions, Inc. and El Dorado Pictures for the period of January 1, 2020 through October 21, 2021.

See **Exhibit A**.

As the court is aware, charges against Alexander R. Baldwin III were dismissed months ago. The Subpoena purports to seek extensive information related to any and all agreements between those whom are not parties to this lawsuit. The only defendant in this matter, Hannah Gutierrez-Reed, is not (and the State does not allege she is) party to any of the agreements it is now seeking.

The Subpoena is obviously unduly burdensome and will result in unreasonable expense to Rust, in violation of Defendant's duties under 5-511 NMRA. It also seeks to force the production of immaterial and proprietary trade information between entities and people not involved whatsoever in the criminal proceedings against Defendant Hannah Gutierrez-Reed.

Accordingly, Rust Movie Productions, LLC requests this Court enter a protective order quashing the Subpoena.

### **ARGUMENT**

The Court has the inherent authority to supervise and control its docket and manage the cases before it, including issuing appropriate protective orders. *See Belser v. O'Cleireachain*, 2005-NMCA-073, ¶ 3, 137, N.M. 623, 114 P.3d 303. Pursuant to 5-511 NMRA, "[a] party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction." In addition, a subpoena may be quashed where it "subjects a person to undue burden". *Id.*

This Subpoena and the extent of documentation sought necessitate this Motion and the Court's protection. Specifically, the materials requested are clearly confidential and proprietary. Further, as stated, these requests are immaterial to the ongoing investigation and prosecution of the Hannah Gutierrez-Reed criminal action.

Defendant has been charged with one count of Involuntary Manslaughter pursuant to NMSA 30-2-3(B) and two counts of Tampering with Evidence pursuant to NMSA 30-22-5. These charges are defined as follows:

Manslaughter is the unlawful killing of a human being without malice...Involuntary manslaughter consists of manslaughter committed in the commission of an unlawful act not amounting to felony, or in the commission of a lawful act which might produce death in an unlawful manner or without due caution and circumspection.

NMSA § 30-2-3. See also 14-231 NMRA.

Tampering with evidence consists of destroying, changing, hiding, placing or fabricating any physical evidence with intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another.

NMSA § 30-22-5

There is nothing in the State's subpoena that in any way explores these charges against the Defendant. The requested agreements between productions companies simply will not assist the State in investigating and prosecuting its manslaughter and evidence tampering charges against any individual, let alone one that was not party to and did not contribute to said agreements. Rather, the Subpoena requests production of privileged and protected materials, subjects Rust Movie Productions, LLC to an undue burden, and requires disclosure of a trade secret or other confidential research, development or commercial information. These requests represent what is an obvious phishing expedition on the part of the State, using the Hannah Gutierrez-Reed criminal action as an improper vehicle to subpoena information about nonparties.

As such, Rust Movie Productions, LLC requests that the Court quash the Subpoena.

### **CONCLUSION**

WHEREFORE, Rust Movie Productions, LLC requests this Court enter a protective order related to the Subpoena, quashing the Subpoena as well as award costs and for any other and further relief this Court deems just and proper.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Abigail R. Wolberg

By: Karie J. Valentino  
Abigail R. Wolberg  
Julia H. Purdy  
8801 Horizon Blvd. NE, Suite 300  
Albuquerque, New Mexico 87113  
Telephone: 505.828.3600  
Facsimile: 505.828.3900  
[Karie.Valentino@lewisbrisbois.com](mailto:Karie.Valentino@lewisbrisbois.com)  
[Abigail.Wolberg@lewisbrisbois.com](mailto:Abigail.Wolberg@lewisbrisbois.com)  
[Julia.Purdy@lewisbrisbois.com](mailto:Julia.Purdy@lewisbrisbois.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on September 21, 2023, I electronically filed the foregoing pleading with the Clerk of the Court by using the Odyssey File and Serve electronic filing system which will serve this pleading upon all persons who have entered appearances in this case.

/s/ Abigail R. Wolberg  
Abigail R. Wolberg

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,

Plaintiff,

vs.

HANNAH GUTIERREZ

No. D-0101-CR-202300040

Defendant.

Judge Mary Marlowe Sommer

SUBPOENA DUCES TECUM

SUBPOENA FOR

SUBPOENA FOR DOCUMENTS/RECORDINGS

TO: Rust Movie Productions, LLC  
110 E. Broadway St, Hobbs, NM 88240  
c/o Corporation Service Company as agent for service of process

YOU ARE HEREBY COMMANDED TO produce at the First Judicial District Attorney's Office, care of the Special Prosecutor at 1303 Rio Grande Blvd. NW, Suite 5, Albuquerque, New Mexico 87408 on the 18<sup>th</sup> day of September at 10:00 a.m.:

All written agreements, contracts, memoranda of understanding(s) and letters of intent by and between Rust Movie Productions, Inc. and Alexander R. Baldwin III for the period of January 1, 2020 through October 21, 2021.

All written agreements, contracts, memoranda of understanding(s) and letters of intent by and between Rust Movie Productions, Inc. and El Dorado Pictures for the period of January 1, 2020 through October 21, 2021.

**You may satisfy this subpoena by e-mailing a copy of the responsive documents to Jason Lewis at [jil@jillaw.com](mailto:jil@jillaw.com) or by sending hard copies of responsive documents to: Law Office of Jason J. Lewis, LLC 1303 Rio Grande Blvd. NW Suite 5, Albuquerque, NM 87048**

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

August 26, 2023

/s/ Jason J. Lewis  
Jason J. Lewis  
Special Prosecutor  
1303 Rio Grande Blvd. NW, Ste. 5  
Albuquerque, NM 87104  
505-361-2138

THIS SUBPOENA issued by or at the request of:

/s/ Jason J. Lewis  
Jason J. Lewis  
Special Prosecutor  
1303 Rio Grande Blvd. NW, Ste. 5  
Albuquerque, NM 87104  
505-361-2138

**AFFIDAVIT OF SERVICE BY ATTORNEY**


I declare and affirm that I caused a copy of this subpoena to be served on Rust Movie Productions, LLC. on the 29<sup>th</sup> day of August 2023.

/s/ Jason J. Lewis  
Jason J. Lewis  
Special Prosecutor  
1303 Rio Grande Blvd. NW, Ste. 5  
Albuquerque, NM 87104  
505-361-2138

**RETURN FOR COMPLETION BY SHERIFF OR DEPUTY**

I certify that on the 30 day of August 2023 in LEA County, State of New Mexico, I served this subpoena on Rust Movie Productions, LLC by delivering to the authorized agent for service of process a copy of the subpoena

Served @ 11:00 AM

STANLEY JORDAN   
Sth Judicial Authorized Server  
DISTRICT ATTORNEY  
INVESTIGATOR