

**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 RESPONSE TO DEFENDANT'S MOTION *IN LIMINE*
TO PRECLUDE INADMISSIBLE CUMULATIVE EXPERT TESTIMONY**

COMES NOW the State of New Mexico by and through Special Prosecutors, Kari T. Morrisey and Erlinda O. Johnson, and hereby respectfully submits the following response in opposition to Defendant Alexander Baldwin's motion *in limine* to preclude inadmissible, cumulative expert testimony, and in support thereof submits the following.

The State is not intending to present cumulative expert testimony. Many people, likely many jurors, are not at all familiar with safety protocols on movie sets and many of the State's experts are being called to educate the jury with regard to safe practices and movie sets so that the jury can determine whether Mr. Baldwin's conduct rises to the level of wilful and wanton.

Bryan Carpenter – Mr. Carpenter's testimony will include, but will not be limited to, gun safety on movie sets based on his years of experience as an armorer on movie sets and as a gun handler outside of movie sets. He can testify to his opinions that it should have been obvious to experienced cast or crew members that Ms. Gutierrez was inexperienced and failed to follow proper safety protocols as they pertain to firearms on movie sets. This testimony is admissible to counter the defense position that Mr. Baldwin had no reason to believe that Ms. Gutierrez was

anything but a stellar professional armorer, despite the fact that many other crew members noticed deficiencies in her adherence to safety protocols. Mr. Carpenter has experience as a film producer and can explain the duties and responsibilities of producers – something many jurors are likely unfamiliar with. It is expected that defense will likely try to impeach Mr. Carpenter and call into question his opinions on gun safety, the meaning/applicability of safety bulletins on movie sets and the role of the producer generally and as it pertains to overall set safety.

Kent Jorgensen – Mr. Jorgensen’s testimony will include but will not be limited to, his experience as a film industry *Key Grip* but also as a member of the Industry-Wide Labor Management Committee that issues and revises the safety protocols for movie sets for over 27 years. Mr. Jorgensen has been the labor chairman of the Industry-Wide Labor Management Committee for than fifteen years. Mr. Jorgensen has also been the IATSE safety committee chairman for 17 years. He is involved in drafting and editing standard safety guidelines for the industry. Mr. Jorgensen conducts investigations in order to assist IATSE employees so that incidents do not occur again. His testimony will largely relate to the Safety Bulletins with regard to firearms and the development of the safety bulletins. Mr. Jorgensen also has extensive experience teaching movie set safety to producers and other members of the film industry about their roles and responsibilities as it pertains to set safety. Mr. Jorgensen will also corroborate some of the opinions of Mr. Carpenter which is permitted as the defense will attempt to call into question Mr. Carpenter’s opinions and experience. “Corroborative testimony is testimony which tends to strengthen, confirm, or make more certain the testimony of another witness. In order to be corroborative and therefore properly admissible, the prior statement of the witness need not merely relate to specific facts brought out in the witness's testimony at trial, so long as the prior

statement in fact tends to add weight or credibility to such testimony. See *State v. Gettys*, 243 N.C. App. 590, 595, 777 S.E.2d 351, 355-356, 2015 N.C. App. LEXIS 879.

Paul Jordan – Mr. Jordan is not an armorer or producer – he is a film industry safety consultant. Unlike Mr. Jorgensen, he does not assist in the development of Safety Bulletins. He will testify generally about set safety, the fact that safety consultants are available to aid production companies to ensure safety and the importance of safety for cast and crew. The State intends to limit the testimony of Mr. Carpenter, Mr. Jorgensen and Mr. Jordan so that their testimony is not cumulative unless it is needed to corroborate another expert’s opinions challenged by the defense.

Michael and Lucien Haag – the State is acutely aware given the time constraints of the trial that the testimony of Haags cannot be cumulative and is intending to elicit selective testimony from each of the Haags to ensure that there is little or no overlap. The Haags will testify, including but not limited to, their opinion that the gun was working properly as evidenced by the countless videos of Mr. Baldwin cocking and firing the gun on the set of *Rust*. The Haags will testify to their opinions that the gun was working properly when it was examined and test-fired at the FBI, the damage to the full-cock notch of the gun was sustained during the FBI’s accidental discharge testing and was not an apparent *modification*, the half-cock and quarter-cock notches of the gun appeared normal and were not “filed down” and that the microscopic scratches on the tip of the sear did not affect the functionality of the gun and may have been caused by the FBI’s accidental discharge testing.

Allesandro Pietta – Mr. Pietta is an expert in the manufacturing of *Pietta* single action army revolvers and his testimony is not cumulative or irrelevant. The defense theory, no matter how baseless, is that the gun malfunctioned and fired on its own. Mr. Pietta’s will testify as to the process of manufacturing of *Pietta* revolvers, and the quality control measures involved.

Bryce Zeigler – As this Court is well aware, Mr. Zeigler will testify to the examination and testing her performed on the firearm used to kill Ms. Hutchins, the circumstances of the accidental discharge testing and his opinion that the gun functioned properly prior to the damage sustained by the accidental discharge testing.

Robert Gillette – Mr. Gillette will testify to the chemical testing of the gun powder from the different live rounds collected by law enforcement. The testimony of Gillette and Zeigler will not overlap, just as it did not during the trial of Hannah Gutierrez.

Ysela Carrillo – Dr. Carrillo is a trauma surgeon who surgically repairs gunshot wounds and treats victims of gunshot wounds. Carrillo will testify to her opinions that Ms. Hutchins injuries were fatal, and it was extremely unlikely that she could have survived her injuries. Dr. Carrillo will testify to her opinion that Ms. Hutchins was treated properly and intubated properly by paramedics at the scene and to her opinion that Ms. Hutchins died from exsanguination and that exsanguination also results in death from lack of oxygen. Dr. Carrillo will testify to her opinions that Ms. Hutchins suffered extreme hemorrhagic shock and neurogenic shock from the blood loss associated with her injuries and the laceration to her spinal cord. Dr. Carrillo’s testimony will not overlap with that of Dr. Jarrell unless needed to corroborate certain testimony.

Heather Jarrell – Dr. Jarrell is the physician who performed the autopsy on Ms. Hutchins. She will testify to the OMI findings and photos.

Jerrilyn Conway and Shannon Prince – Ms. Conway is a DNA analyst and Ms. Prince is a latent fingerprints examiner. Their testimony does not overlap and is not cumulative.

Michael Primeau – Mr. Primeau is a digital forensics expert, and his testimony does not overlap with that of any other witness or expert witness.

The State has the burden of proof and will present the testimony needed to meet its burden. The State is aware of the need for efficiency and will not present cumulative testimony unless needed to respond to defense challenges to certain expert testimony in the form of corroborative testimony.

Wherefore, for the foregoing reasons, the State respectfully requests this Court deny the defendant's motion *in limine* to preclude inadmissible cumulative expert testimony that.

Respectfully Submitted,

/s/ Kari T. Morrissey

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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 1st day of July 2024.

/s/ Kari T. Morrissey
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