

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

**DEFENDANT ALEC BALDWIN'S RESPONSE TO THE STATE'S MOTION *IN LIMINE* 1 TO EXCLUDE
EVIDENCE OF SEPARATE CIVIL SUITS AGAINST DEFENDANT AND/OR RUST PRODUCTIONS**

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Defendant Alec Baldwin, by and through his attorneys, submits this response to the State's motion *in limine* number 1, which seeks to exclude all evidence of civil lawsuits filed against Baldwin or Rust Productions.

ARGUMENT

The State argues (at 2-3) the Court should exclude all evidence of pending and settled civil litigation filed against Baldwin and Rust Productions because such evidence is irrelevant and unduly prejudicial.

The State is wrong. “[T]he Constitution guarantees criminal defendants ‘a meaningful opportunity to present a complete defense.’” *Crane v. Kentucky*, 476 U.S. 683, 690 (1986) (quoting *California v. Trombetta*, 467 U.S. 479, 485 (1984)). One way the Constitution protects this right is through the Confrontation Clause, which “guarantees an opportunity for effective cross-examination.” *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985).

It has been hornbook law for over one hundred years in New Mexico that the “bias of a witness is always relevant.” *State v. Santillanes*, 1974-NMCA-092, ¶ 5, 526 P.2d 424; *accord State v. Newman*, 1923-NMSC-077, 219 P. 794 (recognizing that indications of bias or prejudice are relevant to credibility and are therefore always material). A criminal defendant is entitled to introduce extrinsic evidence of a witness's motive to testify falsely. *State v. Worley*, 1984-NMSC-013, ¶ 6, 676 P.2d 247 (“This evidence is similar to evidence of a witness's bias or prejudice and a witness may be cross-examined as to such motive.”). Litigation interest is unquestionably relevant to bias, and all the more so when the litigation is premised on the same incident or circumstance at issue in the criminal case. *See State v. Jimenez*, 2017-NMCA-039, ¶ 70, 392 P.3d 668 (concluding that evidence that defendant had a pending lawsuit against city related the same incident was relevant to bias and thus was admissible in the criminal case); *United States v. James*,

607 F. Supp. 3d 246, 267 (E.D.N.Y. 2022) (permitting evidence of a prior, pending civil lawsuit filed against the defendant in a criminal case).

The State argues that, under Rule 11-401 NMRA, evidence that prosecution witnesses have sued or are continuing to sue Baldwin based on the *Rust* incident does not have “any tendency” to show the witnesses are biased. However, there is almost no better evidence of bias. For example, those witnesses have a direct financial interest in the success of their civil cases against Baldwin, which would benefit materially from a conviction of Baldwin here, or, at a minimum, an interest in maintaining consistency with litigation positions they or their lawyers have taken. The State cites three decisions in an effort to show otherwise, *Brooks v State*, 259 Ind. 678 (1973), *State v Sawicky*, 164 N.J. Super. 93 (1978), and *United States v. Whitehead*, 562 F. App’x 701 (10th Cir. 2014) (unpublished). But *Brooks* ruled that “the pendency of the civil litigation was *admissible* as tending to show bias and prejudice” (the opposite of what the State claims here), *Brooks*, at 680; *Sawicky* is a 46-year old intermediate New Jersey decision that has literally no explanation or analysis of the facts or legal reasons for its order; and *Whitehead* is a non-precedential, unpublished decision that involved a defendant who sought to present a *company’s civil judgment* as evidence of certain *individual* witnesses’ bias, even though the witnesses didn’t personally benefit from the company’s judgment, the company’s civil claim was no longer pending, and the court had given the defendant other meaningful ways to show the type of bias the defendant was seeking to demonstrate.

The rule in New Mexico is simple: Evidence that a witness is biased is always relevant, and evidence of the witness’s civil litigation tends to show bias. The Court should deny the State’s motion.

Date: July 1, 2024

Respectfully submitted,

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By: /s/ Luke Nikas

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2024, a true and correct copy of the foregoing brief was emailed to opposing counsel.

/s/ Heather LeBlanc _____
Heather LeBlanc