

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

PLAINTIFF,

VS.

ALEXANDER RAE BALDWIN III,

DEFENDANT.

No. D-0101-CR-2024-0013
Judge Mary Marlowe Sommer

Motion In Limine No. 8

DEFENDANT ALEC BALDWIN'S MOTION *IN LIMINE*
TO PRECLUDE INADMISSIBLE, CUMULATIVE EXPERT TESTIMONY

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Defendant Alec Baldwin, by and through his attorneys, submits this motion *in limine* to preclude inadmissible, cumulative expert testimony.

PRELIMINARY STATEMENT

The State has noticed *thirteen* expert witnesses ahead of an eight-day trial, including seven who are slated to give overlapping opinions on just three topics: firearm mechanics, ammunition, and film industry safety protocols. It is unnecessarily cumulative, prejudicial, confusing, and a waste of the jury's time for the State to put on that many experts to tread over the same ground during an eight-day trial. Moreover, the State's refusal to withdraw *any* of its thirteen experts in its final witness list causes serious prejudice to Baldwin—just as it was designed to—by forcing Baldwin to expend significant resources preparing for three times as many experts as will realistically be permitted to testify (even if the State did have time to present them all during its case in chief). The State should be precluded from offering cumulative expert testimony, particularly on collateral issues, such as the “roles and responsibilities of a producer.”

ARGUMENT

It is well-established that the Court has discretion to exclude cumulative expert testimony. *See, e.g., State ex. rel. State Highway Comm'n v. Steinkraus*, 1966-NMSC-134, ¶ 8, 417 P.2d 431; *Matter of Angela R.*, 1986-NMCA-116, ¶ 11, 729 P.2d 1387; *City of Albuquerque v. Westland Dev. Co., Inc.*, 1995-NMCA-136, ¶ 27, 909 P.2d 25. Under the Rules of Evidence, the Court “may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” NMRA Rule 11-403.

Here, the State has disclosed thirteen expert witnesses with substantially overlapping topics of testimony:

SUBJECT OF TESTIMONY	EXPERT WITNESS
Safety bulletins	Bryan Carpenter Paul Jordan Kent Jorgensen
Firearm safety	Bryan Carpenter Kent Jorgensen
Roles and responsibilities of producers	Bryan Carpenter Kent Jorgensen
Firearm mechanics and ammunition	Lucien Haag Michael Haag Alessandro Pietta Bryce Ziegler Robert Gillette
Medical	Dr. Ysela Carillo Dr. Heather Jarrell
Forensics	Jerrilyn Conway Shannon Prince
Digital Enhancement	Michael Primeau

The probative value of these expert witnesses—with extensive overlap between them on the same issues—is substantially outweighed by the unfair prejudice of this pile-on, undue delay, danger of wasting time, and the needlessly cumulative nature of such a trial.

These dangers are further compounded by distinct, problematic issues that follow many of these experts. For example, Baldwin has already moved to preclude Kent Jorgensen from testifying about issues related specifically to *Rust*, about which he admittedly has no knowledge other than “hearsay,” as well as about “the roles and responsibilities” of a producer, about which he is patently unqualified to testify. He has “never” worked as a producer on a film set and has no first-hand knowledge of what the job entails. Ex. A at 50:18-20; 55:12-16 (Q. “[Y]our knowledge of the roles and responsibilities of producers doesn’t come from any experience in actually firsthand in the role of a producer?” A. “No. No.”). And experiences “dealing with producers” in

his capacity as a union safety advocate (*id.* at 53:19-54:7) or “sit[ing] at the children’s table and listen[ing] to the adults” (*id.* at 54:18-55:5) do not provide him with the specialized skills or knowledge that are required of someone who seeks to testify as an expert.

Bryan Carpenter is not qualified to testify about the roles and responsibilities of a producer either. Although he testified before the grand jury that his primary role in the film industry is that he owns a production company, he is invariably described as an armorer and weapons specialist. *See, e.g.*, <https://www.hollywoodreporter.com/movies/movie-news/alec-baldwin-shooting-rust-movie-munitions-experts-gun-safety-1235035713/> (describing Carpenter as “an armorer and weapons master” and “munitions expert” who has been “working in that space for 30 years”); <https://www.nytimes.com/2023/01/19/arts/alec-baldwin-manslaughter-rust.html> (describing Carpenter as “an armorer”); <https://www.sfreporter.com/news/2024/01/19/grand-jury-indicts-alec-baldwin-in-rust/> (describing Carpenter as “a weapons specialist”). Carpenter has also conceded that he is not an expert on the internal mechanics of firearms. And any opinions he can offer about the safety bulletins are irrelevant because (1) this prosecution is not about whether Baldwin violated industry safety guidelines, and (2) the State has already conceded that he *didn’t* violate those guidelines. *See* State’s Opposition to Defendant’s Motion to Dismiss the Indictment (April 5, 2024) (“Mr. Baldwin’s failure to exercise his option to simply observe the armorer load the dummy rounds into the gun and visually and/or audibly demonstrate to the actor that the rounds are safe, inert dummy rounds ***was not a violation of the SAG safety bulletins*** but it was a violation of New Mexico law.”).

Although Baldwin maintains his objection to Carpenter’s qualifications and the relevance of his testimony relating to “the roles and responsibilities of producers,” we recognize that the Court is unlikely to entirely preclude an expert who has already been permitted to testify at the

trial of Hannah Gutierrez-Reed. But it would be cumulative and prejudicial to allow Carpenter and multiple other experts to testify about the same collateral issues. Jorgensen and Jordan should be precluded, and Carpenter's testimony should be cabined to only the topics about which he is qualified to testify and which are admissible under Rules 11-401 and 11-403.

Similarly, the Court has already seen from other motions *in limine*, as well as the *Trombetta* hearing, the significant issues that will arise from the testimony of other purported experts in this case, such as Lucien Haag, Michael Haag, and Bryce Ziegler (given, among other things, the State's failure to disclose a devastating third report from the Haags until after disclosure and dispositive motion deadlines, Lucien's highly improper meeting with Ziegler, and other related issues), Pietta (given the issues raised in our motion in limine, "Defendant Alec Baldwin's Motion In Limine To Preclude Improper Opinion And Testimony From Alessandro Pietta" (June 24, 2024)), the medical and forensics experts (given the issues raised in our motion in limine related to medical and autopsy evidence, "Defendant Alec Baldwin's Motion In Limine To Preclude Improper Argument, Evidence, And Testimony Regarding The Victim" (June 24, 2024)), and numerous others. Adding prejudicial and needlessly cumulative testimony from the above list of experts, on top of these other prejudicial issues, will only compromise the trial further.

The State should not be permitted to present these cumulative expert witnesses, which will have the unlawful effect of bolstering testimony from their other witnesses and prejudice Baldwin. The Court should exercise its discretion and exclude cumulative expert testimony.

CONCLUSION

For the above reasons, the Court should preclude inadmissible, cumulative expert testimony related to all topics for which the State seeks to present expert testimony and, to the extent any expert is permitted to testify about movie set safety guidelines (which Baldwin

maintains are irrelevant), the Court should permit such testimony only from Carpenter, to the exclusion of Jorgensen and Jordan.

Date: June 24, 2024

Respectfully submitted,

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By: /s/ Luke Nikas

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2024, a true and correct copy of the foregoing brief was emailed to opposing counsel.

/s/ Heather LeBlanc _____
Heather LeBlanc

EXHIBIT A

INTERVIEW: KENT JORGENSEN, 4/1/2024.

MR. NOSANCHUK: Okay. Today is April 1, 2024. It's about 2 p.m. Mountain Time. This is the State of New Mexico versus Alexander Baldwin, case number D101CR202400013. Can I ask the witness to please identify yourself and spell your name?

MR. JORGENSEN: My name is Kent Jorgensen, J-O-R-G-E-N-S-E-N.

MR. NOSANCHUK: Thank you and can you -- would everybody else mind quickly just identifying yourself on the call.

MS. LEBLANC: Heather LeBlanc also on behalf of Alexander Baldwin.

MS. STERN: Jennifer Stern also on behalf of Alexander Baldwin.

MS. MORRISSEY: Kari Morrissey, Special Prosecutor for the First Judicial District. Also, appearing with me is Connor Rice. He is the investigator for the Office of the Special Prosecutor and Alexander James is the paralegal assigned to this case.

MR. MARTIN: Craig Martin, I'm working for Quinn Emanuel on this one.

MS. DULANEY: Samantha Dulaney, General Counsel, IATSE.

MR. SHORT: Michael Short, Registered In-House Counsel, IATSE.

MR. NOSANCHUK: Is that everybody? I think so.

1 understanding is that you're not being asked to talk
2 about the actual facts of what took place on this set.

3 MR. JORGENSEN: They have not been --

4 MS. MORRISSEY: He hasn't been asked that yet, but I
5 certainly would reserve the right to ask him certain
6 questions about what specifically happened on this set
7 and elicit his opinions. He would probably also be
8 asked to tell us what his understanding is of the roles
9 and responsibilities of a producer on a movie set.

10 MR. NOSANCHUK: Is there -- based on what you know
11 today, Mr. Jorgensen, would you say that you're
12 qualified to offer opinions about all the things that
13 Ms. Morrissey just listed?

14 MR. JORGENSEN: Yes. I mean, giving -- being presented
15 facts and make an opinion on, yes, and certainly, how
16 productions work, I believe I'm an ex -- I can comment
17 on those.

18 MR. NOSANCHUK: Have you ever worked as a producer on a
19 film set?

20 MR. JORGENSEN: I have not.

21 MR. NOSANCHUK: Have you ever worked in any role other
22 than as a grip?

23 MR. JORGENSEN: Yes, I've been, on a very low budget
24 show, an assistant director. I've been -- worked as
25 many different jobs when you start off with these types

1 And usually I add into it my bent on the industry and
2 how people can get in and -- and be successful in the
3 industry.

4 MR. NOSANCHUK: Have you ever lectured at any of these
5 schools about the role of a producer?

6 MR. JORGENSEN: No, but I've -- I've lectured -- I've
7 done four or five panel discussions with the Producers
8 Guild of America, along with a couple of producers and
9 other safety people of the role of the producer in
10 productions. Again, the Producers Guild, as safety has
11 become a bigger deal and a lot of them don't understand
12 it and don't understand their responsibilities, I've
13 appeared with people to talk about those
14 responsibilities.

15 MR. NOSANCHUK: Are those usually recorded, those panel
16 discussions?

17 MR. JORGENSEN: I think they were, but that -- the
18 Producers Guild would have those.

19 MR. NOSANCHUK: And when you sit on those panels, what
20 is sort of the basis for the knowledge that you're
21 communicating to the audience about the role of a
22 producer?

23 MR. JORGENSEN: Because of my interaction with producers
24 quite often as someone will call -- an IA person will
25 call with a report of a hazard, and I will have to

1 interact either with the studio safety people if it's a
2 studio job because they -- they have departments for
3 this or if it's a smaller production with the producer
4 themselves and let them know that you have a
5 responsibility to do this as a business person. And so
6 I -- I do that quite often dealing with producers of
7 what their responsibilities are according to OSHA.

8 MR. NOSANCHUK: And so the basis for your knowledge of
9 the roles or requirements of a producer comes from your
10 understanding of OSHA?

11 MR. JORGENSEN: And what I understand about business in
12 the United States because OSHA -- a lot of people want
13 to think that their companies, because we're doing
14 something totally different, which it is, doesn't have
15 the responsibility that other companies do. So it's --
16 these are -- there're things that OSHA requires of a
17 business to protect their employees.

18 MR. NOSANCHUK: And so would you say that the -- you'd
19 be equally qualified to give the same sort of lecture
20 based on your knowledge of OSHA and your knowledge of
21 business in the United States about any role in a film
22 set?

23 MR. JORGENSEN: As far as this goes for the role of
24 safety within it, I do because the role of safety is --
25 is the things I've been -- there are certain things that

1 I -- because I get to sit at the children's table and
2 listen to the adults quite often, I have an idea of how
3 other things are done, but my expertise is specifically
4 how labor and management interact together to provide a
5 safe workplace.

6 MR. NOSANCHUK: So the expertise that you're describing
7 comes from your position in the sort of labor management
8 world?

9 MR. JORGENSEN: Yes. I have a degree too, but -- I have
10 a degree in communications, which was mostly film and
11 production based, from California Lutheran but.

12 MR. NOSANCHUK: Okay. And so I'm -- the role -- your
13 knowledge of the roles and responsibilities of producers
14 doesn't come from any experience in actually firsthand
15 in the role of a producer?

16 MR. JORGENSEN: No. No.

17 MR. NOSANCHUK: Does it come from working on film sets
18 where you've observed producers?

19 MR. JORGENSEN: Not just observed. I had to work with
20 them about how things go on, waiting around to listen.
21 I got to sit five feet from -- four feet from Francis
22 Coppola for three months while we made Dracula. Got a
23 really big master's degree in -- in filmmaking. So
24 working with Bob Zemeckis on Forrest Gump and how the
25 things that you know were going on with the movie. So I