

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

STATE OF NEW MEXICO,

Plaintiff,

No. D-101-CR-2024-00013

vs.

Judge Mary Marlowe Sommer

ALEXANDER BALDWIN,

Defendant.

**STATE'S AMENDED¹ RESPONSE TO DEFENDANT ALEXANDER BALDWIN'S
REQUEST FOR LEAVE TO FILE SUPPLEMENTAL BRIEF IN FURTHER
SUPPORT OF DISMISSAL BASED ON THE STATE'S NEW, UNCHARGED
THEORY OF CRIMINAL LIABILITY**

COMES NOW the State of New Mexico by and through Special Prosecutors, Kari T. Morrissey and Erlinda O. Johnson, and hereby respectfully submits the following response in opposition to Defendant Alexander Baldwin's request for leave to file a supplemental brief in support of dismissal based on the State's new uncharged theory of criminal liability, and in support thereof submits the following.

INTRODUCTION

In March 2023, after the State filed the initial criminal complaint charging the defendant with involuntary manslaughter, voluminous discovery was provided to the defendant. The initial case was dismissed to allow time for further investigation. On January 19, 2024, a grand jury sitting in the First Judicial District issued an indictment charging the defendant with involuntary manslaughter alleging negligent use of a firearm and in the alternative, acting without due

¹ Amended to correct the caption and a case citation in the "Argument" section.

caution and circumspection. Contrary to the defendant's recent assertions, the State again produced voluminous discovery soon after arraignment. The State has continued to produce additional discovery pursuant to Rule 5-505 NMRA.

During the grand jury presentation, the State's expert, Bryan Carpenter, provided extensive testimony regarding the defendant's role as a producer. Mr. Carpenter also testified to the breadth of the defendant's producer contract with Rust Productions, LLC and the duties and responsibilities of producers in general. Mr. Carpenter further testified to his opinion that the defendant contributed to Ms. Hutchins death in his role as producer by "knowing what was occurring and what should have been occurring and taking no steps, repetitively, to intercede and put a stop to it and/or correct it until the tragedy (referring to the consistent safety breaches with regard to firearms on the set of Rust)." *See* State's Exhibit 1, at page 211 (Exhibit 1- Bryan Carpenter's relevant testimony before the grand jury pp. 184-216).

The State has also made dozens of witnesses available to the defense for lengthy pretrial interviews. Many of the witnesses provided information about the defendant's producer role on the Rust movie set as well as his conduct. The State produced evidence to the defense regarding the defendant's role and safety responsibilities as a producer. Early on, the defense was put on notice the State intended to introduce evidence of defendant's role as a producer, his safety responsibilities as a producer and how those safety duties were breached by the defendant. This evidence is germane to the defendant's willful, wanton and reckless conduct which shows total disregard and indifference for the safety of others. For the defense to now claim surprise is a disingenuous attempt to delay the proceedings.

ARGUMENT

Defendant's Intended Brief is Untimely

Under the guise that it seeks to supplement a motion to be heard by the Court in less than 24 hours, the defendant argues that the opinion testimony of State's witness Kent Jorgensen about the role of producers and their obligations of safety on set creates a variance between the indictment and the evidence to be presented at trial. On April 1, 2024, the defendant interviewed Mr. Kent Jorgensen for two hours. Defendant had ample time to file a pretrial motion arguing variance, by the Court's pretrial motions deadline of May 6, 2024. The defendant's belated attempt to circumvent the Court's deadlines must be rejected.

First, the defendant's attempt to argue variance is not appropriate in his motion to dismiss for failure to allege a crime. Pursuant to *State v. Foulentfont*, prior to trial, the Court can only dismiss a charge under Rule 5-601 where the facts are genuinely undisputed, or the issue is solely a legal issue and does not tread on the domain of the jury to decide the facts of a case. 1995-NMCA-028, ¶ 6, 895 P.2d 1329. Factual matters of whether a defendant acted unlawfully is not capable of resolution without a trial on the merits and is therefore not subject to a pretrial motion under the Rules of Criminal Procedure. *State v. Gomez*, 2003-NMSC-012, ¶ 5, 70 P.3d 753. Additionally, "recklessness—that is, the defendant's willful or wanton state of mind—is a question of fact" and as such cannot be decided prior to trial pursuant to NMRA 5-601. *State v. Serna*, 2017 WL 3484745, ¶ 11 (N.M. Ct. App. July 26, 2017).

Defendant's latest argument that he wishes to add to his *Foulentfont* motion is misplaced. It is a completely new pretrial motion defendant wishes to raise, outside of the court's pretrial motions deadline and therefore must be denied. In the alternative, should the Court consider the

defendant's request to supplement their motion, the State responds to the defendant's motion to file a supplemental brief in further support of dismissal as follows.

Involuntary Manslaughter

Under New Mexico law, involuntary manslaughter is an unintentional killing, *State v. Henley*, 2010–NMSC–039, ¶ 14, 148 N.M. 359, that consists of an “unlawful killing of a human being without malice ... 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 1978 § 30–2–3; *State v. Henley*, 2010–NMSC–039, ¶ 14, 148 N.M. 359. (internal quotation marks and citations omitted).

The “lawful act” portion of the involuntary manslaughter statute includes “[t]he statutory phrase ‘without due caution and circumspection’ [which] involves the concept of ‘criminal negligence.’ Criminal negligence includes conduct which is reckless, wanton, or willful.” *State v. Yarborough*, 1995-NMCA-116, ¶ 20, 120 N.M. 669 (*quoting State v. Arias*, 115 N.M. 93, 96, 847 P.2d 327, 330 (Ct.App.1993) (citation omitted)). Accordingly, the State must present evidence of criminal negligence, irrespective of the underlying statutory basis for the charge. *State v. Yarborough*, 1995-NMCA-116, ¶ 20, 120 N.M. 669; *State v. Salazar*, 1997–NMSC–044, ¶ 54, 123 N.M. 778, 945 P.2d 996 (“[I]nvoluntary manslaughter, whether premised upon a lawful or unlawful act, requires a showing of criminal negligence.”).

Criminal negligence exists where the defendant “act[s] with willful disregard of the rights or safety of others and in a manner which endanger[s] any person or property.” *State v. Henley*, 2010–NMSC–039, ¶ 16, 148 N.M. 359, 237 P.3d 103 (internal quotation marks and citation omitted); *State v. Skippings*, 2011-NMSC-021, ¶ 18, 150 N.M. 216. Criminal negligence includes conduct which is reckless, wanton, or willful. *State v. Arias*, 1993-NMCA-007, ¶8, 115 N.M.

93 (citation omitted); *overruled on other grounds by State v. Abeyta*, 1995-NMSC-051, 120 N.M. 233.

In this case, the defendant is charged with involuntary manslaughter under the theory of negligent use of a firearm and the alternative theory charging the commission of involuntary manslaughter, without due caution and circumspection by an act committed with total disregard or indifference for the safety of others. The theory charging an act committed without due caution and circumspection requires proof of criminal negligence. In proving criminal negligence, the State will present evidence of the defendant's reckless, wanton and willful conduct. Defendant's role as a producer also makes him responsible for set safety. Yet he was engaged in conduct violative of movie set safety rules. Therefore, adding to his willful, wanton and reckless conduct. In other words, defendant's role as a producer and the duties imposed on him as a producer goes to the willfulness of his conduct in violating set safety rules. The State is not seeking to argue that Defendant is criminally liable because he was a producer. The safety obligations imposed on him as a producer are directly relevant to his willful and reckless conduct showing a complete disregard for the safety of others.

There has been no surprise to the defendant. He has known since November 2023, January 2024 and more recently through pretrial interviews that the State would be introducing evidence of defendant's role as a producer. Many of the witnesses interviewed provided evidence of how the defendant was the boss on set and the one in charge. It was likely this role that emboldened him to act recklessly and with a wanton disregard for the safety of others, eventually disregarding requests from the director, resulting in the shooting of Ms. Hutchins. Additionally, in discussions with Special Prosecutor Morrissey before the defendant's indictment, defense

counsel expressed awareness that one of the State's theories dealt with the defendant's role as a producer, his responsibilities as such and his conduct contrary to his duties as a producer.

In an email dated November 1, 2023, though the prosecution never indicated the "producer theory does not have merit," defense counsel Alex Spiro nevertheless acknowledged knowing the State intended to introduce evidence of defendant's role as a producer and inquired if the State was abandoning the "producer theory." (See State's Exhibit 2) This email communication demonstrates the defense has been aware all along that one of the State's theories of proving wanton and willful disregard for the safety of others is couched in defendant's responsibilities as they relate to safety of all crew and his role as a producer which requires him to ensure the safety of others. Therefore, the defendant's request to file a supplemental brief must be denied, without a hearing.

The State's Evidence of Defendant's Role as a Producer and his Responsibilities as Such does not result in a variance Between the Indictment and Evidence

Pursuant to Rule 5-204(C),

No variance between those allegations of a complaint, indictment, information, or any supplemental pleading which state the particulars of the offense, whether amended or not, and the evidence offered in support thereof shall be grounds for the acquittal of the defendant unless such variance prejudices substantial rights of the defendant. The court may at any time allow the indictment or information to be amended in respect to any variance to conform to the evidence. If the court finds that the defendant has been prejudiced by an amendment, the court may postpone the trial or grant other relief as may be proper under the circumstances.

Rule 5-204(C) NMRA 2005. "A variance arises when the evidence adduced at trial establishes facts different from those alleged in an indictment." *Dunn v. United States*, 442 U.S. 100, 105 (1979). A variance is not fatal to the prosecution's case unless the variance affects "the substantial rights of the accused." *Berger v. United States*, 295 U.S. 78, 82 (1935).

Because a variance challenge arises only when evidence has been adduced at trial, Defendant's claim of variance at this juncture is premature and thus misplaced. *See, e.g., United*

State v. Rios, No. 96-0540-06, 1997 WL 356329, at *2 (E.D.Pa. June 20, 1997) (unpublished) (denying motion to dismiss a count in the indictment as premature because the determination necessarily involves the evaluation of the evidence presented by the prosecution at trial); *United State v. Simon*, 186 F.Supp. 223, 227-28 (S.D.N.Y.1960).

The defendant's claim of variance between evidence at trial and the indictment is premature as the appropriate time for the Court to review defendant's claim of variance is at trial. More importantly, however the most efficient way of addressing the issue of evidence of defendant's role as a producer and his responsibilities for safety of the crew on set, is by holding a hearing on the defendant's motion to preclude the opinion testimony of Kent Jorgensen as it is during that hearing that the Court will determine what opinions it will allow Mr. Jorgensen to offer and whether those opinions are relevant to a fact in issue. The defendant's latest filing seeking leave to file a supplemental brief is simply a strategic move to attempt to distract the prosecution from trial preparation and to delay the proceedings.

Even if this Court were to find there is some degree of variance, a variance is not fatal unless the defendant could not have anticipated from the indictment what evidence would be presented at trial. *See United States v. Stoner*, 98 F.3d 527, 536-537 (10th Cir.1996). The defendant here has been on notice the State would seek to introduce evidence of his role as a producer and the significance thereof. The defense has interviewed dozens of witnesses, including Mr. Jorgensen. Finally, by defense counsel's own admission, they have been aware the State intends to present evidence of defendant's role as a producer and his set safety obligations as a producer. That defense counsel misconstrued communications with the State is not a basis for excluding evidence of defendant's role as a producer and his attendant safety responsibilities, as proof of his wanton, willful and reckless conduct. Accordingly, this court must deny the

defendant's request to supplement its motion to dismiss or to file yet another lengthy and repetitive brief.

Wherefore, for the foregoing reasons the State respectfully requests this Court deny the defendant's request for leave to file a supplemental brief in support of dismissal based on the State's new uncharged theory of criminal liability.

Respectfully Submitted,

/s/Erlinda O. Johnson

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I hereby certify that a true and accurate copy of the foregoing was provided to counsel for the defendant via e-mail this 21st day of June 2024.

/s/ Erlinda O. Johnson

Erlinda O. Johnson

1 MR. CARPENTER: Well, tragically and unfortunately, it
2 was pointed in an unsafe direction, in an unsafe
3 distance, and the trigger was pulled because Ms.
4 Hutchins was killed with a projectile that left the
5 barrel, which, by physical default, means that the
6 barrel was pointed directly at her.

7 MS. MORRISSEY: Okay.

8 MR. CARPENTER: And obviously the weapon had to be
9 discharged. And in order to discharge a properly
10 functioning weapon, you have to cock it and pull the
11 trigger.

12 MS. MORRISSEY: Okay. And you're familiar with a 45
13 Long Colt single-action army revolver?

14 MR. CARPENTER: I am.

15 MS. MORRISSEY: Or 45 Colts, rather. All right. The --
16 let me just have a quick look at my notes. I want to
17 shift gears for a moment. And in addition to being an
18 actor on this movie, did Mr. Baldwin have any other
19 roles or responsibilities?

20 MR. CARPENTER: He did.

21 MS. MORRISSEY: What was that?

22 MR. CARPENTER: He was a producer.

23 MS. MORRISSEY: And you, I understand, are a producer?

24 MR. CARPENTER: Correct.

25 MS. MORRISSEY: So can you explain to the members of the

Exhibit 1

1 grand jury what the responsibilities are of a producer
2 having nothing to do with whether or not they are acting
3 in a movie?

4 MR. CARPENTER: Producing a movie is -- and you could
5 imagine it as being a CEO of a company that you open and
6 you hire about a medium staff of people anywhere between
7 50 and 150 people. You run it six months and you close
8 it down. That is pretty much what it is like to produce
9 a movie. And that includes everything. And as a CEO of
10 a company, you're responsible for the well-being of your
11 people that work for you and you're responsible for the
12 integrity of the show itself or the business itself. So
13 as a producer, you are the ultimate responsible party.

14 Now, whether you're Marvel in a studio and Marvel
15 assigns a producer from their staff to produce a
16 Wolverine or whatever movie they're producing, or you're
17 an indie, independent studio, that you are the producer
18 yourself because it is your production studio, either
19 way you look at it, the producer is the ultimate
20 responsibility on a show. And there are levels of
21 producers as well.

22 MS. MORRISSEY: Okay. Have you had an opportunity to
23 review -- well, let me ask you, when -- when an actor
24 begins work on a movie, are they -- are they under a
25 contract?

1 MR. CARPENTER: They are.

2 MS. MORRISSEY: And a producer, if a producer is a
3 producer on a movie, are they under a contract?

4 MR. CARPENTER: They are. It's a different type of
5 contract, but yes.

6 MS. MORRISSEY: And does the contract outline their
7 powers and responsibilities?

8 MR. CARPENTER: Generally, yes. That would be a
9 standard type contract for a producer.

10 MS. MORRISSEY: Have you had an opportunity in your work
11 on this case to review the contract that Mr. Baldwin
12 entered into for his role as producer?

13 MR. CARPENTER: I have.

14 MS. MORRISSEY: Are there any limitations in that
15 contract at all? And before you answer, what I mean by
16 limitations is, under that contract, does Mr. Baldwin
17 only have control over creative decisions or -- or does
18 he have more traditional broad-painted producer powers?

19 MR. CARPENTER: It was a -- and I say interesting,
20 because from my experience in the contracts that I've
21 both produced for, and when I say produced, when I've
22 provided for my cast and crew, and also ones that I've
23 worked under, generally, there are specific stipulations
24 and guidelines that say that you have this authority,
25 but not this, et cetera, et cetera. Or you can be

1 overturned in your decisions. And it gets into a lot of
2 nuances such as final cut on a movie and all sorts of
3 things. So it's very complex. It's very important,
4 too, because there can be a lot of problems downstream
5 when you film a movie or get through a movie between
6 you're trying to sell it to a market and get it out
7 there and make money off of it.

8 So I say all that to say this. Those contracts are
9 thoroughly negotiated. And there's no -- no slip steps
10 or mistakes generally if it's done, especially when you
11 get to an actor that has the experience of Mr. Baldwin.
12 Having said that, I looked at this contract and it is
13 unique in the fact that it doesn't seem to have any
14 limitations on power. In other words, there was
15 creative and show-running power on this, and that was
16 pretty far-reaching and broad.

17 MS. MORRISSEY: And let me pause real quick. Do I have
18 a number, an exhibit number? I don't see one on this.
19 Let's -- do we have exhibit stickers here? We have an
20 exhibit that is a paper exhibit. Okay. I have in my
21 hand what I am going to mark as Grand Jury Exhibit 86.
22 And --okay. Since I'm not using my computer, Mr. Lewis
23 is now leaving the room. You mentioned a call sheet.

24 MR. CARPENTER: Correct.

25 MS. MORRISSEY: And other than just the names of the

1 people that are working on the crew, what other
2 information does the call sheet give you in your
3 experience in the industry?

4 MR. CARPENTER: So a call sheet is a unique animal unto
5 itself. So it is literally a piece of paper, front and
6 back, and it lists the crew members that are working on
7 the set that day on the back of the sheet and all of
8 their departments and generally contact information, et
9 cetera. And then on the front of the sheet, it lists
10 the people that are in front of the camera that day, be
11 it a stunt performer or an actor, et cetera. It also
12 lists what props are going to be used that day and codes
13 for those so that people can understand. If guns are
14 going to be used, it'll specifically say that.

15 MS. MORRISSEY: Is that the description to producer?
16 Let's focus --

17 MR. CARPENTER: And it -- and it covers a lot. Before I
18 do say that, I want to get to the point of, it not only
19 is an informative piece of paper, but it also is a
20 hierarchy pecking order piece of paper. And it makes a
21 big difference. And there's many an argument had on
22 where your name lies on a call sheet. Having said that,
23 once you get from the back with the crew and you get to
24 the front where the actors are, then there's a distinct
25 line across the bottom of that. And we call that in the

1 industry above and below the line.

2 If your name is above the line, you are a
3 decision-maker on that film. If your name is below the
4 line, you're not. So when you get to the above the
5 line, that's when your producers are up in the left-hand
6 corner. And it can be an executive producer, associate
7 producer, co-producer, or producer, which is the top of
8 the food chain. And then where those producer's names
9 lies makes a difference, if you've got two or three for
10 that -- for an example.

11 Having said that, on this particular call sheet,
12 above the line and to the left, where the producers'
13 names lies, Mr. Baldwin was listed at the top of the
14 list, which actually means something. It means he was
15 the -- in the order of pecking order and authority on
16 that movie, he was the top of the producer chain.

17 MS. MORRISSEY: And just for the record, I'm going to
18 hand you what I marked with the sticker as Grand Jury
19 Exhibit 86. And is that a copy of the call sheet you're
20 referring to?

21 MR. CARPENTER: Let me get my glasses since I'm 50 now
22 and I can't see as of two years ago, so.

23 MS. MORRISSEY: You and me both.

24 MR. CARPENTER: Let's see here. Yes, it is. Yes, it
25 is.

1 MS. MORRISSEY: And does a call sheet come out on a
2 movie set once a week?

3 MR. CARPENTER: Once a day.

4 MS. MORRISSEY: Once a day.

5 MR. CARPENTER: Once a day.

6 MS. MORRISSEY: What -- what date is on that call sheet?

7 MR. CARPENTER: Thursday, 10/21/2021.

8 MS. MORRISSEY: All right.

9 MR. CARPENTER: Day 12 -- day 12 of 21 shoot.

10 MS. MORRISSEY: Okay. I'm going to take that from you.
11 I'm just going to put it over here for safekeeping.

12 Now, shall we watch some videos?

13 MR. CARPENTER: Sure.

14 MS. MORRISSEY: There we go. Let's get that out of my
15 way. Sorry, this is a -- it's just a small, very small
16 workspace here. I would like to show you Grand Jury --
17 let's start with 47. Do you recognize this video just
18 from that initial frame?

19 MR. CARPENTER: I do.

20 MS. MORRISSEY: Have you watched this video?

21 MR. CARPENTER: I have.

22 MS. MORRISSEY: And where did this video come from?

23 MR. CARPENTER: It was provided to me to view from your
24 office.

25 MS. MORRISSEY: But what is it? Is it a take?

1 MR. CARPENTER: It is a take. It is a take. They're
2 about to hit the clacker for a take on the movie Rust.

3 MS. MORRISSEY: And was it the 21st?

4 MR. CARPENTER: The 21st? Yes. Correct.

5 MS. MORRISSEY: The date of filming?

6 MR. CARPENTER: That is correct.

7 MS. MORRISSEY: Are you sure that this was filmed on the
8 21st?

9 MR. CARPENTER: From what it looks like, yes.

10 MS. MORRISSEY: What makes you say that from what you're
11 looking at?

12 MR. CARPENTER: Well, the -- the slate, it's got -- it's
13 got a B-roll on it. I think we had looked at it on
14 our --

15 MS. MORRISSEY: So here's -- here's what I'm going to
16 do. I'm going to withdraw that question from you.

17 MR. CARPENTER: Okay.

18 MS. MORRISSEY: Okay? And we're going to -- I'm going
19 to pose that question to a later witness.

20 MR. CARPENTER: Okay.

21 MS. MORRISSEY: Let's -- let's go ahead and play it.

22 (Plays video.)

23 MS. MORRISSEY: That lady who walked in the frame there,
24 did you see that at the beginning?

25 MR. CARPENTER: Correct.

1 MS. MORRISSEY: Do you know who that person is or was?

2 MR. CARPENTER: I think it was Hal -- was it Hannah

3 Reed?

4 MS. MORRISSEY: No. I'm going to withdraw that
5 question. Withdraw that question. If you don't know,
6 just say you don't know. I don't want to --

7 MR. CARPENTER: We've seen this video before. I've
8 watched the video before.

9 MS. MORRISSEY: Okay.

10 MR. CARPENTER: Let me --

11 MS. MORRISSEY: No, no, it's okay. I can pose that
12 question to -- to another witness who was there.

13 MR. CARPENTER: Right.

14 MS. MORRISSEY: So I want to stop for a moment. We can
15 see what's going on in front of the camera. Give the
16 grand jurors an idea of what's going on behind the
17 camera that we can't see.

18 MR. CARPENTER: So what's happening here is you're
19 looking POV from one of the camera's angles right here.
20 And sometimes they -- and they have on this movie, they
21 run A-cam and B-cam, which are basically two complete
22 camera setups with an operator and an assistant camera
23 that's helping them beside them. So you've got an
24 entire crew on -- imagine you guys, this would be an
25 exact example in almost the correct amount of number,

1 maybe a few less people. There's this many people on
2 this side of that camera, including your sound, your
3 lighting, your grip crew, your camera crew, snake
4 wranglers, anybody that's out there that needs to be on
5 set that day. And they're all on this side of the
6 camera, and Mr. Baldwin is looking at them.

7 MS. MORRISSEY: And when you say this many people, you
8 mean the number of people in here?

9 MR. CARPENTER: Yes. And I mean, obviously, I do not
10 know exactly how many people are out there, but there
11 would be anywhere between a good number that would be
12 between 8 and 18.

13 MS. MORRISSEY: Okay.

14 (Plays video.)

15 MS. MORRISSEY: I'm going to pause it right there and
16 because we unfortunately have a wireless connection
17 instead of a wired connection, it's -- it's a little
18 difficult in this video. But what did we see there at
19 the very -- at the beginning of this in terms of -- and
20 let's start with gun safety and gun handling.

21 MR. CARPENTER: There we go. Okay. From a gun safety
22 and handling standpoint, and I know what the rest of
23 this video entails, so I know that there are blank
24 rounds loaded in that weapon at this point in time. So
25 we'll have to move forward in time to understand the

1 nature of what we're seeing here.

2 So this weapon, his handgun, is loaded with blank
3 rounds at this time and it's ready to fire. And he's
4 using the weapon as a pointing stick while he's talking
5 to the crew, and he's pointing at the crew with the
6 weapon that is loaded with blank rounds at the time.

7 MS. MORRISSEY: Now, let's stop right there. Can blank
8 rounds kill people or injure them?

9 MR. CARPENTER: They can, both, depending on the
10 proximity.

11 MS. MORRISSEY: So this gun that's loaded with blanks in
12 the film industry, is that considered a cold gun?

13 MR. CARPENTER: No.

14 MS. MORRISSEY: What's it considered?

15 MR. CARPENTER: Considered a hot gun.

16 MS. MORRISSEY: And -- well, let's -- when you said that
17 he was kind of using the gun to point as though it was
18 his finger, are we looking at that right now?

19 MR. CARPENTER: We are.

20 MS. MORRISSEY: Okay. So I stopped that video and
21 rewound it, and now we're at 14 minutes, 41 seconds --
22 sorry, 14:41:19:22. So in a -- is there anything else
23 that stood out to you in terms of anything that Mr.
24 Baldwin was saying?

25 MR. CARPENTER: From a non-gun-related standpoint, he's

1 directing the scene. And that's generally the
2 responsibility of the director. And he is on the ground
3 as an actor, but he's also giving specific directions on
4 what -- normally you would hear that coming from a
5 director. In this particular case, he's giving both,
6 doing both.

7 MS. MORRISSEY: All right.

8 (Plays video.)

9 MS. MORRISSEY: Do you know who is the female voice
10 we're hearing in the background?

11 MR. CARPENTER: That is Hannah, Hannah Gutierrez.

12 MS. MORRISSEY: And for anybody that didn't hear it, do
13 you remember what does she say?

14 MR. CARPENTER: What she's doing is, again, imagine the
15 gentleman, you are actually the armorer, Hannah
16 Gutierrez. She's standing in amongst the crew. That's
17 what we talked about behind that camera. And she's
18 giving them instructions to move out of the way of where
19 he's pointing the gun directly at them. Now, it's
20 important at this particular moment to note that those
21 instructions should not be given to the crew, but they
22 should be given to Mr. Baldwin. She should be
23 correcting him and saying don't point that weapon. Keep
24 the weapon pointed down. Don't point that weapon at the
25 crew. Instead, she's correcting the crew and getting

1 the crew to move out of the way of where he's pointing
2 it toward them while he's trying to direct the scene.

3 MS. MORRISSEY: And is the crew just standing there like
4 we are just empty-handed --

5 MR. CARPENTER: No.

6 MS. MORRISSEY: -- and they can just easily move?

7 MR. CARPENTER: No, they generally -- I mean, you've got
8 a boom mic. There's a mic that's sitting up outside of
9 almost every frame on a movie. There's a guy, a man or
10 woman, that's sitting there with this carbon fiber rod
11 holding this little -- big microphone up right over to
12 catch sound. There's the sound board operator. There's
13 the camera operators, in which case this movie had an
14 A-cam and a B-cam. There's the assistant camera
15 operators. There's the props department, the assistant
16 props department, the armorer, your director of
17 photography, your director, et cetera. And they've all
18 got equipment in their hand or are doing something
19 specific in or around equipment.

20 MS. MORRISSEY: All right.

21 (Plays video.)

22 MS. MORRISSEY: What does that statement by Mr. Baldwin
23 tell you?

24 MR. CARPENTER: That he understands firearms usage in a
25 film. If he knows that he's not supposed to be firing a

1 weapon near somebody with a blank, et cetera, then he,
2 by default, has heard this and understands this
3 previously.

4 (Plays video.)

5 MS. MORRISSEY: And so, let me -- let me ask you, there
6 at the end I understand we heard a curse word, but I'm
7 not -- I don't want to focus on that. In terms of the
8 other things that you hear there right at the very end,
9 can you -- can you talk to us a little bit about that?

10 MR. CARPENTER: Yes. You've all heard the term "going
11 off script." That's something you don't want to do is
12 go off script. And there is a major reason why you
13 don't go off script because it can cause safety issues,
14 problems, et cetera, et cetera. And I think I related
15 the story to you on another movie where an actor went
16 off script and he was immediately disciplined for that
17 action. You don't do that. The director called cut.
18 Mr. Baldwin continued to fire the weapon after cut in
19 that particular scene, which would be going off script.

20 MS. MORRISSEY: And why is it a problem for the actor to
21 continue to fire the weapon after cut has been said?

22 MR. CARPENTER: Because no matter what anyone says, the
23 minute cut is called on a movie set, even if it's a
24 danger for a special effect that's still out there, all
25 these crews are trying very desperately -- because,

1 again, what I said, time is everything on a movie.
2 They're trying very desperately to get out there on set
3 and reset it all up for the next scene. Wardrobe is
4 trying to get out there and clean the dust off of Mr.
5 Baldwin's jacket. The armorer is trying to get out
6 there and secure these weapons to make sure they're safe
7 and not being handled improperly. You've got sound
8 that's trying to get the mic off, et cetera, et cetera.
9 So they all rush the scene very quickly as soon as cut
10 is said.

11 So if you've got someone who's continuing to fire a
12 weapon after cut, and it could be this particular
13 circumstance or any other, any actions that are beyond
14 that, and it could even be something that explosives
15 were set on set for a fireball to go off and they didn't
16 detonate properly, and you're supposed to -- when cut is
17 said, everybody gets out there and clears these things
18 out. And nobody continues to act or perform any action
19 outside of what was already discussed and planned.

20 MS. MORRISSEY: Thank you. Let's go ahead and look at
21 Grand Jury --

22 MR. CARPENTER: And before we move on, do you want me to
23 check my notes that we went over on the dates and times
24 of this?

25 MS. MORRISSEY: No.

1 MR. CARPENTER: Okay.

2 MS. MORRISSEY: It's okay. Let's look at Grand Jury
3 Exhibit 48. Not that I don't think that information is
4 important, I think it is, but I can get it --

5 MR. CARPENTER: I got you.

6 MS. MORRISSEY: Just from looking at this initial frame,
7 have you watched this video?

8 MR. CARPENTER: I have.

9 MS. MORRISSEY: Yeah, that's great. That is the perfect
10 place for that to be.

11 (Plays video.)

12 MS. MORRISSEY: I'm going to stop that video right
13 there, and I'm stopping it at 15:10:56:19, and I'm going
14 to back it up frame by frame. What are we looking at
15 here and is that a problem if you think it is?

16 MR. CARPENTER: One thing I'd like to note as well is
17 the video that we watched previously was a lot brighter
18 too, so you could see this a lot better than this. So I
19 want everyone in the room to know, you know, much more
20 high definition. But even right there, everyone I think
21 can see, you've got -- now keep in mind the idea that
22 we're watching this and I know this sounds
23 counterproductive for me to even say this, but we're
24 watching this from another cameraman that's filming
25 this.

1 Sometimes when you -- and I do the same thing, when
2 you're watching a movie, you get that suspension of
3 belief and you're into the movie, but keep in mind,
4 there is someone holding a camera right now and there
5 are people around him helping him. They'll hold the
6 back of the camera operator to make sure they don't trip
7 over rocks when they're doing what this gentleman is
8 doing right here. And he's doing what's called a
9 handheld. He's hand-holding the camera and moving with
10 the actor for an action scene. So you've got a whole
11 another group of people right here. Having said --

12 MS. MORRISSEY: Let me --

13 MR. CARPENTER: Having said that --

14 MS. MORRISSEY: Hang on. Who's the camera person -- you
15 -- where's the camera person you're referring to?

16 MR. CARPENTER: I'm referring right now the camera angle
17 we're looking at right now.

18 MS. MORRISSEY: Okay.

19 MR. CARPENTER: The person that -- we are looking at
20 this because that's a whole -- several people here.

21 MS. MORRISSEY: Okay.

22 MR. CARPENTER: Now, aside from that, you've got that
23 camera operator. And I would imagine that's probably
24 B-cam. We're looking at A-cam, and I'm just guessing at
25 that because I don't know. But B-cam operator is

1 standing there with a handheld. Mr. Baldwin exits out
2 and fires what appears to be a full flash round. Now,
3 blank rounds come in different versions in the movie
4 industry.

5 Full flash means it's loaded completely with as
6 much gunpowder as possible because they want the biggest
7 bang, the biggest fireball, the biggest smoke, the
8 biggest noise. Then you've got half flash, quarter
9 flash, and then it gets down into percentage. You can
10 tell that this was more than likely a full flash because
11 if you had a high-speed enough camera, that cloud of
12 smoke was actually a cloud of fire for just a
13 millisecond. And then it turns to smoke and debris and
14 particulates that fly out and away. You have to be a
15 minimum safe distance.

16 He fired the weapon directly at that camera
17 operator. In fact, the smoke actually goes across the
18 lens of his camera. And keep in mind, there is at least
19 one, if not two people, standing right beside and behind
20 that camera operator as well. And that, even with a
21 quarter flash, is not within proper distance or safe --
22 safety protocol distances for discharging a weapon
23 around crew.

24 MS. MORRISSEY: When you watch this, is it the
25 cameraman's fault? Did he get too close?

1 MR. CARPENTER: It's the actor's fault for discharging
2 that weapon. If the cameraman was too close, the actor
3 should never have discharged the weapon because he's in
4 charge of the firearm.

5 MS. MORRISSEY: Okay.

6 (Plays video.)

7 MS. MORRISSEY: So that's the conclusion of that video.
8 We're going to back it up. We're going to talk about
9 some things that we just saw. In terms of -- explain to
10 the grand jury what's happening when Mr. Baldwin sort of
11 halts the scene.

12 MR. CARPENTER: After he stops and is talking, he's
13 trying to re-film the scene again very quickly. He
14 wants to redo that. Either he didn't like his
15 performance or he wants another take, et cetera, et
16 cetera. Again, that would be a director that would
17 normally be saying that. But in this particular case,
18 it's Mr. Baldwin. And this is a personal contingency to
19 me, and not only because I'm a -- because I have been an
20 armorer in the past, but also because I understand what
21 a producer would be looking at and seeing here as well.

22 The three things on a movie set that will kill you
23 are stunts, special effects, and armorer services and
24 firearms. So those three things that are on the movie
25 set without question that can kill you if they're done

1 wrong. And those are the three departments you do not
2 want to rush. You give them time to do their job
3 properly. And in fact, if you have a production rushing
4 any of those three departments, not only should you not
5 do those things, but you should tap the brake and say,
6 you know what, now I'm really going to slow down,
7 because when people are nervous and people are made to
8 be nervous and forced, that's when it exponentially
9 makes a bad situation worse.

10 So in this particular circumstance, he's saying
11 that he wants to film again, he wants to do it fast, and
12 he's saying that -- get that gun loaded fast, load it
13 fast, load it fast, which is bypassing the safety
14 protocols as well. We should be checking these rounds.
15 We should be looking at these bullets. We should not
16 just be shoving them in a gun. We should be checking
17 these things. Things have changed on this movie set.
18 We need to go through the safety protocol again. That's
19 not occurring here. And he's telling the armorer how to
20 do her job when it comes to, "I need you to have two
21 guns loaded." And that's also, you know, unnecessary.

22 And especially for a circumstance like this, you
23 can calmly and safely load a six-shot revolver in a few
24 seconds if you do it properly and take the moment to
25 check the gun and make sure it's properly -- properly

1 being handled. So those are the things that are
2 occurring there.

3 MS. MORRISSEY: In your opinion, is Mr. Baldwin rushing
4 the armorer?

5 MR. CARPENTER: There's no question he's rushing the
6 armorer. He's rushing all of production at this point,
7 not just the armorer.

8 MS. MORRISSEY: She just --

9 MR. CARPENTER: Keep in mind, she's just an element.

10 MS. MORRISSEY: Okay.

11 MR. CARPENTER: And there's so many other people
12 involved.

13 MS. MORRISSEY: I'm going to back this up and we're
14 going to talk about a couple of other frames here. I am
15 going to -- do you know who that person is there? I'm
16 going to stop it here. Who's this person here? And I'm
17 stopping it at 15:11:21:01.

18 MR. CARPENTER: That's Hannah Gutierrez, which is the
19 armorer.

20 MS. MORRISSEY: Do you know what she just did there or
21 do you need to back -- need me to back it up more?

22 MR. CARPENTER: No, it looks like she's handing --
23 handing spent shell casing to the -- what I believe is a
24 prop master.

25 MS. MORRISSEY: Okay. And can you see the barrel of the

1 gun there?

2 MR. CARPENTER: I can. I can.

3 MS. MORRISSEY: And so this right here is the barrel of
4 Mr. Baldwin's gun?

5 MR. CARPENTER: Correct.

6 MS. MORRISSEY: And the -- so what you're seeing is Ms.
7 Gutierrez took the spent casings, the blank casings out
8 of that gun and handed them off to someone else?

9 MR. CARPENTER: That's correct.

10 MS. MORRISSEY: And now she's going to do what?

11 MR. CARPENTER: She's going to try to load that weapon
12 again as fast as possible with blanks to give it back to
13 Mr. Baldwin for another take.

14 MS. MORRISSEY: Okay. So we're going to play it again
15 from 15:11:24:08.

16 (Plays video.)

17 MS. MORRISSEY: Did you see where Ms. Gutierrez was
18 getting her -- her blank rounds?

19 MR. CARPENTER: It appeared she is reaching to a pouch
20 on her waistband.

21 MS. MORRISSEY: Okay. What's problematic about this?

22 MR. CARPENTER: Well, if -- in the research that I've
23 done and the investigation that's been conducted by your
24 office, she was keeping and mixing rounds in and amongst
25 the fanny pack and her pockets and, i.e., putting dummy

1 rounds in those, putting blank rounds in those, and
2 there was no compartmentalization going on with her in
3 the -- the way she was keeping these rounds separated
4 and segregated from one another.

5 MS. MORRISSEY: In this video, the way this is supposed
6 to work, my understanding is the assistant director is
7 supposed to be there with her when she reloads the gun?

8 MR. CARPENTER: Should be there with her. I mean, in
9 this particular circumstance, you could reload the
10 weapon without them as long as it's done safe and --
11 safely, and you've shown everyone that it's been done
12 safely.

13 MS. MORRISSEY: All right. Thank you. And I have Grand
14 Jury Exhibit 49 and 50. And I'm going to -- I'm going
15 to have you pull up 49, if you would, which is just a
16 document.

17 MR. CARPENTER: Okay.

18 MS. MORRISSEY: Have you seen this before?

19 MR. CARPENTER: Yes.

20 MS. MORRISSEY: What are these?

21 MR. CARPENTER: Safety guidelines. I -- this would
22 appear to be our document we reviewed in advance. And
23 also, I'm familiar with this from producing and working
24 on a movie set.

25 MS. MORRISSEY: So what is -- what is this document? Is

1 it safety guidelines?

2 MR. CARPENTER: It's safety guidelines. It just --
3 basically, it's the Screen Actors Guild putting this out
4 for anybody that's an actor or a performer in front of
5 the camera saying, hey, these are the things you should
6 be looking out for. These are the things you should be
7 doing as an actor when you're working on X, Y, Z show.
8 It doesn't matter who or where.

9 MS. MORRISSEY: What -- what's that top bold?

10 MR. CARPENTER: The top one says, "As an actor, you are
11 ultimately responsible for your own safety and the
12 safety of your fellow cast members." Meaning, if you
13 put -- and in this particular case, in my particular
14 case as an armor -- armorer, you put a firearm in your
15 hand, then you have taken a responsibility, just like
16 getting behind the wheel of a car, to take care of other
17 people as well as yourself.

18 MS. MORRISSEY: These are long documents. I'm going to
19 scroll down here if I -- make sure I don't pass it. And
20 obviously, what does this say at the top?

21 MR. CARPENTER: This is basically an example of Cooper's
22 rules. They just took the basic industry safety Cooper
23 rules that everyone in the real world follows and have
24 applied them to the Screen Actors Guild safety
25 recommendations.

1 MS. MORRISSEY: Well, let me ask you, talk about the
2 part that says "blanks can kill."

3 MR. CARPENTER: That says what?

4 MS. MORRISSEY: "Blanks can kill."

5 MR. CARPENTER: Right. Blanks can kill. And that is
6 true. And I even produced a video for one of the unions
7 showing soft tissue effects on blanks. If you have a
8 full flash round and I detonated in proximity of a foot
9 or two or three of someone and near the temple or
10 whatnot, the concussive force alone can kill you. Not
11 to mention severe burns, loss of, you know, eye,
12 appendages, et cetera. And that's -- and extends out to
13 21 feet and further.

14 MS. MORRISSEY: So I'm showing you here what is marked
15 down at the bottom there, page 6 of 7, and I want to
16 focus on number 11, firearms and other weapons. What --
17 what is this -- what safety guideline -- what's this
18 telling us about firearm safety?

19 MR. CARPENTER: Well, it's one of the -- again, we talk
20 about mitigating accidents or mitigating problems.
21 Right? And one would hope that things like what
22 happened on Rust would not occur, but if they do in the
23 world, which they did, if you're properly handling and
24 following safety protocol, these are meant to mitigate
25 those problems. And this one is saying, "Never point a

1 weapon at anyone or anything that you're not willing to
2 destroy, including yourself."

3 MS. MORRISSEY: In these videos that we've shown, have
4 you seen Mr. Baldwin do exactly that?

5 MR. CARPENTER: I have.

6 MS. MORRISSEY: So we are going -- you are going to have
7 Grand Jury Exhibit 49 in evidence. And we are also
8 going to give you the same companion guidelines that are
9 put out by IATSE. Let's pull up Grand Jury Exhibit 50.

10 Does anybody need a break? Should we pause or --
11 do you want a break? I think they --

12 JUROR: We always want a break if you ask.

13 MS. MORRISSEY: Sure. Off the record. Off the record.
14 Sorry, we're going off the record. It is 3:39.

15 (Off the record.)

16 MS. MORRISSEY: Okay. We are back on the record. It is
17 3:50 p.m. We've done all the same folks in the room
18 that we announced last time. Is that accurate or do you
19 want me to go through it again?

20 MR. LUPER: Just to be safe, go through it again.

21 MS. MORRISSEY: Okay. We have all of the grand jurors.
22 We have our witness, Brian Carpenter. We have the court
23 monitor, the trainee of the court monitor. We have our
24 two Spanish interpreters, Ms. Shatterfeld (ph), Kent
25 Wahlquist, and Jason Lewis. Did I miss anybody? Okay.

1 All right. And I'm going to do this very, very quickly
2 in terms of Exhibit 50. Can you click up there and --
3 and even though it says Document 9, you can see at the
4 top, it's labeled Grand Jury Exhibit 50. And what does
5 this look like to you?

6 MR. CARPENTER: It's part of a safety bulletin.

7 MS. MORRISSEY: Is it basically the same thing that we
8 looked at previously?

9 MR. CARPENTER: Correct. And all of these unions all
10 work together to negotiate the safety guidelines and
11 also many other negotiated points. So they're all going
12 to parallel each other.

13 MS. MORRISSEY: Down there at the bottom in that shaded
14 area, can you tell what organization put this version of
15 the Safety Bulletin out?

16 MR. CARPENTER: Now, what particular area are your --

17 MS. MORRISSEY: What I'm looking at is www dot C-S-A-T-F
18 dot org.

19 MR. CARPENTER: So Alcohol, Tobacco, and Firearms?

20 MS. MORRISSEY: I don't know that that's it. If you
21 don't know --

22 MR. CARPENTER: No. I don't know. I do not know.

23 MS. MORRISSEY: Okay. But does this basically say it
24 give the same -- as we're just going through it quickly,
25 does this basically just give the same safety guidelines

1 that the other ones did that you looked at?

2 MR. CARPENTER: It does. Correct. Again, they all
3 parallel very much.

4 MS. MORRISSEY: Okay. And you all will have all of
5 those. And if you could take that exhibit down just so
6 it's not a distraction.

7 So, Mr. Carpenter, I want to ask you, in your
8 opinion based on your experience as an armorer and as a
9 producer, did Mr. Baldwin contribute to Ms. Hutchins'
10 death?

11 MR. CARPENTER: Direct answer, yes, both as an actor and
12 the negligence with handling the weapon and his
13 knowledge previously of what should've been occurring
14 and wasn't occurring, but also over and above his
15 actions as a producer, knowing what was occurring and
16 what should have been occurring and taking no steps,
17 repetitively, to intercede and put a stop to it and/or
18 correct it until the tragedy.

19 MS. MORRISSEY: Now, I think this goes without saying,
20 but let's say it. Have you seen any evidence at all
21 that would cause you to believe that Mr. Baldwin knew
22 there was a live round in that gun?

23 MR. CARPENTER: No.

24 MS. MORRISSEY: And why didn't he know there was live
25 rounds in a gun?

1 MR. CARPENTER: Well, the one thing that's strikingly ob
2 -- you know, obvious, you know, to me, obviously, and
3 I'm sure to you as you continue looking at the evidence
4 here is there was no one there in the room to check the
5 rounds prior to it being loaded in the weapon. Had
6 there been someone in the room checking the rounds
7 properly and the weapon not just being handed off by the
8 first assistant director, then they would've checked
9 those rounds, they would've looked at those rounds, they
10 would've made sure that they were safe to handle, and
11 you would've had, as I said, more than one person making
12 sure that was occurring. And that did not occur.

13 MS. MORRISSEY: Is it unfathomable that a live round
14 will find its way onto a movie set?

15 MR. CARPENTER: No. It should never happen, but it's
16 not unfathomable. That's why you have safety protocol
17 in place to make sure that if that occurrence is in
18 place, then you have -- as I've said multiple times
19 before -- mitigated it by following the rules, the
20 safety rules. They're there for a reason.

21 MS. MORRISSEY: Okay. As an armorer or a producer, in
22 your career working on movies, have you ever seen a live
23 round on set?

24 MR. CARPENTER: I have.

25 MS. MORRISSEY: You have?

1 MR. CARPENTER: I have.

2 MS. MORRISSEY: Okay. I am --

3 MR. CARPENTER: Actually, I -- I -- actually -- can I
4 expound -- expand on that? I actually was called in to
5 work on a movie, and I -- the first thing I did, I was
6 called in, in the middle of it, and I went through all
7 of their equipment, made sure that all of their
8 equipment was properly, you know, was in the right
9 place. They got it from the same place that I get it
10 from, except from a different person prior to my
11 arrival. I went through all of the equipment. I went
12 through all of their ammunition, and I found a box that,
13 just from my experience, the minute I picked the box up,
14 I knew the weight was wrong. And it was a shotgun,
15 rounds.

16 Now, shotgun rounds are independently unique
17 because you have to make -- they -- or they're different
18 because they, by default, have BBs in them. So a dummy
19 round looks much different for a shotgun. And I just
20 knew by weight something was wrong. I laid them out and
21 I was like, hmm, you know, this -- this is not right. I
22 put one of them on the workstation, cut it open to look
23 at it, and su -- and it was a live round. In fact, they
24 all were live rounds.

25 And what had happened on that particular

1 circumstance was they were filming a scene without an
2 armorer present, and the scene called for bad guys to be
3 just randomly handling ammunition on a table. And
4 apparently, someone from the props department had just
5 went to a local store and bought ammunition and brought
6 it back to the set because they thought that that was a
7 good idea.

8 Now, because they had the proper person in place,
9 thank goodness -- and I, you know, can say that about
10 myself, I do, as you probably hopefully know, I take
11 this very seriously, all of these things -- was able to
12 find that. We immediately shut production down, cleared
13 out the entire location, started over from scratch,
14 zero, notified all the proper personnel, and redid
15 everything.

16 MS. MORRISSEY: Okay. Thank you. I don't have any more
17 questions for Mr. Carpenter. If the grand jurors have
18 questions.

19 JUROR: I got -- I got one.

20 MR. CARPENTER: Yes, sir.

21 JUROR: Eric Gordon. So unfortunately, I've had to deal
22 with the same kind of fatality in a -- in an exercise.
23 And it -- it's terrible.

24 MR. CARPENTER: Yeah. Yes, sir.

25 JUROR: We stopped and we retooled all of the rules. So

1 I want to get clarification on your industry standards.

2 They're appropriate, applicable, and spot on.

3 MR. CARPENTER: Thank you.

4 JUROR: And this -- and I appreciate all of your
5 experience too.

6 MR. CARPENTER: Thank you.

7 JUROR: All of your experiences. But, in all
8 seriousness, this -- this country and this world is run
9 by rules and regulations and standards, and they come in
10 all forms. Right? Laws, rules, orders, national
11 consensus standards, codes, best practices. So when you
12 put these standards on the screen, how are they
13 implemented? How are they invoked? How are they
14 enforced upon the industry?

15 MR. CARPENTER: So -- and thank you. That's an
16 excellent question. You're actually correct in
17 everything you say. I'd like to just speak plainly for
18 a second to everyone here. You know, you can have all
19 these rules in place, right, and you can have them
20 enforced. And to directly answer your question, they're
21 enforced by the unions. If they see a safety violation
22 by sending their representatives out to a set, they look
23 for safety violations, and they have hotlines where the
24 crew can call in and say, this is happening or that is
25 happening, and they'll send people out and they'll

1 enforce them.

2 Also, enforcement happens by, one would hope, the
3 personnel that are on the set, the department heads and,
4 ultimately, the producers that see this. They're out
5 there. They should be there. They're expected to be
6 there to look and see what's occurring. And that goes
7 from even overworking a crew and making them stay too
8 late or not feeding them a meal or even small things
9 that wouldn't kill someone but are also guidelines as
10 well. But at the end of the day, and this is where I
11 come in on this, is you have to have caring and empathy
12 for people. You have to care about --

13 MS. MORRISSEY: Well, hold on. I'm going to stop you
14 right there. I just want to make sure that you directly
15 answer his question. And what I understand the question
16 to mean is how are these guidelines enforced? Is that
17 right?

18 JUROR: Yeah. Actually -- actually invoked and
19 enforced. Right? One answer could be it's in the
20 contract of the producer and the actors, or it could be
21 a different answer. That's how --

22 MR. CARPENTER: So --

23 JUROR: That's how it's invoked.

24 MR. CARPENTER: Mhm.

25 JUROR: I think you've answered how it's enforced.

Fwd: Re: Call Re: Target Notice

1 message

Kari Morrissey <ktm@morrisseylewis.com>
To: Erlinda Johnson <erlinda@erlindajohnsonlaw.com>

Thu, Jun 20, 2024 at 7:03 PM

----- Original Message -----

From: Alex Spiro <alexspiro@quinnemanuel.com>
To: Luke Nikas <lukenikas@quinnemanuel.com>, Kari Morrissey <ktm@morrisseylewis.com>, "Jason J. Lewis" <jjl@jjllaw.com>
Date: 11/01/2023 11:26 AM MDT
Subject: Re: Call Re: Target Notice

Kari - just to follow up on this. I assume based on you saying the producer theory does not have merit that you are not proceeding under the producer theory. Thank you.

From: Luke Nikas <lukenikas@quinnemanuel.com>
Sent: Wednesday, November 1, 2023 1:24:29 PM
To: Kari Morrissey <ktm@morrisseylewis.com>; Jason J. Lewis <jjl@jjllaw.com>
Cc: Alex Spiro <alexspiro@quinnemanuel.com>
Subject: Re: Call Re: Target Notice

Kari,

Your email simply restates the statutes, which I can read, without providing the underlying theories you know I am asking for to ensure this process is done properly and efficiently. I will assume you are not interested in conferring in good faith on this matter unless I hear otherwise, since we are available on days other than tomorrow to discuss and I'm sure you are as well.

Luke Nikas
Partner
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From: Kari Morrissey <ktm@morrisseylewis.com>
Sent: Wednesday, November 1, 2023 1:00:49 PM
To: Luke Nikas <lukenikas@quinnemanuel.com>; Jason J. Lewis <jjl@jjllaw.com>
Cc: Alex Spiro <alexspiro@quinnemanuel.com>
Subject: Re: Call Re: Target Notice

Luke

We are not available tomorrow morning. We are in pretrial interviews in the Gutierrez case.

Involuntary manslaughter consists of manslaughter committed in the commission of an unlawful act not amounting to felony (in the case of Mr. Baldwin it is the unlawful act of negligent use of a firearm).

He is also charged in the alternative as follows: in the commission of a lawful act which might produce death in an unlawful manner or without due caution and circumspection.

Kari

On 11/01/2023 10:26 AM MDT Luke Nikas <lukenikas@quinnemanuel.com> wrote:

Kari and Jason,

Your target notice identifies two involuntary manslaughter charges on which you will be presenting information to the grand jury. To ensure the alert letter we submit addresses the actual theories you are contemplating and does not create unnecessary work for us or for you by addressing theories you do not intend to pursue, please let me know if you are available tomorrow morning for a brief call to discuss.

Luke Nikas

Partner

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