

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

**STATE OF NEW MEXICO,  
Plaintiff,**

**No. D-101-CR-2024-0013**

**vs.**

**Judge Mary Marlowe Sommer**

**ALEXANDER RAE BALDWIN,  
Defendant.**

**STATE'S MOTION IN LIMINE 1 TO EXCLUDE EVIDENCE OF  
SEPARATE CIVIL SUITS AGAINST DEFENDANT AND/OR  
RUST PRODUCTION**

COMES NOW the State of New Mexico by and through its Special Prosecutors Kari T. Morrissey and Erlinda O. Johnson and hereby moves this Court for an *in limine* order excluding all evidence of a civil lawsuit filed against defendant and or Rust Production as irrelevant and more prejudicial than probative and in support thereof submits the following.

**INTRODUCTION**

On October 21, 2021, the defendant Alexander Baldwin shot and killed Halyna Hutchins during a rehearsal while filming the movie Rust. After the tragic death of Ms. Hutchins several of the movie's crew members, the director and Ms. Hutchins' widower filed civil suit against the defendant and Rust Productions for damages suffered as a result of the killing of Halyna Hutchins. Some of the crew members suing the defendant and Rust Productions are also witnesses who will be testifying at trial.

The State understands Messrs. Souza and Hutchins have reached civil settlements on their civil suits. However, most of the other civil suits remain pending. The State submits that introduction, at defendant's trial, of any evidence of settled and pending civil suits arising from

the shooting death of Ms. Hutchins is irrelevant to this prosecution and even if relevant, must be excluded as more prejudicial than probative.

### ARGUMENT

Only relevant evidence is admissible. *See* Rule 11–402 NMRA 2012. “Evidence is relevant if A. it has any tendency to make a fact more or less probable than it would be without the evidence, and B. the fact is of consequence in determining the action.” Rule 11–401 NMRA 2012. Evidence found to be relevant may be excluded “if its probative value is substantially outweighed by a danger of ... unfair prejudice.” Rule 11–403 NMRA 2012.

Evidence of a resolved civil suit is irrelevant and immaterial at a trial for a related criminal case. *United States v. Whitehead*, 562 F. App'x 701 (10th Cir. 2014). In *Whitehead*, the defendant was civilly sued by Chesapeake Energy for fraud in *Chesapeake Operating, Inc. v. Whitehead*, No. CIV.A. C-10-301, 2011 WL 4372486, at \*8 (S.D. Tex. Sept. 19, 2011). After the civil suit was resolved in favor of Chesapeake Energy, the United States indicted Whitehead for related mail fraud. *Whitehead*, 562 F. App'x 701. At the criminal trial, Whitehead attempted to introduce evidence of the civil judgment in favor of Chesapeake Energy. *Id.* at 707. Whitehead argued that the civil suit showed collaboration, bias, and motivation of the victims. *Id.*

The trial court excluded the evidence of the civil suit and Whitehead was convicted. *Id.* On appeal, the United States Court of Appeals for the Tenth Circuit affirmed, explaining that “the civil judgment was not relevant or material because it would have no tendency to prove or disprove any issue before the jury in the criminal case.” *Id.* Since the civil suit was resolved, the outcome of the criminal case did not influence it, so its existence could not establish bias or motivation of the victims. *Id.* Like *Whitehead*, the civil suit by Messrs. Souza and Hutchins against the Defendant has already been resolved in this case. Since it is resolved, its existence is

immaterial to motivation or bias at the upcoming criminal trial. To inject the civil suit into the criminal trial would not only distract the jury in violation of Rule 403 but could garner unfair sympathy for the Defendant.

Additionally, the Court must also exclude any evidence that crew member witnesses have pending civil law suits against the defendant as the mere fact that witnesses have commenced civil action adds nothing for the purpose of showing bias. *State v Sawicky*, 164 NJ Super 93, 395 A2d 878 (1978); *Brooks v State*, 259 Ind 678, 291 NE2d 559 (1973).

In this case, the Court must exclude any evidence or reference to pending civil lawsuits by some of the witnesses as irrelevant because the witnesses pending civil matters are not based on the same offense for which Defendant Baldwin is on trial. While *State v. Santillanes*, noted “[t]he pendency of a civil action by a prosecuting witness seeking damages” is a proper subject of inquiry, the court recognized it was proper because the civil action was “for the same offense being tried in a criminal action.” 1974-NMCA-092, ¶ 5, 526 P.2d 424 (*quoting Villaroman v. United States*, 87 U.S.App.D.C. 240, 184 F.2d 261, 21 A.L.R.2d 1074 (1950)). In this case, the witnesses’ pending civil actions do not involve the same offense being tried against the defendant herein. It appears the civil lawsuits pending largely allege negligence and intentional infliction of emotional distress and not the charge for which the defendant is currently on trial. Therefore, the Court must exclude all evidence and mention of pending civil suits by some of the witnesses who will be testifying at trial.

Wherefore, for the foregoing reasons the State respectfully moves this Court for an in limine order excluding all evidence and mention of settled and pending civil lawsuits filed against the defendant as a result of the events occurring on October 21, 2021.

Respectfully Submitted,

/s/Erlinda O. Johnson

Kari T. Morrissey

Erlinda O. Johnson

Special Prosecutors

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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 24th day of June 2024.

/s/Erlinda O. Johnson

Erlinda O. Johnson