

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

Alexander R. Baldwin III,

*Plaintiff,*

vs.

Kari T. Morrissey, Mary Carmack-Altwies, Andrea Reeb, Jennifer Padgett Macias, The First Judicial District Attorney's Office, Alexandria Hancock, Marissa Poppell, Brian Brandle, and Santa Fe County Board of County Commissioners.

*Defendants.*

No. D-101-CV-2025-00060

**COMPLAINT FOR:**

- 1. VIOLATION OF RIGHTS UNDER 42 U.S.C. § 1983**
- 2. CONSPIRACY TO CAUSE VIOLATION OF RIGHTS UNDER 42 U.S.C. § 1983**
- 3. MALICIOUS ABUSE OF PROCESS**
- 4. INTENTIONAL SPOILIATION OF EVIDENCE**
- 5. DEFAMATION**
- 6. VIOLATION OF NEW MEXICO CIVIL RIGHTS ACT**

**JURY TRIAL DEMANDED**

Alexander R. Baldwin III, through his attorneys Quinn Emanuel Urquhart & Sullivan LLP and LeBlanc Law LLC, brings this action for deprivation of rights afforded by the Constitution and laws of the United States, malicious abuse of process, intentional spoliation of evidence, defamation, and violation of the New Mexico Civil Rights Act, against Kari T. Morrissey, Mary Carmack-Altwies, Andrea Reeb, Jennifer Padgett Macias, the First Judicial District Attorney's Office ("FJDA"), Alexandria Hancock, Marissa Poppell, Brian Brandle, the Santa Fe County Board of County Commissioners ("Commissioners"), and the County of Santa Fe (the "County") (collectively, "Defendants" or "the State"), and for his Complaint alleges as follows:

**INTRODUCTION**

1. The highest duty of all who investigate, charge, and prosecute criminal cases in the State of New Mexico is to fairly and impartially apply the State's awesome powers. Criminal prosecutions are to be guided by the search for truth and justice, not to pursue personal or political gain or harass the innocent.

2. For the better part of the last three years, however, Defendants repudiated these obligations, blinded by their desire to convict Alec Baldwin for all the wrong reasons, and at any cost, for the October 2021 accidental shooting of Halyna Hutchins. Defendants' misconduct in their pursuit of Baldwin, and the trial judge's condemnation of them, has already drawn world-wide attention. But this action is necessary to vindicate Baldwin's rights and deter Defendants from attempting to do this to anyone else.

3. From the moment Defendants and their agents set foot on the scene of the incident, it should have been apparent that Baldwin had no culpability. Minutes before, a member of the crew had handed him a prop handgun and loudly called out "cold gun" to assure Baldwin and everyone else present that it had been inspected and contained only non-explosive dummy rounds. But unbeknownst to Baldwin, the prop had been loaded with live rounds that looked similar to dummy rounds. The prop fired a live round and killed Hutchins.

4. Defendants sought at every turn to scapegoat Baldwin for the acts and omissions of others, regardless of the evidence or the law. This included Defendant Andrea Reeb, a special prosecutor who used the prosecution of Baldwin to advance her simultaneous run for the New Mexico Legislature. It included Defendants unlawfully charging Baldwin with an enhancement to increase the potential sentence from 18 months to five years, even though the enhancement was not enacted until after the incident. It included Special Prosecutor Kari Morrissey, who wanted to teach Baldwin "a lesson" because she deemed him to be an "arrogant prick." And it included her extracting an indictment by manipulating the evidence she presented, and chose not to present.

5. Most notably, it included certain Defendants' intentional concealment of exculpatory evidence and then lying from the witness stand during trial about their coverup.

6. For First Judicial District Judge Mary Marlowe Sommer, that was the last straw. During those two days, Judge Sommer heard testimony from SFSO crime lab technician Marissa

Poppell and SFSO Lieutenants Brian Brandle and Alexandra Hancock about the circumstances under which the live rounds had come into Defendants' possession and how Defendants intentionally chose *not* log them to the case file—at the insistence of Special Prosecutor Morrissey—to keep Baldwin from knowing about them. Judge Sommer inspected the ammunition that Defendants had failed to disclose, and instantly recognized their exculpatory significance. That same day, Morrissey called herself to the stand and gave perjurious testimony in an attempt to justify her misconduct.

7. Judge Sommer found that “The State’s willful withholding of this information was intentional and deliberate.... If this conduct does not rise to the level of bad faith, it certainly comes so near to bad faith as to show signs of scorching prejudice....” Based on those findings, Judge Sommer concluded: “There is no way for the Court to right this wrong,” and dismissal of the criminal case with prejudice was “the only warranted remedy.”

8. Defendants must now be held accountable for their malicious and unlawful pursuit of Baldwin. Although no verdict in this civil case can undo the trauma the State’s threat of conviction and incarceration has inflicted, Alec Baldwin has filed this action to hold Defendants responsible for their appalling violations of the laws that governed their work.

#### **JURISDICTION & VENUE**

9. The events giving rise to this lawsuit occurred in Santa Fe County, New Mexico.

10. This Court has jurisdiction over this matter under Article VI, Section 13 of the New Mexico Constitution, Section 41-4-18 NMSA and Section 41-4A-3 NMSA, and 42 U.S.C. Sections 1983 and 1988.

11. All preconditions for bringing this Complaint against each of the Defendants were fulfilled because sufficient notice that Plaintiff may pursue litigation was submitted to the necessary entities, including the Santa Fe County Board of County Commissioners and the Risk

Management Division of the State of New Mexico General Services Department within the statutory time limit for doing so, under Sections 41-4-16 and 41-4A-13, NMSA.

12. Venue in this district is proper under Section 38-3-1 NMSA, Section 41-4-18 NMSA, and Section 41-4A-3 NMSA, because the events giving rise to the causes of action herein occurred in Santa Fe County, New Mexico, and the principal offices of Defendants' governing bodies are located in this County.

### **PARTIES**

13. Plaintiff Alexander R. Baldwin III is an actor, philanthropist, and political activist. He is a resident of the State of New York.

14. Kari T. Morrissey is an individual (suit is brought against Morrissey in both her individual and official capacity). The office of the District Attorney for the First Judicial District of the State of New Mexico appointed her Special Prosecutor in connection with the *Rust* case in March 2023. She is a resident of the State of California.

15. Mary Carmack-Altwies is the District Attorney for the First Judicial District of the State of New Mexico and a resident of the State of New Mexico (suit is brought against Carmack-Altwies in both her individual and official capacity).

16. Defendant Andrea Reeb is a former District Attorney for the Ninth Judicial District of the State of New Mexico, a member of the New Mexico House of Representatives, and a resident of the State of New Mexico (suit is brought against Reeb in both her individual and official capacity). She was appointed Special Prosecutor in connection with the *Rust* case by the office of the District Attorney for the First Judicial District of New Mexico in August 2022, and formally withdrew from that role in March 2023.

17. Defendant Jennifer Padgett Macias is an Assistant District Attorney for the First Judicial District of the State of New Mexico and a resident of the State of New Mexico (suit is brought against Padgett Macias in both her individual and official capacity).

18. Defendant Alexandria Hancock is a law enforcement officer employed by Santa Fe County Sheriff's Office and a resident of the State of New Mexico (suit is brought against Hancock in both her individual and official capacity).

19. Defendant Marissa Poppell is a crime scene technician employed by Santa Fe County Sheriff's Office and a resident of the State of New Mexico (suit is brought against Poppell in both her individual and official capacity).

20. Defendant Brian Brandle is a law enforcement officer and supervisor employed by the Santa Fe County Sheriff's Office and a resident of the State of New Mexico (suit is brought against Brandle in both his individual and official capacity).

21. Defendant First Judicial District Attorney's Office ("FJDA") is a State entity located in Santa Fe, New Mexico.

22. Defendant Santa Fe County Board of County Commissioners (the "County") is a political subdivision of the State of New Mexico, located in Santa Fe, New Mexico. Under Section 4-46-1, NMSA 1978, all suits or proceedings against a county are to be brought in the name of the board of county commissioners of that county. At all material times, the County was a governmental entity and a local public body as those terms are defined in Sections 41-4-3(B) and (C) of the New Mexico Tort Claims act, as amended, and is liable for its conduct and for torts committed by its officers for which immunity is waived under Section 41-4-12, NMSA 1978. Under Section 4-46-1, NMSA 1978, the County is a properly named defendant to this action in lieu of the Santa Fe County Sheriff's Office.

23. At all times relevant to the causes of action asserted in this Complaint, each of the Defendants above acted as an agent for the other Defendants and each is legally responsible to Baldwin for the actions of the others.

### **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

#### **I. THE *RUST* PRODUCTION**

24. In 2018, Baldwin began working with writer-director Joel Souza on a Western movie titled *Rust*. *Rust* tells the story of a boy in 1880s Kansas who accidentally kills a local rancher and is sentenced to hang. After being broken out of prison by his estranged grandfather, an outlaw named Harland Rust, they flee to New Mexico on a dangerous journey through an unforgiving landscape, forming a close bond along the way.

25. Throughout 2019-2021, Baldwin worked on the project with Souza and *Rust*'s team of producers: Ryan Smith, Nathan Klingher, Ryan Winterstern, Matt DelPiano, and Anjul Nigam.

26. Smith, individually and through his production company, Rust Movie Productions LLC, was primarily responsible for getting the production up and running. He and the other producers pitched *Rust* to investors, secured financing, and set the budget.

27. Baldwin was also a producer, but his authority was limited to creative decisions. Baldwin lacked the authority to hire crew members and make other non-creative decisions.

28. Smith hired Gabrielle Pickle as Line Producer, and the two of them, along with Messrs. Winterstern and Klingher, hired the crew. Once the film was in production, Messrs. Smith, Klingher, Winterstern, and Pickle oversaw *Rust*'s day-to-day operations, along with the film's Unit Production Manager, Row Walters.

29. The production began filming on October 6, 2021. That day, Baldwin and his production company, El Dorado Pictures, Inc., entered into a producer agreement with Ryan Smith

and Rust Movie Productions LLC. The Producer Agreement reflects Baldwin’s creative role and his lack of authority on hiring and budget decisions.

30. Baldwin did not arrive on set until the second week of filming, when it was time for him to appear on camera as Harland Rust.

31. Soon after arriving, Baldwin met with Hutchins, *Rust*’s cinematographer (also known as the director of photography), and Souza. They discussed their creative vision for the film and how to tell the story through the camera, taking advantage of the vast, quiet expanses of New Mexico’s landscape.

32. They did not discuss safety at that meeting, and at no point did Baldwin discuss gun safety with anyone beyond Zachry, Gutierrez-Reed, Halls, and Nicole Montoya (a props assistant).

33. While on the set, Baldwin never saw or became aware of any significant safety issues.

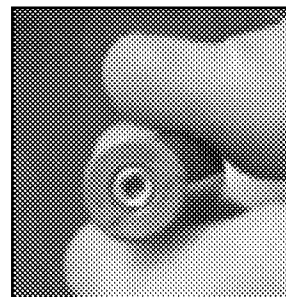
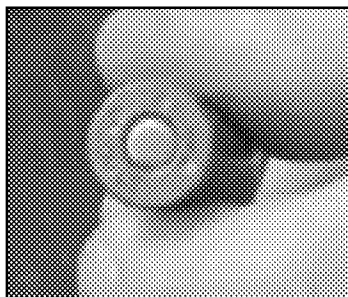
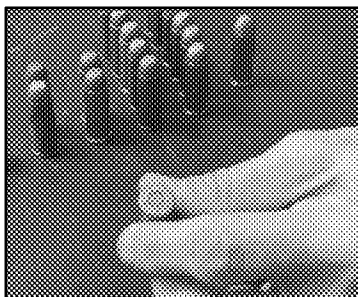
## **II. CONTROL OVER FIREARMS ON THE *RUST* SET**

### **A. Firearm Safety On Movie Sets.**

34. The film industry has standards regarding the handling of firearms on set. The first rule, with which virtually all cast and crew members are familiar, is that “live” ammunition—*i.e.*, ammunition that contains explosive powder and a projectile—is *never* allowed on a stage or set.

35. On film sets, prop guns may be loaded with “blanks,” which contain explosive powder but no projectile, or with “dummy rounds” (or “dummies”), which are designed to look like real bullets, but contain no charge (*i.e.*, they cannot detonate and are inert). Dummies are used in close-ups where the movie audience will be able to see the lead tip of the rounds of ammunition. Blanks have crimped ends and no projectile. The ammunition’s rim (base) or primer (the circular inset piece of metal at the center of the base) is usually not visible from a front camera position.

The below images show a variety of types of “dummy” ammunition. As they show, live rounds may be indistinguishable from dummy rounds:



36. The safe use of firearms on set is the responsibility of the Property Master (or “Prop Master”), or the Prop Master’s designee—in most cases, the Armorer. These individuals are responsible for sourcing firearms, blanks, and dummies. They have the necessary training and expertise to identify live versus dummy ammunition. The Prop Master for *Rust* was Sarah Zachry, and the Armorer was Hannah Gutierrez-Reed. Both Zachry and Gutierrez-Reed came with strong recommendations from the production’s ammo supplier, Seth Kenney, who had worked with them on previous projects. Baldwin was not involved in (or even aware of) the decision to hire Zachry or Gutierrez-Reed, and did not meet them until he arrived on set.

37. In addition to the Prop Master and Armorer, the First Assistant Director (or “First AD”) is in charge of set safety, and is the “last line of defense” for firearm safety on set. Dave Halls was the First AD on *Rust*.

38. Although industry guidance instructs that it is best to avoid pointing a firearm at anyone, the same guidance notes that this does occur while making a movie, and explains that, when pointing a gun at another is “absolutely necessary,” it should be done in consultation with the Prop Master or his or her designee (*i.e.*, Gutierrez-Reed) and the First AD (Halls).

39. At bottom, the Prop Master, Armorer, and First AD—not actors—bear responsibility for firearm safety on the set.



40. “Cold gun” is a widely understood term in the film industry. It refers to a firearm that has been inspected to confirm that it has not been loaded with any live or blank rounds (i.e., it contains no explosives), and is therefore incapable of firing. The term “cold gun” is meant to distinguish between a gun loaded with blanks and a gun that is empty or loaded with dummies; a “cold gun” does not contain any live ammunition.

41. The announcement of a “cold gun” by the Armorer or First AD is meant to assure all present that the gun has been properly checked for the absence of any ammunition, other than “dummy” rounds, so that the cast and crew members may go about their work knowing that the firearm is incapable of causing harm.

**B. Baldwin Receives Standard Firearms Training On *Rust*.**

42. The day after he arrived on set, Baldwin received firearm training from *Rust*'s Armorer, Gutierrez-Reed. The training lasted around 90 minutes.

43. During the session, Gutierrez-Reed reminded Baldwin of gun safety measures he had learned at substantially similar gun training throughout his career, such as putting the gun down when “cut” is called, not to force the gun if it jams, and not to fire it when empty. Gutierrez-Reed also reminded Baldwin that he would need to feign the prop's recoil because blank rounds do not generate any.

44. But Gutierrez-Reed did not instruct Baldwin that he should check the gun himself. In fact, she told Baldwin that it was her job to check the gun—not his.

45. Baldwin followed Gutierrez-Reed's instructions during the gun safety training and throughout his time on the *Rust* set.

**III. THE EVENTS OF OCTOBER 21, 2021**

46. On October 21, 2021, the *Rust* cast and crew were filming a scene in a small church where Baldwin's character, Harland Rust, takes cover after a shootout. The scene involves a close-

up view of the revolver he is holding that he is required to “cock” (*i.e.*, pull the hammer back) before a shootout begins with shotguns “boom[ing]” and “Colts exploding.”

47. They began rehearsing the scene before lunch, with Baldwin practicing his cross-draw for the camera. In a videorecording of the rehearsal, Souza told Baldwin to “draw” and “point” the gun, and “whip it out” in front of the camera. After Baldwin practiced the move a few times, someone off-camera said, “Nice!”

48. When the cast and crew broke for lunch, Gutierrez-Reed took the pistol from Baldwin. Souza, Hutchins, and Baldwin stayed behind to discuss the “insert shot” they were planning to film after lunch, which involved capturing a close-up of Baldwin’s cross-draw with the camera tightly focused on the gun.

49. They understood that, to achieve this close-up, the unloaded pistol would need to be loaded with dummies so that the pistol would not appear on screen to be unloaded.

50. At some point during or after lunch, Gutierrez-Reed loaded the pistol with what she believed to be six dummy rounds.

51. Gutierrez-Reed then brought the pistol into the church and showed it to Halls, telling him that she had loaded it with dummy rounds. She rotated the cylinder for Halls, who agreed that the prop gun was safe to handle. As Halls handed the prop gun to Baldwin, Halls announced that there was a “cold gun” on set. That meant that the prop gun had been inspected and was incapable of firing even a blank or causing harm.

52. Meanwhile, Hutchins continued to evaluate her camera angle for the scene. In Baldwin’s experience, the cinematographer or director of photography has significant input into an actor’s performance, particularly as to what is (or is not) in the frame. Hutchins directed Baldwin accordingly.

53. Baldwin was sitting in a church pew looking at Hutchins. He held the gun, which, Halls had just announced was safe. Hutchins was standing camera right (to Baldwin's left), next to the camera operator, and looking back and forth between Baldwin and the camera operator's monitor. She was determining how best to angle the camera and what movements Baldwin should make for her to capture the cocking of the gun that the script had called for.

54. Baldwin asked Hutchins what she would like him to do. He pulled the gun out slowly and held it still before Hutchins began giving him further direction. She described how she wanted Baldwin to place the gun. She told Baldwin to hold the gun higher, to a point where it was directed toward her. As she gave these instructions, she was looking carefully at the monitor and then at Baldwin, and then back again.

55. Baldwin asked Hutchins if she wanted to see him cock the gun, as the script required. She responded yes. Baldwin tipped the gun down so that the camera would focus on his hand's action on the top of the gun. While performing this action, Baldwin asked Hutchins, "Am I holding it too far down?" and "Do you see that?" Hutchins said that she could see Baldwin's actions.

56. As later became known, a live round discharged from the gun and struck Hutchins, traveling through her body and striking Souza in the shoulder. Both Hutchins and Souza fell to the ground.

57. Panic and confusion immediately ensued. No one understood what had happened. Baldwin and others in the church were ordered to leave. The on-set medic and others rushed to render aid to Hutchins and Souza.

58. *Rust's* script supervisor, Mamie Mitchell, called 911 and told the operator that two people had been "accidentally shot on a movie set by a prop gun." A few seconds later, Mitchell

can be heard saying on a recording, “This f\*\*\*ing AD [Dave Halls] . . . He’s supposed to check the guns. He’s responsible for what happens on the set.”

59. Paramedics arrived shortly and worked to stabilize Hutchins and Souza.

60. Outside the church, Baldwin and others began to speak to each other to try to piece together what had just happened. Baldwin thought that Hutchins may have fainted or had a heart attack. Unaware that a real bullet had struck Souza, Baldwin was confused as to why Souza was screaming in pain.

61. As the cast and crew were gathered, still reeling from the incident, Mitchell approached Baldwin and said, “You realize you’re not responsible for any of what happened in there, don’t you?”

62. Hutchins was airlifted to a hospital, but succumbed to her injuries. Souza was treated at the hospital and recovered.

#### **IV. THE INITIAL INVESTIGATION WAS TAINTED BY THE PROSECUTORS’ MALICE TOWARDS BALDWIN**

##### **A. Law Enforcement Responded To The Scene.**

63. SFSO Officers arrived at the set less than 15 minutes after the 911 call. When they arrived, they did not separate the witnesses, instead allowing people to mingle and talk about the incident and speculate about what might have happened.

64. Nor did the law enforcement personnel immediately establish a perimeter around the area, instead allowing cast and crew to move freely around. They also failed to immediately secure the prop cart or the firearms on set, allowing crew members to continue to enter the scene and handle (and even discard) key pieces of evidence.

65. Law enforcement did not secure the prop truck, where the property department and armorer stored their materials, for six days, again leaving critical evidence vulnerable to manipulation.

66. Law enforcement eventually spoke with those who were involved in the incident, taking down their information.

67. SFSO Deputy Nicolas Lefleur approached Baldwin, who immediately said: “I was the one holding the gun,” and asked, “What do you need?”

68. After changing out of his clothes and giving them to law enforcement, Baldwin voluntarily drove himself to the SFSO station and sat for an interview with Detectives Alexandria Hancock and Samantha Talamente. He spoke freely with Det. Hancock and Det. Talamente for over one hour, declining their invitation to have a lawyer present. At the time, Baldwin had yet to learn what they already knew—that Hutchins had died. They waited until the interview was over to tell him.

69. At the conclusion of the interview, one of the detectives showed Baldwin a photograph of the .45 caliber bullet that had just been removed from Souza’s shoulder at the hospital. Baldwin recognized the object as a bullet, and he finally began to comprehend what had transpired on the set. He was shocked. It was unimaginable to him that a live round could have been present on the ranch property or on the prop truck, let alone in the gun itself—a gun declared “cold” by the film’s head of safety.

**B. The Investigators Looked Into How A Live Round Got In the Gun.**

70. From the start, investigators focused on a key question: How did live ammunition end up on a movie set, where the presence of live ammunition is, in the State’s own words, “incomprehensible.” Law enforcement quickly recognized that it was the presence of live ammunition—and not Baldwin’s handling of a movie prop—that transformed an everyday rehearsal into a fatal disaster.

71. Questions about Baldwin’s handling of the firearm—*e.g.*, whether he had cocked it or pulled the trigger, and where he was pointing it when it went off—were treated as an

afterthought. For example, although Baldwin consistently maintained that the gun just “went off” and that it would have defied his normal practice to pull the trigger during a rehearsal, investigators did not swab the trigger for DNA—because they recognized that whether Baldwin’s finger was on the trigger was irrelevant to how live ammunition ended up on the set and who was responsible for that.

72. Within a matter of days, however, things began to change as elected officials and high-ranking members of law enforcement became increasingly involved in the case.

73. Amid this transition, the investigation’s lead detective stepped down and a new detective, Alexandria Hancock, took over.

74. According to Det. Hancock, prosecutors from the FJDA were heavily involved in SFSO’s investigation “from the beginning,” with investigative decisions being made “collectively” by a “team” that included prosecutors.

75. Up to this point, the investigation into the source of the live round was focused on whether the lethal round came from the crew of *Rust* (e.g., Gutierrez-Reed or Zachry), or whether someone from outside of the crew (e.g., Seth Kenney) had provided it.

76. As prosecutors became more involved in the case, however, their focus shifted from identifying the source of the live ammunition. They instead fixated on *Baldwin*.

77. This shift occurred even as more evidence emerged that Seth Kenney, a third-party ammo supplier, may have been the source of the live round. And it continued despite the consistent finding throughout the investigation that it is *not* an actor’s job to check for live rounds inside a prop gun that those responsible for gun safety have cleared for use.

78. Driven by the prosecutors’ agenda, SFSO began to ignore critical evidence as to how live ammunition ended up on the set.

79. For example, SFSO waited six days before executing a search warrant on the prop truck—the vehicle where firearms and ammunition had been stored. At Gutierrez-Reed’s trial, Det. Hancock testified that this delay occurred because SFSO “didn’t have information until later on that this prop truck had been involved in the props department and that we would potentially need to be looking for evidence there, which is why we didn’t conduct that search until a few days later.”

80. That testimony was false. Within hours of the incident, Det. Hancock knew of the importance of the prop truck, when Gutierrez-Reed told her that “[t]he guns . . . and the dummies and everything are kept on the prop truck.” In fact, the search warrant states that Det. Hancock “conducted an interview with Hannah Gutierrez,” who advised “on the day of the incident” that “firearms were . . . secured inside a safe on a ‘prop truck’” and that “ammo was also kept inside the ‘prop truck.’” Det. Hancock lied about her knowledge of the prop truck to cover up the real reason SFSO waited six days to execute its warrant: Prosecutors were not interested in pursuing the source of the lethal round because, if it turned out that the round came from an outside source (such as Kenney), it would be difficult to blame Baldwin. This was confirmed by two sets of prosecutors, both of whom sought to hold Baldwin criminally responsible for failing to supervise crew members based on his role as a producer.

81. SFSO waited more than one month to execute a search warrant on Kenney’s business, PDQ Arm & Prop LLC, despite learning within hours of the incident that PDQ was *Rust*’s ammo supplier.

82. This delay would be troubling under any circumstances. But it was particularly troubling here, given what Det. Hancock knew at the time. On November 1, 2021, thirty days before conducting a search of PDQ, Det. Hancock met with Kenney at the SFSO station. During the meeting, Kenney phoned someone named Joe Swanson to determine the whereabouts of

several *hundred* live rounds that were reportedly given to Kenney that were said to match the live rounds found on the set of *Rust*. When Swanson told Kenney that the rounds had been kept “loose in an ammo can,” Kenney hung up the phone and swore repeatedly—“*shit, shit, shit shit*”—because the ammo can Swanson was referring to had been sitting at PDQ all along. Once he was done cursing, Kenney stated, “Well, [Gutierrez-Reed] didn’t do her f\*\*\*ing job,” suggesting that even if he *had* supplied live ammo to the set of *Rust*, he couldn’t be blamed for Hutchins’ death.

83. Even though Det. Hancock was present when Kenney realized that he may have been the person who had inadvertently supplied live ammunition to the set of *Rust*, and watched him curse at the realization, she indefensibly waited 30 days to search Kenney’s business. This gave Kenney a month to dispose of any evidence linking him to the accident. When SFSO executed the search warrant on November 30, 2021, the ammo can was empty. Conveniently, someone had even written “empty” on the can itself.

84. SFSO also failed to pursue other leads that may have identified the source of the live rounds, which would have weakened the State’s case against Baldwin. For example, at least three different people told SFSO or the FJDA that persons connected to the film were firing live ammunition at the Bonanza Creek ranch on or around the day of the accident. At least two of these persons felt that law enforcement had brushed off their statements or not taken them seriously. They are barely mentioned in the Sheriff’s Incident Report.

85. One person reported that, shortly after the incident, he had overheard individuals who worked on another film, and who had come into his shop, and had been discussing how some of the people working on *Rust* had been firing live ammunition to shoot cans off of posts. This person reported this to the SFSO, but there was no follow-up.

86. “As a team” the SFSO decided not to seek fingerprint or DNA testing of live rounds found on the set to determine who was responsible for bringing them there.



**C. The State Destroyed The Firearm.**

87. The condition of the prop gun, particularly whether it showed signs of damage or modification on the day of the incident, was an important issue in the investigation and in any potential prosecution. But Defendants' investigation of this issue was calculated to hide the facts and resulted in the intentional destruction of the gun.

88. Throughout the investigation, Baldwin repeatedly told investigators that the gun just "went off." Several witnesses who were inside the church also told investigators that the gun just "went off." At first, investigators did not seem to question the veracity of these accounts.

89. But in April 2022, six months after the incident, the SFSO asked the FBI to test the prop gun. According to Det. Hancock, the SFSO's purpose for doing so was to "disprove" what Baldwin said during a televised ABC News interview (*i.e.*, that he did not pull the trigger).

90. On April 21, 2022, FBI Special Agent Jose Cortez, at Det. Hancock's instruction, directed the FBI to perform an "[e]nhanced test" to determine whether the firearm would fire without pressing the trigger. As the FBI knew, and as it told the SFSO, this testing subjects the firearm to a substantial external impact and was all but certain to break it. Special Agent Cortez therefore wrote that he and Det. Hancock knew "that the requested testing will alter the firearm and it will no longer be in the same physical condition that it was seized in."

91. Despite knowing this, no one from the prosecutor's office or the SFSO asked that the FBI lab document the internal components of the firearm before performing the destructive testing. Nor did anyone alert Baldwin or the other potential defendants to the possibility that a key item of evidence was about to be destroyed.

92. FBI Forensic examiner Bryce Ziegler conducted extremely aggressive testing on the revolver, striking it repeatedly with a mallet, without documenting his process nor endeavoring to hold constant the force with which he struck it. Stunningly, Ziegler has admitted that he had

never conducted this type of testing outside of a training environment. That inexperience led to disastrous results. Ziegler failed to disassemble the firearm or document its condition before testing it to look for worn, altered, or otherwise defective parts. He did not even attempt to adapt the test to the circumstances of the incident. Instead, Ziegler began beating the firearm with a mallet until the trigger and other internal components broke.

93. This approach to testing the prop made no sense. The SFSO asked the FBI to test whether the firearm could fire without a pull of the trigger. But no one had ever suggested that a substantial force had struck the gun to cause it to fire, or anything else that would justify the kind of testing that Ziegler performed. As the State's own firearm expert later admitted, destructive testing was not called for in this case. Instead, the State and the FBI could have conducted at least one other more appropriate test—now impossible to perform—to determine if the prop gun had misfired. That would have been a “push-off” test, in which pressure is manually applied to the back of the hammer to determine if it will fall without the trigger being pulled.

94. But instead, the FBI's Ziegler inexplicably waited until after he conducted the destructive test before doing what he should have done first: Take the prop gun apart to examine it for modification or damage. When he finally did so, he found signs of modification to the prop's internal components. Although some parts showed damage consistent with his mallet strikes, other parts showed unrelated alterations and damage. For example, the hammer had been rounded such that the sear would no longer stay lodged in the full-cock notch, and other notches (quarter and half) also appear reduced in depth when compared to intact parts.

95. The State's expert admitted these facts, describing the hammer as “peened” or “rolled, rounded off, and [] full of very rough toolmarks.” As the State's experts later demonstrated, the hammer would not engage an intact sear in that condition, which would have allowed the hammer to fall without pulling the trigger.

96. The FBI's failure to examine those components before testing or document the prop gun's original condition made it impossible for Baldwin to adequately reconstruct the prop gun, creating a gap in the evidentiary record that prevented Baldwin from recreating the FBI's tests, conducting his own tests on a functioning firearm in its original condition, inspecting the firearm in its original condition, evaluating the modifications and their effect before the gun was destroyed, or otherwise subjecting the FBI's analysis to the rigorous review necessary for a proper defense.

97. The FBI's failure to document the firearm's original condition before conducting destructive testing, and the SFSO's failure to ask for it, deprived Baldwin of critical information that would have allowed Baldwin to test a component of the prosecution's eventual theory and his defense: whether the firearm was defective when the accident occurred and could have discharged a round without the trigger being pulled.

## **V. THE FIRST PROSECUTION**

### **A. Reeb Joined The Prosecution For Political Gain.**

98. Even though Baldwin was not responsible for ensuring the safety of firearms or ammunition and was told by those who *were* responsible that the prop gun was safe, the District Attorney decided to criminally charge Baldwin "pretty close to the beginning" of the investigation.

99. To charge Baldwin with involuntary manslaughter under N.M.S.A. 1978 § 30-2-3B, the State needed to believe that he had acted "without due cause or circumspection" or that he handled or used the prop gun in a negligent manner, resulting in Hutchins's death. The State also needed to believe that Baldwin's negligence, and not the negligence of another (*e.g.*, Halls, Gutierrez-Reed, and whoever brought live rounds on set) was the significant cause of Hutchins's death. And, above all, even if the State did believe these things, its beliefs needed to be based on the actual evidence in its possession.

100. But the evidence in the State's possession supported the *opposite* conclusion: that Baldwin had exercised caution and that, even if he had not, Hutchins would still be alive if not for the superseding negligence of someone other than Baldwin.

101. By June 2022, Carmack-Altwies had privately decided to appoint Andrea Reeb as a special prosecutor to assist with prosecutions. At that time, Reeb, the former District Attorney for New Mexico's Ninth Judicial District, was actively campaigning for a seat in the New Mexico House of Representatives.

102. Reeb emailed Carmack-Altwies on June 9, 2022, to assure Carmack-Altwies that she would not disclose to the media that she had been chosen as Special Prosecutor. "At some point though," Reeb continued, "I'd at least like to get out there that I am assisting you ... as it might help in my campaign lol."

103. Four days later, Carmack-Altwies, a Democrat, made a contribution to Reeb's Republican campaign.

104. On August 3, 2022, the District Attorney's office announced that Reeb would join the investigative team.

105. Reeb immediately became the point of contact for defense counsel and indicated that she was the primary attorney reviewing the SFSO report and handling the investigation. She interviewed witnesses, took proffers, engaged experts, and handled other important matters.

106. On August 30, 2022, Carmack-Altwies requested \$635,000 from New Mexico's Board of Finance to pay Reeb's salary and the hiring of other personnel for the investigation, including hiring Heather Brewer as public information officer. The District Attorney's Office cited the need for a dedicated public information officer to manage inquiries from the media. The State granted the District Attorney's Office \$317,750.

**B. The State Tried the Case in the Media.**

107. Carmack-Altwies and Reeb, like all prosecutors in New Mexico, are bound by ethical rules in bringing and publicly commenting on criminal cases.

108. According to the ethical standards promulgated by the National District Attorneys Association, “[t]he primary responsibility of a prosecutor is to seek justice, which can only be achieved by the representation and presentation of the truth.” N.D.A.A. Nat’l Prosecution Standard 1-1.1, cmt. Thus, “[w]hether full-time or part-time, the position should be approached as a career and not as a steppingstone or sideline.... No matter what other activities the prosecutor is involved in, [her] public duties come first.” *Id.*

109. Moreover, “[t]he prosecutor should refrain from making extrajudicial comments before or during trial that promote no legitimate law enforcement purpose and that serve solely to heighten public condemnation of the accused.” *Id.* 2-14.2. Similarly, “[p]rior to and during a criminal trial the prosecutor should not make any public, extrajudicial statement that has a substantial likelihood of materially prejudicing a judicial proceeding.” *Id.* 2-14.4.

110. “In particular, from the commencement of a criminal investigation until the conclusion of trial, the prosecutor should not make any public, extrajudicial statements about,” among other things, “[t]he character, reputation, or prior criminal conduct of a suspect, accused person or prospective witness,” “[t]he performance or results of any scientific tests,” or “[s]tatements concerning the credibility or anticipated testimony of prospective witnesses.” *Id.* 2-14.4.

111. Carmack-Altwies and Reeb repeatedly violated these rules.

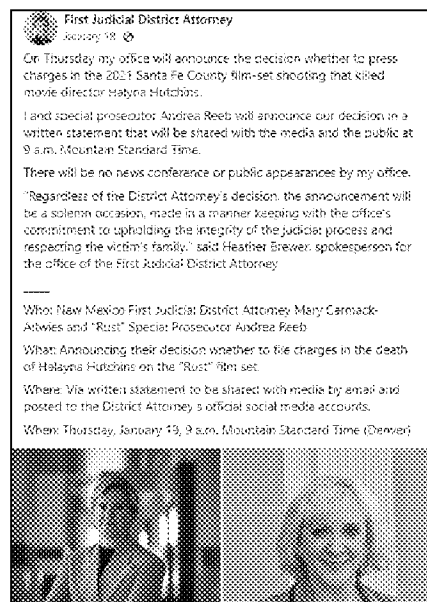
112. On October 26, 2021—five days after the accident—Carmack-Altwies started giving media interviews regarding the investigation. Instead of limiting such statements to those that serve a legitimate law enforcement purpose and are necessary to inform the public of the

prosecutor’s action, Carmack-Altwies began characterizing the evidence (*e.g.*, that there “were an enormous amount of bullets on this set”).

113. Throughout the end of 2021 and first half of 2022, the FJDA repeatedly gave nationally televised interviews and issued public statements that improperly commented on important but contested facts in the case. For example, just seven days after the incident, Carmack-Altwies stated on NBC News that Baldwin was “the one that pulled the trigger,” without any objective basis to have reached that conclusion and long before any testing had been done to determine how or why the firearm had discharged.

114. By the time Reeb joined the case in August 2022, she and Carmack-Altwies were preparing for a full-scale media blitz in violation of their prosecutorial duties.

115. On January 18, 2023, the District Attorney’s Office announced that it would reveal its charging decisions the following day. The announcement featured high-definition headshots of Carmack-Altwies and Reeb, and promised that there would “be no news conference or public appearances by [the D.A.’s] office” in connection with the decision:



116. In a press release issued the following day, the State announced that it planned to charge Baldwin with two counts of involuntary manslaughter, plus a sentencing enhancement for the use of a firearm. The press release stated that “[t]he firearm enhancement makes the crime punishable by a mandatory five years in jail.” The press release did not explain why Carmack-Altwhies and Reeb had chosen to announce the charges before they were actually filed.

117. Contrary to the “solemn occasion” without media appearances, Carmack-Altwhies and Reeb immediately appeared on national television programs to comment on the evidence, their legal theories of Baldwin’s culpability, the impending charges, and Baldwin’s possible sentence.

118. Less than an hour after the District Attorney’s Office announced its decision to charge Baldwin, Carmack-Altwhies appeared on CNN and discussed Baldwin’s responsibilities as an actor and producer and with respect to firearm safety on the *Rust* set. As a representative of the State, Carmack-Altwhies asserted that Baldwin “didn’t do any of the things that he was supposed to do to make sure . . . that anyone around him was safe,” that Baldwin “should have checked that gun, checked those projectiles,” and that, as a producer, Baldwin “had a duty to make sure the set was safe” and “should have been aware that safety was an issue” on set. These statements were neither true nor necessary to serve any legitimate law enforcement purpose.

119. That same day, Carmack-Altwhies discussed “key pieces of evidence” with a reporter from the *Santa Fe New Mexican*. And she appeared with Reeb on Fox News, stating that “it was not a safe set” and asserting that it was Baldwin’s responsibility to ensure the set’s safety. In the same interview, Reeb stated that a lab report had confirmed that “definitely the trigger was pulled.” She made baseless assertions about Baldwin’s mental state, including that “Baldwin knows everything that goes on the set,” including concerns that others had brought to “management.” Reeb omitted that the lab report referred to testing in which the FBI broke the firearm by hitting it repeatedly with a mallet.

120. Reeb also failed to mention the “informal testing” that the District Attorney’s office had conducted, which demonstrated that a single action revolver can discharge without the trigger being pulled.

121. In yet another January 19, 2023 interview with NBC News, Reeb commented on Baldwin’s guilt, stating that he “is somebody who committed a crime.” Carmack-Altwies asserted conclusions about the evidence (*e.g.*, “We know from the FBI report that he pulled that trigger.”).

122. The same day, Bryan Carpenter—an expert witness hired by the State who would later perjure himself before the grand jury—appeared on Fox News to vouch for the prosecution team as being “unbiased” and as having done an “excellent job.” The State later disclosed that Carpenter billed the State \$800 for each day of such interviews.

123. On January 21, 2023, Reeb again appeared on Fox News, where she commented on the contents of the FBI reports and Baldwin’s prior statements, noting that “all those statements” “would be admissible” and would be “used against” Baldwin. In these national media appearances, she and Carmack-Altwies repeatedly stated that Baldwin was facing many years in prison.

**C. As the State Engaged in Further Misconduct, the Prosecutors Sought an Improper Enhancement Of the Charges Against Baldwin.**

124. On January 31, 2023, the State filed an Information charging Baldwin with two alternative felony counts of involuntary manslaughter under NMSA 1978, section 30-2-3(B). The last sentence of the second alternative count stated: “This offense shall be enhanced pursuant to the firearm enhancement statute, §31-18-16, NMSA 1978.” The Information and accompanying Statement of Probable Cause accused Baldwin of criminal involuntary manslaughter based on two theories: his role “AS ACTOR and SHOOTER,” and his role “AS PRODUCER.” As an actor, the Statement of Probable Cause faulted Baldwin for “letting the armorer leave the church against protocol,” “not dealing with safety complaints on the set, not making sure the protocol of safety



meetings was occurring,” and “not using a replica firearm for the unscheduled rehearsal”—without any objective basis to conclude that Baldwin had such authority.

125. As a “producer,” the Statement of Probable Cause asserted that Baldwin “was in a position to manage, oversee, commence, and require safety training to industry standards” and alleged that Baldwin “allowed, through acts or omissions, the hiring of inexperienced and unqualified Gutierrez-Reed for this production, failed to mitigate or establish more precautions to protect against Gutierrez-Reed’s inexperience, or failed to demand the minimum safety standards, protocols, and requirements on set.” The State’s later disclosures demonstrate that Carpenter, who has no legal training, played an active role in developing the State’s theory of prosecution, including by “marking up” the Statement of Probable Cause with his edits.

126. However, as explained above, Baldwin did not oversee the day-to-day production of the film and had no responsibility for the film’s budget or the hiring of crew members. None of the producers who *did* have those responsibilities were charged.

127. On the same day that it filed the Information against Baldwin, the State announced charges against Dave Halls, the self-described “last line of defense” who has publicly expressed that he bears some responsibility for Hutchins’ death. The charges: negligent use of a deadly weapon, a petty misdemeanor that carries a maximum sentence of six months in jail and a fine of up to \$500. Halls pleaded no contest and agreed to a suspended sentence and six months of probation pending approval.

128. On February 7, 2023, Baldwin moved to disqualify Reeb as the Special Prosecutor because her dual service as a member of the Legislature and a Special Prosecutor violated the separation-of-powers provision of the New Mexico Constitution. That provision states that “no person . . . charged with the exercise of powers properly belonging to one of [the legislative,

executive, and judicial] departments shall exercise any powers properly belonging to either of the others.”

129. On February 10, 2023, Baldwin moved to dismiss the firearm enhancement, a statutory provision that had been enacted on May 18, 2022, after the accident. The charge violated the U.S. Constitution’s ex post facto clause.

130. The State eventually conceded both motions, but not before Carmack-Altwies and Reeb attacked Baldwin and his counsel in the press for filing them.

131. On February 7, 2023, immediately after Baldwin filed the disqualification motion, the FJDA’s spokesperson told the media that Baldwin and his lawyers can “use whatever tactics they want to distract from the fact that Halyna Hutchins died because of gross negligence and a reckless disregard for safety on the ‘Rust’ film set.”

132. After Baldwin filed the ex post facto motion on February 10, 2023, the FJDA spokesperson issued the following statement: “Another day, another motion from Alec Baldwin and his attorneys in an attempt to distract from the gross negligence and complete disregard for safety on the Rust film set that led to Halyna Hutchins’ death.” The statement said that Carmack-Altwies and Reeb would remain focused on justice and ensuring “that everyone—even celebrities with fancy attorneys—is held accountable under the law.”

133. On February 16, 2023, Reeb emailed Baldwin’s counsel demanding that he withdraw the ex post facto motion and threatened sanctions for its filing. She emailed him again shortly after stating that she hadn’t actually evaluated this issue because she was too busy serving in the legislature, but that she would review it soon. Then, just three hours after the first email, Reeb emailed Baldwin’s counsel admitting that she “100 percent agree[d]” that charging the firearm enhancement violated the ex post facto clause of the U.S. Constitution. But when the State filed an Amended Information without the firearm enhancement, it did not attribute the amended

Information to its filing of an unconstitutional charge, but to “avoid further litigious distractions by Baldwin and his attorneys.” To make that clear, the State added gratuitously that the prosecution’s priority is “securing justice, not securing billable hours for big-city attorneys,” further disparaging Baldwin and his counsel for exercising Baldwin’s constitutional rights.

134. Similarly, after responding to the disqualification motion, Reeb announced that she was stepping down from her role as special prosecutor. She issued another public statement and characterized her choice to step down as a way to avoid questions regarding her dual roles “cloud[ing] the real issue at hand.” Not content to leave it there, she again commented on Baldwin’s ultimate guilt, remarking that “the best way I can ensure justice is served in this case . . . is to step down so that the prosecution can focus on the evidence and the facts, which clearly show a complete disregard for basic safety protocols led to the death of Halyna Hutchins.”

135. Reeb had, at this point, already accomplished her goal. She had won her election and had assumed elected office. On March 15, 2023, she withdrew as Special Prosecutor.

136. On March 29, 2023, Carmack-Altwies also withdrew, after a hearing at which the judge challenged Carmack-Altwies’s ability to remain alongside *any* special prosecutor under NMSA 1978 section 36-1-23.1, which allows for the appointment of a special prosecutor only when the “district attorney . . . cannot prosecute a case for ethical reasons or other good cause.”

## **VI. THE SECOND PROSECUTION TEAM, LED BY KARI MORRISSEY, ALSO VIOLATED BALDWIN’S RIGHTS**

### **A. At First, the State Dismissed the Charges Against Baldwin.**

137. In March 2023, Carmack-Altwies appointed Kari Morrissey to lead the State’s prosecutions arising from the incident on the *Rust* set.

138. On April 13, 2023, Baldwin’s counsel met with Morrissey and her co-appointee, Jason Lewis, in hopes of persuading them that the State’s case against Baldwin was unjustified. After the presentation, Morrissey agreed to dismiss the case without prejudice. She acknowledged

that the prior prosecution's "producer theory" lacked merit, given that there is no such thing as vicarious liability in criminal law.

**B. When the State's Firearm Experts Issued a Report Questioning the State's Theory About the Condition of the Revolver, Prosecutors Hid the Report.**

139. Shortly after dismissing the charges, Morrissey retained firearm experts Lucien Haag and Michael Haag to interpret the FBI's findings about the prop gun and conduct further analysis, notwithstanding the FBI's destruction of the gun. Over a four-week period in August 2023, the Haags issued three reports on the issue. When their final report undermined the State's case against Baldwin, they kept him from knowing about it or seeing it until late Spring 2024.

140. In an August 2, 2023 report (the "First Haag Report"), the Haags stated that the "fatal incident was the consequence of the hammer being manually retracted to its fully rearward and cocked position followed, at some point, by the pull or rearward depression of the trigger." In other words, in the opinion of the Haags, Baldwin pulled the trigger.

141. On August 24, 2023, at the State's request the Haags examined the firearm again. In a supplemental report dated August 26, 2023 (the "Second Haag Report"), the Haags stated that the revolver "functioned properly and as designed and intended by the manufacturer."

142. But the Haags issued a third report on August 31, 2023 (the "Third Haag Report"). The purpose of the third report was to identify the origin of "unexplained toolmarks present on the working surface and sides of the evidence trigger/sear" and to determine whether they existed when the gun was on the *Rust* set. Remarkably, the Third Haag Report undermined the conclusions of the Haags' earlier work. It concluded that it is "unlikely . . . that these toolmarks are the result of the damage incurred during the FBI's impact testing" and that they "do not appear to be original manufacturing marks or use and abuse toolmarks based on [their] irregular orientation."

143. Although the State promptly disclosed the First Haag Report to Baldwin, the State failed to disclose to Baldwin both the Second Haag Report and, of particular concern, the Third

Haag Report until months later, and months *after* Morrissey had obtained a grand jury indictment in which she had concealed the Third Haag Report from the grand jury and presented it with only a select set of the Haags' opinions.

C. **The Trial Court Attempted to Stop Morrissey From Rigging the Grand Jury Process Against Baldwin.**

144. On October 5, 2023, Morrissey told Baldwin that she intended to present the case to a grand jury. Shortly after, *The New York Times* published an article revealing that Morrissey had conducted an interview with *The Times* about the case in which she improperly disclosed details about her intention to present the case to a grand jury. The article explained the prosecution's view that evidence about the gun "contradicted Mr. Baldwin's assertion that he had not pulled the trigger," quoting Morrissey's statement that "[t]he forensic testing of the gun concluded with certainty that the trigger of the gun had to have been pulled for the gun to go off."

145. When seeking an indictment from a grand jury, a prosecuting attorney is required to alert the grand jury to all lawful, competent, and relevant evidence that disproves or reduces a charge or accusation or that makes an indictment unjustified and that is within the knowledge, possession, or control of the prosecuting attorney. A target of a potential grand jury indictment is entitled to submit a letter to the prosecuting attorney that identifies the evidence about which the target believes the prosecuting attorney has a duty to alert the grand jury.

146. On October 25, 2023, one week after improperly announcing the grand jury date to the public, Morrissey served a "target notice" on Baldwin that omitted the standard 48-hour deadline for the target to provide a grand jury alert letter, even as she simultaneously acknowledged never having seen that provision omitted before.

147. After admitting that she had "eliminated" this standard provision from the target letter, Morrissey stated that she was nonetheless "happy to work with [Baldwin's counsel] in this regard and will fully consider any requests" made by Baldwin's counsel.

148. Baldwin responded that, at a minimum, he should receive the full time to submit an alert letter that he is entitled to under New Mexico law, especially given the volume of evidence and number of witnesses involved in the case. Baldwin stated further that the grand jury date should be adjourned to allow the State sufficient time to “review the voluminous alert letter we will be submitting” and to “ensure this process is done properly the first time around.”

149. Baldwin believed this to be a reasonable and fair approach, given the prosecuting attorney’s alert obligations, the significant “volume of evidence in this case,” and the severe “consequences of any failure to present exculpatory evidence.” Baldwin asked Morrissey if she was “willing to discuss a reasonable schedule for this process.”

150. Although Morrissey had said that she was willing to “work with [Baldwin’s counsel] in this regard” and discuss a schedule that was “agreeable” to Baldwin, she immediately rejected Baldwin’s request and stated that he was not “entitled to additional time to submit requests that certain evidence/witnesses be presented the grand jury.”

151. Morrissey also claimed that the State “intended to treat Mr. Baldwin ... no differently than similarly situated defendants in New Mexico,” even though she had just admitted that she had never seen a target treated that way. In fact, Morrissey had already treated Baldwin differently: On the same day that she had served the target notice on Baldwin, she served a target notice on Gutierrez-Reed that included the 48-hour deadline, giving Gutierrez-Reed four days more than Baldwin to submit exculpatory material.

152. On October 30, 2023, the State filed an expedited motion to shorten Baldwin’s time to present exculpatory evidence by four days. In its motion, the State falsely represented that it had provided Baldwin continuous access to its investigative file since April 2023, when the previous prosecution was dismissed, and argued that, in any event, Baldwin didn’t need the full statutory period to provide exculpatory evidence because he was already “well aware of all

possible directly exculpatory evidence today.” Morrissey made this representation even though a key piece of exculpatory evidence—the Third Haag Report—had not been disclosed and would not be disclosed for another seven months, despite having been in Morrissey’s possession since August 2023. In addition, the State expressed concern that Baldwin would “intentionally withhold the requested exculpatory evidence until exactly forty-eight hours prior to the grand jury to cause the postponement of the grand jury proceeding.”

153. Baldwin explained in response to the State’s motion that the State’s position was backwards: Baldwin was entitled to submit an alert letter up to 48 hours before the grand jury proceeding, and all the State had to do to alleviate its self-imposed time crunch was adjourn its unreasonably accelerated grand jury schedule. The only plausible inference to be drawn from the State’s approach—and the fact that Gutierrez-Reed was being afforded rights that Baldwin was being denied—is that the State wanted to make it harder for Baldwin to alert the grand jury to relevant and exculpatory evidence.

154. In parallel with this unprecedented effort to shorten Baldwin’s time to submit an alert letter, the State also made an unprecedented request to conduct a one-sided voir dire of the grand jury. The purported reason for the State’s request was to control for the “significant amount of information . . . being made available to prospective jurors” through the media. What the State’s motion failed to acknowledge, however, is that the media environment surrounding the incident—particularly the coverage most prejudicial to Baldwin—was primarily the result of *the State’s* unethical press campaign, which had begun with Carmack-Altwies and Reeb and had continued under Morrissey.

155. The Court denied both of the State’s motions. That, however, did not end the Special Prosecutors’ efforts to manipulate the process.

156. On November 14, 2023, 48 hours before the grand jury was scheduled to begin, Baldwin submitted an alert letter to the State that identified several key witnesses and dozens of documents that would disprove the charges against Baldwin or otherwise make an indictment “unjustified.”

157. As to witnesses, the alert letter identified six persons whose testimony would be exculpatory or favorable to Baldwin’s case and whom the State was required to make available: Joel Souza (the director), Sarah Zachry (the prop master), Ryan Smith (the producer), Alexandria Hancock (the lead detective), Joel Cano (the former lead detective), and Robert Shilling (the State’s former investigator).

158. As to documents, the alert letter identified 23 documents that Baldwin contended would disprove the charges against him or make an indictment unjustified. His proposed documents included, among others:

a. A recording of the 911 call in which the caller, who witnessed the gun go off, describes it as an “accident” and places blame on someone other than Baldwin.

b. Three search warrants containing numerous exculpatory statements from key witnesses, including: (i) a statement from a cameraman, who witnessed the gun go off, that Baldwin “had been very careful” with firearms on set, (ii) a statement that Halls told everyone (including Baldwin) that the gun was safe to handle before it went off, (iii) a statement from Halls that he “should have checked all of [the rounds in the gun], but didn’t,” and (iv) a statement from Gutierrez-Reed that she “didn’t really check [the gun] too much” before the incident.

c. A report from the New Mexico Occupational Health and Safety Bureau that Baldwin was not part of Rust management and that his authority on set was limited to



creative decisions, and excerpts from the Santa Fe Sheriff's Office Report that contain further exculpatory statements from key witnesses.

d. Text messages between Zachry, Gutierrez-Reed, and Kenney (the film's ammunition supplier) showing that Gutierrez-Reed went "target shooting" with the driver of the prop truck before the incident and that, unbeknownst to Baldwin, she consistently failed to follow proper safety protocols on the set and on a previous film.

e. A letter signed by many of the cast and crew disputing that the *Rust* set was inherently unsafe.

f. A transcript from Halls' proffer interview, in which he blamed himself for the incident and stated that no member of the cast or crew could have anticipated there would be live rounds in the firearm on the set.

159. The alert letter also requested that the State provide a specific instruction to the grand jury that the criminal negligence standard required the prosecution to show that Baldwin had subjective knowledge of an actual risk that the firearm placed in his hand had been loaded with live ammunition, and that he willfully disregarded that risk when pointing the gun toward Hutchins.

160. On November 15, 2023, the State filed an expedited motion to "preclude" nearly all of the documents and witnesses that Baldwin had identified in his alert letter. The State also sought to preclude Baldwin's requested jury instruction regarding subjective knowledge, arguing that an "instruction requiring that the target had subjective knowledge of an actual risk that the firearm placed in his hand had been loaded with live ammunition is an unprecedented departure from the elements of proof the law and rules require." The State further argued that such an instruction improperly "assumes that the factual basis of negligent act [sic] was failing to check the firearm for live rounds." According to the State, "whether or not [Baldwin] had subjective

knowledge of an actual risk that the firearm placed in his hand had been loaded with live ammunition has nothing to do with the other ways in which the State intends to show [he] negligently handled a firearm resulting in death.”

161. On November 15, 2023, the Court vacated and rescheduled the grand jury from November 16, 2023, to January 18, 2024, postponing argument on the State’s motions to exclude Baldwin’s evidence to give the Court time to review the parties’ submissions. At the hearing, the Court also expressed deep concern about the fact that the grand jury date and other information about the grand jury process had been disclosed to the media. The Court explained that the State’s disclosure to the media of the grand jury date created the risk of prejudice, and that grand jurors had, in fact, approached the clerk seeking to serve on the grand jury. In response, the Court unequivocally and repeatedly ordered the parties not to disclose information about the grand jury process or what happened during that day’s hearing.

162. But within one hour, the State violated the Court’s Order by disclosing details of the hearing to the press, including the new grand jury date that the Court had instructed the parties not to disclose. In response, Baldwin filed a sanctions and contempt motion, which prompted the State to violate the Court’s Order again by making improper disclosures about those filings.

163. To make matters even worse, in these discussions, the State also revealed its illicit motivations behind its prosecution of Baldwin. As reported by NBC News, “Prosecutors haven’t said publicly what new evidence they have obtained during their months of investigation. But a source familiar with the case said the special prosecutors have had discussions in which they said they hope the trial will ‘humble’ Baldwin, specifically citing his run-ins with paparazzi and public comments that weren’t about the case. The source added that the intention is for it to be a ‘teachable moment’ for Baldwin.”

164. The following morning, on *The Today Show*, NBC News added that the Special Prosecutors said they were also targeting Baldwin because they think he's "arrogant."

165. These reports reflected an extreme abuse of prosecutorial power and were consistent with the State's motivations from day one, when Reeb told Carmack-Altwies that prosecuting Baldwin would help her election chances.

166. On January 11, 2024, the Court overruled most of the State's objections to Baldwin's evidence and held that the grand jury must be told about nearly all of the evidence the State had sought to exclude. The January 11 Order also rejected the State's narrow view of what it means to conduct a "fair and impartial" grand jury proceeding. The Court ruled that all six of Baldwin's proposed witnesses must be made available to the grand jury, as well as 20 out of the 21 documents that the State had sought to exclude.

**D. Despite the Trial Court Rulings, and in Violation of Her Duties and New Mexico Law, Morrissey Misled the Grand Jury.**

167. Driven by disdain and the desire to "humble" an "arrogant prick" (as she would later refer to Baldwin), Morrissey was determined to secure Baldwin's indictment at any cost. Morrissey knew, however, that if the grand jury heard all of the evidence—including the documents and witnesses the Court had ordered her to make "readily available" due to their exculpatory nature—the grand jurors would see that Baldwin had not committed a crime and the grand jury would not return the indictment she wanted. Her solution was to mislead the grand jury into believing a different set of facts. She accomplished this goal by knowingly: (1) eliciting false and contradictory testimony from the State's witnesses, (2) preventing the State's witnesses from saying anything favorable to Baldwin (often by cutting them off mid-sentence or redirecting them to a different topic), (3) preventing the grand jury from seeing or hearing from the exculpatory documents and witnesses that the Court had ordered her to make "readily available" to the grand

jury, and (4) concealing—from both Baldwin and the grand jury—exculpatory opinions by the State’s own expert.

168. The State presented seven witnesses to the grand jury. Out of those seven, three were being paid to testify, two were SFSO officers, and one was (and still is) suing Baldwin for money. The seventh witness began publicly blaming Baldwin for Hutchins’ death within days of the incident, even though he quit the production before the accident and was not on set when it occurred. Of the State’s seven witnesses, only one—Ross Addiego, the one suing Baldwin for money—was on set when the accident occurred.

169. After eleven hours of being misled and lied to by Morrissey and the State’s witnesses, the grand jury returned an indictment. She elicited false and contradictory testimony from each of the State’s witnesses.

**1. The State Presented False and Incomplete Grand Jury Testimony From Lead Investigator Det. Alexandria Hancock.**

170. Morrissey called Det. Hancock to describe the findings of the SFSO investigation. In violation of Morrissey’s ethical duties, she either intentionally caused Det. Hancock to give false and misleading testimony or knew that the testimony was false and misleading but failed to cause Det. Hancock to correct it.

171. For example, in describing her understanding of what had happened before she arrived on the scene, Det. Hancock testified, “all I had known was that during that rehearsal, Alec Baldwin had shot a revolver and it hit the two people inside the church.” Det. Hancock gave this testimony even though she knew that at least six witnesses had told investigators in the immediate aftermath of the incident that the gun just “went off.” Further, the caller who placed the October 21, 2021, 911 call to which Det. Hancock had responded made clear that the gun went off “accidentally,” and stated that someone other than Baldwin was responsible for checking the gun.

Morrissey never allowed the grand jurors to hear the recording of the 911 call, despite being ordered to make the recording “readily available” to the grand jury.

172. Likewise, Morrissey caused Det. Hancock to testify that Gutierrez-Reed “was not allowed to stay in the church” after Baldwin was handed the gun, which another State’s witness claimed was a violation of film safety protocols for which Baldwin was responsible. But five weeks later, to obtain Gutierrez-Reed’s conviction, Morrissey told jurors that, before the incident, “No one told [Gutierrez-Reed] to leave the church. No one called her out of the church.”

173. Morrissey also elicited false testimony from Det. Hancock that Morrissey would repeatedly elicit from the State’s witnesses throughout the grand jury proceeding: That Baldwin was required to participate in Gutierrez-Reed’s safety check of the firearm. Det. Hancock testified to the grand jurors that “when an armorer hands that gun off, she’s supposed to do a safety check with that actor.” But both Morrissey and Det. Hancock knew that this testimony was false. Det. Hancock’s own report of her interview with actor Jensen Ackles—whom Morrissey has characterized as the gold standard of firearm safety among the actors on the set of *Rust*—states that “Jensen advised he does his own checks on the weapons, and tells others to as well, *however he said it’s not the actor’s job to be checking the firearm.*” And at Gutierrez-Reed’s trial, Morrissey herself told the jurors that the armorer has “no supervisor” and “is the autonomous decision-maker with regard to gun safety.”

174. Despite knowing that Baldwin was not required to participate in the armorer’s safety check, Morrissey repeatedly insinuated throughout Det. Hancock’s testimony that Baldwin’s failure to check the gun was a violation of movie set safety norms—even though it *was* the norm. For example:

HANCOCK: So Baldwin actually denied doing any checks with Hannah. He said that, essentially, he entrusted her because she was hired for that position and he didn’t want to insult her.

MORRISSEY: So did he explain to you that she would offer --  
HANCOCK: Yes.  
MORRISSEY: -- for him to check it?  
HANCOCK: Yes.  
MORRISSEY: And what would he do?  
HANCOCK: He, essentially, would just say it's fine. And he wouldn't do --  
MORRISSEY: It's fine?  
HANCOCK: Yeah. He wouldn't do a check himself.  
MORRISSEY: Okay. And he indicated that that was because he didn't want to insult her?  
HANCOCK: Yes.  
MORRISSEY: Okay. Through your investigation, are you aware of other actors on the movie set who were more proactive about those safety checks?  
HANCOCK: Yes.

175. Morrissey also caused Det. Hancock to testify that Gutierrez-Reed had “made several attempts to train Baldwin with the firearms” but that Baldwin was “not receptive to any training with her.” This testimony was false, and Morrissey knew it. A few weeks after the grand jury proceeding, at the Gutierrez-Reed trial, Morrissey told jurors that Gutierrez-Reed did *not* request more training time with Baldwin—and that the denial of Gutierrez-Reed’s requests for additional training with *other* actors is “not the reason Halyna Hutchins is dead.”

176. Similarly, Morrissey caused Det. Hancock to testify that Gutierrez-Reed was “pretty rushed during the entire time” they were filming, and she caused other witnesses to testify that it was Baldwin who was doing the rushing. By eliciting this testimony, Morrissey convinced grand jurors that Baldwin was responsible for rushing the armorer on the day of the incident—which is the *opposite* of what Morrissey told jurors at the Gutierrez-Reed trial, just five weeks later:

MORRISSEY: [O]n October 21st, this was simply not the case [that Gutierrez-Reed was being rushed]. It was not the case on that

day. She had three hours in the morning waiting for the camera crew to arrive. She had every opportunity to go through that box of dummies. Gee, it only had like 30 rounds in it. How long does it take to pull the round out of the box, shake it, and if it doesn't shake, look to see if it has a hole in it, put it back in the box, and do that to each and every one of them? How long does that exercise take? Ten minutes, max? That's not hard.

## **2. The State Presented False and Incomplete Grand Jury Testimony From Firearms Expert Michael Haag.**

177. After the State called Det. Hancock, it called Michael Haag, one of the State's firearms experts, to testify that the prop gun would not have fired on the day of the incident unless Baldwin had pulled the trigger. That assertion was central to the State's ability to obtain a grand jury indictment.

178. Yet Morrissey allowed Haag to omit essential facts about the testing, including that the FBI testing established that the gun *did* fire without a trigger pull when the firearm was fully loaded with six rounds, as it was on the day of the incident.

179. Haag admitted that the hammer of the firearm that fired the fatal round was "rounded" (which would make it easier to fire). Without any support, however, Haag testified that the hammer had been broken after the incident and during the FBI testing—an impossible conclusion to reach given that the FBI did not inspect the parts of the firearm or preserve any evidence about its internal parts (*e.g.*, no photographs, no videos, nothing) before it conducted its destructive testing.

180. As the State knew, the gun was supposedly new when Kenney delivered it to the production. Yet its internal components already showed signs of significant aging, and showed clear signs of having been modified and filed down. Images of the firearm after the FBI testing show filed-down hammer notches that would have made it easier to fire without pulling the trigger—including the full-cock hammer notch at the bottom of the hammer that was completely filed off.

181. Morrissey chose not to tell the grand jury that the elimination of these notches (which appear filed off and are inconsistent with being broken by the FBI's testing) would have made the gun significantly more likely to fire without a trigger pull and otherwise prone to malfunction. Moreover, she failed to explain that the hammer showed signs of rough tool marks, including file marks, that are consistent with manipulation. She concealed this information from the grand jury and presented only Haag's unfounded speculation that: (a) the damage occurred during FBI testing (even though the FBI made no such observation, and neither Haag nor anyone else had inspected the gun before that testing to be able to give such testimony); and (b) the gun would have operated normally on set.

182. Stunningly, Morrissey concealed information from Baldwin and the grand jury that directly undermined Haag's testimony. The Third Haag Report, which Morrissey withheld from Baldwin even *after* she learned that he was aware of only the First Haag Report—contradicted Haag's grand jury testimony that the FBI's testing caused the markings on the gun.

183. The Third Haag Report that Morrissey kept from the grand jury and Baldwin concludes that it is “unlikely . . . that these toolmarks are the result of the damage incurred during the FBI's impact testing” and that they “do not appear to be original manufacturing marks or use and abuse toolmarks based on [their] irregular orientation.” This opinion contradicts Haag's grand jury testimony and is highly exculpatory. Yet Morrissey concealed it from the grand jury and from Baldwin even though it came into her possession on August 31, 2023.

184. Morrissey's only explanation for why she did not disclose the Third Haag Report sooner was that she “intended to forward it for disclosure” on the day that it was received, but that she inexplicably “did not.” But this explanation does not explain why, if her failure to disclose the Third Haag Report was a simple oversight, she did not disclose it when she disclosed the Second Haag Report—especially when she knew that Baldwin knew about only the First Haag



Report. Morrissey intentionally decided not to disclose the report to Baldwin because it undermined her basis for the indictment and could establish reasonable doubt at trial.

185. The trial court later found that Morrissey was culpable for the State's failure to disclose the Third Haag Report to Baldwin

### **3. The State Presented False and Incomplete Grand Jury Testimony From Bryan Carpenter.**

186. The State's next grand jury witness was Bryan Carpenter, who, like Haag, the State paid to testify. Despite holding himself out to the public as an armorer and weapons expert, Carpenter introduced himself to grand jurors as the "owner" of a "production studio"—essentially claiming that he was a movie producer. That testimony was false, and Morrissey knew it.

187. Carpenter was not an experienced movie producer, let alone someone who was qualified as an expert witness on that subject matter. His misrepresentation of these credentials allowed him to testify well beyond his experience with credibility that he had not earned—just as Morrissey intended. She knew that grand jurors were unlikely to be familiar with the customs and practices of the film industry, knew that they had no way of verifying Carpenter's claimed status in the industry, and knew that they would credit his testimony when there was an insufficient basis to do so.

188. Morrissey led grand jurors to believe falsely that Carpenter was an experienced movie producer with a wealth of knowledge about the film industry in general, the roles and responsibilities of actors and producers on a movie set, and the meaning and application of movie set safety guidelines. Morrissey then knowingly elicited false testimony from him on all of these subjects.

189. For example, through Morrissey's questioning, Carpenter told the grand jury that the safety bulletins issued by the Screen Actors Guild ("SAG") "place . . . responsibility for firearm safety on the actor," when in fact, SAG has made the opposite statement. In fact, the safety bulletin

that Carpenter purported to summarize during his grand jury testimony makes clear that the actor has *no* obligation to check the gun, that the weapons handler (not the actor) is the one responsible for checking the gun before each use, that the actor may point the gun at the camera with the approval of the First AD (which Halls gave here), and that the armorer (Gutierrez-Reed) and First AD (Halls) are exclusively responsible for firearm safety.

190. Just as she had done in her questioning of Det. Hancock, Morrissey questioned Carpenter in a manner that framed Baldwin's decision not to check the gun as an aberration, even though both Morrissey and Carpenter both knew that this was false.

191. Morrissey would elicit the *opposite* testimony from Carpenter just a few weeks later at the Gutierrez-Reed trial. There, Carpenter told jurors that it is the armorer's responsibility "to ferret out any possible live rounds on a movie set," that it is *not* an actor's job to perform firearm safety checks by "taking the ammunition in and out [and] looking at it," and that it is not a violation of any safety protocols for an actor to decline to observe the armorer's loading of the firearm. After telling grand jurors that actors are responsible for the safety of their firearms, Carpenter told jurors in the Gutierrez-Reed case that actors can check their firearms if they want to, but that such checks "are more for a warm and fuzzy feeling for them" and that it's "rare" for actors to participate in safety checks.

#### **4. The State Presented False and Incomplete Grand Jury Testimony From Lane Luper.**

192. The next witness Morrissey called before the grand jury was Lane Luper, a member of the *Rust* camera crew who quit the production the day before the incident. As a result, Luper was not present on the set on the day of the incident. Despite that and his relatively narrow role as an assistant cameraman, before the grand jury Morrissey treated him as an expert on matters related to film safety and asked him to answer specific questions regarding firearm safety rules about which he had no expertise. At the same time, Morrissey did not tell the grand jury about

Luper's bias against *Rust* and its producers: He had quit because the production would not pay for hotel rooms for crew members who lived less than an hour away from the set.

193. Morrissey used Luper to elicit testimony regarding the safety conditions on set, for which he claimed Baldwin was responsible as a producer. By doing so, Morrissey sought to bolster the grand jury's view of Baldwin's culpability by relying on the same theory of vicarious criminal liability that she had previously admitted was meritless and that the district court later dismissed.

##### **5. The State Presented False and Incomplete Grand Jury Testimony From Ross Addiego.**

194. Morrissey presented testimony from just one eyewitness—a crew member named Ross Addiego. Immediately after the accident, Addiego had approached Baldwin, shook his hand, and asked how he was doing. Yet Morrissey did not ask Addiego about the exculpatory things he said and did right after the accident. Nor did Morrissey let the grand jury know that Addiego was then (and still is) suing Baldwin for money damages. Addiego thus had a direct, but undisclosed, financial interest in seeing the grand jury indict Baldwin.

195. Even worse, Morrissey prevented him from giving any testimony that might undermine her chances of getting the grand jury to indict Baldwin.

196. For example, Morrissey prevented grand jurors from hearing about Dave Halls, who, despite accepting responsibility for Hutchins' death, was barely mentioned during eleven hours of grand jury testimony. This was no accident. On the few occasions when grand jurors inquired about Halls, Morrissey would redirect their inquiry to a different witness or topic. And if one of her own witnesses began discussing Halls, she would cut them off mid-sentence, as she did with Addiego:

MORRISSEY: Now, you've seen this video . . . is anything about what you've seen here problematic from your standpoint?

ADDIEGO: Yes.

MORRISSEY: What is it?

ADDIEGO: There's a number of things. First of all, as soon as the -- Mr. Baldwin emptied that firearm and we had to reload, Dave Halls should've called cut to give everybody that moment to safely reset. I -- it appears as though the armorer is putting spent ammo in the same fanny pack or pouch as live ammo -- as she's pulling live ammo out of. Dave Halls, the first AD, who's in blue jeans and a black shirt, is not—

MORRISSEY: [*interrupting*] And -- and keep in mind, we're here for Mr. Baldwin. Point -- point your -- your narrative. What -- what is Mr. Baldwin doing in this scene . . . that was concerning to you.

## **6. The State Kept the Grand Jury From Hearing Testimony from Witnesses That Would Have Undermined an Indictment.**

197. As a result of Morrissey's diversions, the grand jury never heard from the film's director (Joel Souza), its producer (Ryan Smith), its first assistant director (Dave Halls), or its prop master (Sarah Zachry), even though each of these witnesses had exculpatory testimony that would have satisfied inquiries from the grand jury in ways that Morrissey's paid and attenuated witnesses could not. But rather than "facilitate" the grand jury's interest in hearing from the witnesses that Baldwin's alert letter had identified and that the grand jury judge had directed Morrissey to present, she made sure that the grand jury never heard from them. Morrissey also withheld over a dozen exculpatory documents that were relevant to the grand jurors' inquiries and contained specific answers to many of their questions.

198. Indeed, Morrissey *never even contacted* Baldwin's witnesses to ensure they were available to testify to the grand jury, even though the grand jury judge had ordered her to make Baldwin's proposed witnesses "readily available" to testify without "scheduling disruptions." Although Morrissey knew that she was obligated to do this, she made sure that the grand jury would never hear from any witness that might have anything exculpatory to say.

199. Morrissey's omission of Halls was particularly shocking, given what Halls had told Morrissey, under oath, just a few weeks before the grand jury was convened. In a December 12,

2023 deposition, which took place in connection with the State’s case against Gutierrez-Reed, Halls was asked whether he believed that “any one person bears responsibility for what happens to Hutchins, or was this an accident that was caused by multiple people and multiple events?” In response, Halls listed, “in order of importance,” what he believed to be the causes of Hutchins’ death: “Certainly, the number one important factor in all this is that a live round of ammunition ended up on a film set. Two, that the gun was not checked properly by the armorer and myself. Three . . . the camera crew resigning left the camera crew shorthanded . . . which forced both Halyna and Joel into the church to look at this tiny . . . onboard monitor to look at the shot and to light the shot.” He further testified that as Hutchins was looking at the monitor, she was “telling [Baldwin] where to . . . point the gun,” and that he “[didn’t] know if [Baldwin] knew he was pointing it directly at her.” And that, “looking back . . . if perhaps [he] had seen all of those rounds . . . [he] would have taken appropriate action.”

200. Morrissey saw Halls give this testimony just five weeks before the grand jury was convened. Yet she refused to make Halls available to the grand jury. And she continued to deny grand jurors access to Halls even after a grand juror asked: “so the bottom line is the responsibility of making sure these guns – these bullets are not live are up to, what, David Halls and – Hannah?” The truthful answer to that question is “yes.” But rather than ask grand jurors if they wanted to hear from Halls (or tell them that this was an option), Morrissey told the grand jury, “We are going to have another witness address those issues for you. We have an expert who works on movie sets, and he’s going to answer those questions for you if that’s okay.” The witness she was referring to was Bryan Carpenter, the State’s paid witness whose false answer to that question (blaming the situation on Baldwin) would have been refuted by Halls, the relevant industry safety bulletin, and multiple statements by the Screen Actors Guild.

201. Notably, in her closing argument at Gutierrez-Reed's trial, Morrissey argued to the jury that Gutierrez-Reed "is the autonomous decision maker with regard to gun safety" and that Gutierrez-Reed was responsible for Hutchins' death because it was "foreseeable" that Baldwin would not check the gun. But Morrissey concealed these facts from the grand jurors in hopes of convincing them that there was probable cause that Baldwin had committed a crime.

202. On January 19, 2024, the grand jury returned an indictment. The indictment states that it "is based" upon the testimony of "Alexandria Hancock, Bryan Carpenter, Lane Luper, Ross Addiego, Michael Haag, Marissa Poppell, and Connor Rice." The grand jury did not receive the favorable or exculpatory testimony and documents that Morrissey had an obligation to present. Nor was the grand jury told it had the right to review and the obligation to request this information.

203. Although the indictment on its face suggests that grand jurors found probable cause that Alec Baldwin committed the crime of involuntary manslaughter, in reality, Morrissey intentionally misled them to that finding.

**VII. AFTER FRAUDULENTLY OBTAINING BALDWIN'S INDICTMENT, THE STATE VIOLATED HIS CONSTITUTIONAL AND STATUTORY RIGHTS REGARDING EVIDENCE THE STATE POSSESSED**

204. New Mexico law required the State to disclose to Baldwin, among other things, "any statement made" by "any witnesses that will provide expert testimony" if the statements are "within the knowledge of the prosecutor." See Rule 5-501(A)(5) NMRA. A "statement" is defined as "any written, stenographic, mechanical, electrical or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral declaration and which is recorded contemporaneously with the making of the oral declaration." Rule 5-501(G) NMRA.

205. After the State obtained the new indictment, the Court issued a Scheduling Order on February 26, 2024, setting a July 9, 2024 trial date. Witness lists and dispositive motions were due by May 6, 2024. Pre-trial witness interviews were to be completed by June 5, 2024. The

Order also stated: “Following initial discovery disclosures, the parties have a continuing duty to disclose and make available supplemental discovery within seven (7) days of the receipt of such information.”

206. Over the next five months, the State intentionally failed to comply with these obligations. It delayed its disclosure of important evidence for weeks and months after receiving it, or failed to disclose it at all. It failed and refused to respond to inquiries from Baldwin’s attorneys about evidence and the State’s disclosure obligations. Even worse, the State lied to Baldwin and to the Court to cover up what it was doing. All of this undermined Baldwin’s right to a fair trial, as protected by United States and New Mexico law. Defendants’ conduct was the result of a calculated and malicious plan by the State to obtain a conviction through illicit means.

207. To that end, on May 6, 2024, the deadline to add new witnesses and barely two months before trial, Morrissey disclosed to Baldwin’s attorneys several email communications with the FJDA’s “expert” witness, Carpenter, concerning the case that had occurred more than *one year* earlier. In one of the emails, Morrissey points Carpenter to photographs that, in her words, show the “stark difference” between the hammer notches on the gun that Baldwin was given on the *Rust* set and the notches that appear on a “brand new hammer from the exact same gun.” In response, Carpenter stated that he “cannot see any reason that’s functionally necessary or does not compromise the safety integrity and/or the operation of the gun.” He followed up the next day, stating, “Though I see no reason (operationally) why that modification exists, it remains to be seen definitively if it compromised the safety and function of the revolver and who/where/why it was preformed [sic] in the first place.” The statements from the government’s witness undermined the State’s contentions that the firearm functioned properly and showed no signs of modifications.

208. Morrissey retained the Haags to offer their opinions as to the condition of the gun on the day of the accident. As noted above, the Haags ultimately issued three reports on that

question. Two of the reports tended to support the State's theory of the case, but the third report did not. The State immediately disclosed the first report, held onto the second report (while presenting its core conclusions to the grand jury), but *withheld* the third report until May 23, 2024, after Baldwin had inadvertently learned of its existence.

209. Two weeks later, on June 6, 2024, after the pretrial interview period had ended, the State disclosed additional communications with the Haags—roughly 200 files—that showed that the Haags had prepared the third report on their own initiative because they had felt obligated to disclose their inconsistent findings. Morrissey gave no explanation as to why it took until June 6, 2024, for the State to disclose these materials, almost all of them dating back to 2023.

210. Morrissey's failure to disclose expert opinions and communications related to the condition of the prop gun was part of a much larger effort to deprive Baldwin of his right to a fair trial.

211. On May 23, 2024, Morrissey disclosed *dozens* of audio recordings of interviews that the State's investigator, Connor Rice, had conducted over the prior year. Among them was Rice's 25-minute March 2024 interview of Andy Graham, a camera operator with firsthand knowledge of conditions on the *Rust* set, in which, Graham states, among other things, that: (a) he did not think that Baldwin's behavior on set was unusual for an actor of his experience; (b) actors do not commonly inspect prop firearms; (c) an actor should never have to worry about a gun being handed to him loaded; and (d) he thinks individuals other than Baldwin should be held responsible for Hutchins' death. Despite this, the State never listed Graham on its witness list and did not disclose the recording of his interview until after the May 6, 2024 deadline for witness disclosures.

212. Moreover, despite Baldwin's numerous requests for text messages and other communications from important witnesses that were in the State's possession, he had to wait months before the State finally disclosed them. Once they were disclosed, it was clear that the



State had been withholding text messages involving several key witnesses that were extremely favorable to Baldwin's defense.

213. The State also waited until May 14, 2024, to disclose dozens of previously undisclosed lapel videos from SFSO that depict, among other things, SFSO's search of PDQ. (The videos of the search demonstrate that a proper search of PDQ was never conducted, even though Kenney had already revealed to Det. Hancock that he may have been the source of the live bullet that killed Hutchins.)

214. The State's failure to disclose these materials sooner—while continuing to make arguments that clash with the documented views of its own experts—was all the more disturbing based on the State's refusals to cooperate with Baldwin's efforts to make sense of the State's disclosure methods. The State engaged in haphazard and careless disclosure methods, such as uploading materials to a shared drive without notifying Baldwin what, when, or where new materials were being uploaded. This made it impossible to determine when and what (if any) new discovery the State had disclosed. This problem persisted for many months despite repeated written requests from Baldwin's attorneys that the State provide a workable method for identifying newly disclosed materials that the State was uploading to the electronic database.

215. On April 30, 2024, following the pre-trial interview of Lucien Haag in which the Second Haag Report was disclosed for the first time, Baldwin's counsel sent Morrissey a detailed email about specific files that were missing and Baldwin's "overarching discovery concerns." His counsel proposed a new system of disclosure intended to eliminate gaps and confusion going forward, noting, however, that this system "does not resolve our ongoing concern that there appear to be materials that are not timely provided (or not provided at all) to the defense that ought to be."

The email continued:

We note that in our last discussion [during Haag's pre-trial interview] it appeared that you are not familiar with the structure or content of the defense share site,

though I understand from our conversation that you are now aware that the site does not appear to mirror your own files in a way that allows you to ascertain whether and when materials are being provided. This is a substantial concern for the defense, in particular in light of the state's assertions regarding what the defense does and does not have access to. Please let us know how the State intends to address these issues, which have now come to a head in at least two interviews.

216. On June 5, 2024, with the above issues (and many more like them) continuing to mount, Baldwin's counsel requested additional time to speak with each of the Haags regarding their second and third reports, as well as additional time with Carpenter, whose interview the State terminated over Baldwin's objection based on the State's arbitrary two-hour limit. In that email, which identified the State's numerous continuing discovery violations, Baldwin's counsel requested that the State produce "[a]ny other materials subject to disclosure under *Brady*, *Giglio*, and their progeny, including any state analogs to the same."

217. The State responded that "as it relates to law enforcement officers," it was "not aware of any" such materials, and that "[i]f there is anything specific you are interested in please say so."

218. On June 10, 2024, Baldwin's counsel emailed the State regarding outstanding discovery items that had been repeatedly requested before, including: (a) confirmation that "there are no additional emails, text messages, notes, or recordation from any prosecutor or investigator for the prosecution of the state's communications (including meetings or interviews) with any witnesses or potential witness in this case that have not been produced," (b) a report that was prepared by its expert Paul Jordan, which Baldwin's counsel was not aware of until Jordan mentioned it during his pretrial interview on May 23, 2024, and which the State had yet to provide despite agreement from Jordan and the State that they would provide it, and (c) "any material subject to disclosure under *Brady*, *Giglio*, and their progeny, as well as for material subject to disclosure under 5-501(A)(5)-(6) and 5-501(G) NMRA."

219. In response to Baldwin’s first request, Morrissey stated that Baldwin “[has] received everything pursuant to 5-501 NMRA.” But as of June 10, 2024, the State had not produced to Baldwin’s counsel a single note of a single conversation with a single witness by a single prosecutor or investigator employed by the District Attorney’s office in the two and one-half years since the State’s investigation had begun. It was inconceivable that Morrissey could be asserting that no notes of any such conversations existed. But that was what she wrote.

220. As to Baldwin’s request for Jordan’s report, Morrissey stated, “I don’t know what report you’re referring to. Please be more specific.”

221. And in response to Baldwin’s third request, Morrissey asserted—notwithstanding all of the issues identified above—that “Brady/Giglio materials were provided to the defense on March 28, 2023.”

222. On June 27, 2024, with the trial fast approaching, Baldwin’s counsel sought to confirm Morrissey’s implausible assertions that she had fully complied with the State’s discovery obligations. Baldwin’s counsel separately emailed Morrissey’s colleague Erlinda Johnson, a former federal prosecutor who believed in the importance of following the State’s disclosure obligations, a request to “make a specific demand for [*Brady* or *Giglio*] materials from within the materials the government has redacted, and any and all [*Brady* or *Giglio*] information or material about which the prosecution team is aware.”

223. Johnson responded that same morning, stating that she had “requested an unredacted copy of the IPRA production from the DA’s office so that it may be compared to the redacted production.” She promised that she would “review communications with state’s witnesses which were redacted and compare to unredacted versions” and turn over unredacted versions of any “communications [that] are within the Rule 5-501 (A)(6) & (G) requirements as well as Giglio.” She committed to providing “a response to you by the end of next week.” Johnson

also stated, with respect to *Giglio* material, that her “understanding is that a request for *Giglio* material was made of the SFCSD and a response was received and forwarded to the defense in March 2023” and that she would “inquire of the agency if anything has changed since their March ‘23 response.”

224. Within mere hours of Johnson’s email, the State began disclosing previously undisclosed communications involving several members of the current or former prosecution team, proving that the State had failed to furnish those communications to the defense months ago, could have done so with little effort, and that Morrissey had misrepresented the State’s compliance. Between June 27 and June 29 (a Saturday), the State disclosed over *1,100 pages* of documents that it had been withholding for months and, in many cases, for more than a year. All of this material had been subject to prompt disclosure under Rule 5-501. Indeed, Johnson expressly conceded that these communications were required to be disclosed.

225. The State had massively violated its obligation to make these disclosures “within 10 days of waiver of arraignment” (Rule 5-501), and violated the Court’s Scheduling Order to disclose discoverable information within seven days of receipt.

226. In Judge Sommers’ August 1, 2024 written order dismissing the case, the Court recognized that “the State continually made late disclosures to Defendant throughout pretrial litigation, and even in the days immediately preceding the jury trial beginning on July 9, 2024.” The Court noted that these violations continued despite the fact that, on July 1, 2024, “the State filed a Certificate of Compliance in which Special Prosecutor Morrissey stated that she had ‘transmitted to counsel for Defendant, pursuant to the provisions of Rule 5-501, all materials and documents in her possession enumerated in the provisions of Rule 5-501 for disclosure by the State.’” The Court further noted the State’s representation, weeks before trial, that it had “conducted a complete audit of its discovery disclosure files as soon as it was aware that potential

problems existed and has cured any discovery disclosure issues.” Simply put, Morrissey had intentionally deprived Baldwin of evidence that was required to be disclosed under New Mexico law and the U.S. Constitution, and she had repeatedly lied to Baldwin and the Court about the State’s compliance.

**VIII. TRIAL REVEALED THE SHOCKING DEPTHS OF THE STATE’S BAD FAITH AND “SCORCHING” PREJUDICE**

227. Motions in limine were to be argued on July 8, 2024. Jury selection was to begin on July 9. And the first day of trial was scheduled for July 10, 2024.

228. By the time of the motion in limine hearing, Morrissey made clear that she intended to argue that Baldwin was criminally liable for Hutchins’ death because he was a producer of the film, even though she had previously dismissed that theory as lacking merit.

229. Yet Morrissey had already conceded that “the criminal negligence standard requires the prosecution to show that [Baldwin] had subjective knowledge of an actual risk of danger.” And she had also previously conceded that Baldwin had no reason to suspect the prop gun that was given to him contained live ammunition. In securing Gutierrez-Reed’s conviction, Morrissey’s co-prosecutor told jurors that “[t]he prospect of live ammunition landing up on a film set is incomprehensible.” Morrissey had further argued to the jury that the crew in the church on October 21, 2021, “believed that [Gutierrez-Reed] was going to do her job” and “believed that she did her job” to ensure the firearm was safe. And in response to one of Baldwin’s dispositive motions, the State conceded that he “had [no] actual knowledge of the risk that the firearm was loaded with live ammunition.”

230. In Baldwin’s prosecution, the State’s prior admissions about his state of mind posed a serious problem. Morrissey would have to convince jurors at Baldwin’s trial that he had willfully disregarded the risk that his actions posed to the safety of others, even though she had already conceded that Baldwin had no reason to believe the gun was loaded.

231. Morrissey sought to overcome this burden in two ways. The first was to present the meritless theory that Baldwin was responsible for Gutierrez-Reed's negligence because he was a producer.

232. At the motion in limine hearing, the Court dismissed that argument and barred the State from referencing Baldwin's status as a producer.

233. The dismissal of the producer theory left Morrissey's case hanging by a thread. She therefore sought to connect Baldwin's state of mind to the cause of Hutchins' death—*i.e.*, the existence of live ammunition on the set—by claiming that Gutierrez-Reed was the source of the live ammunition, showing Gutierrez-Reed's age and supposed inexperience, and arguing that Baldwin was therefore aware of the risk that she might bring live ammunition to the set.

234. Evidence that tended to show that Gutierrez-Reed was not the source of the live ammunition—*e.g.*, evidence that the ammunition came from an outside source—would have undermined Morrissey's key basis for linking Baldwin to Hutchins' death.

235. When that evidence emerged, Morrissey decided to bury it.

236. By at least November 1, 2021, the State was aware that a man name Troy Teske, a retired police officer in Bullhead City, Arizona, had a cache of ammunition that could have been the source of the live round that ultimately made its way to *Rust*.

237. Rather than investigate this lead independently, Det. Hancock simply accepted a screen shot of a photograph of only four bullets that Teske had sent to Kenney. The sample included Starline brass bullets, though they had brass primers, not nickel.

238. However, Kenney explained at the time that the manufacturer may have mixed primers when preparing the reloads. Det. Hancock agreed, noting that “testing at least a few [of the rounds] ... would be really important.” Kenney told Teske that the ammunition was “evidence” in the “accidental death” investigation.

239. Teske hand delivered the ammunition to the SFSO on March 6, 2024. He entrusted it to the care of Poppell, the crime scene technician who had worked on the *Rust* case from the first day and who knew Kenney. She also knew of Joe Swanson, the manufacturer.

240. Among the rounds Teske provided were Starline brass casings, with nickel primers—rounds that matched the live round that killed Hutchins, but had never been collected, analyzed, or provided to the defense.

241. Once received, the evidence was not inventoried to the *Rust* case. Instead, after a discussion between Poppell, Det. Hancock, their lieutenant, Brian Brandle, and special prosecutor Morrissey, the ammunition was logged under a separate case number.

242. The decision to misfile the evidence was made deliberately, and jointly, between members of law enforcement and Morrissey.

243. The State never disclosed this ammunition to the defense, never disclosed the supplemental report recounting the importance and details about this evidence, never provided the ammunition during the evidence viewing, and falsely certified that the State had disclosed all relevant evidence before trial.

244. The State's primary justifications for withholding the evidence—that there was no indication it matched the live ammunition on set, or that it was unclear whether it was really tied to *Rust*—was belied not only by the physical evidence itself but by the SFSO's own report.

245. Yet Poppell initially testified to the opposite when Morrissey knowingly elicited false testimony from her that the rounds *did not* match those from the set.

Q. And let me ask you, Ms. Poppell. The ammunition that the Good Samaritan, Mr. Teske, the close friend of Hannah Gutierrez's dad, when he -- that ammunition that he brought to you after her conviction, you still have it?

A. Yes.

Q. You can bring it in here and you can show it to the jury; right?

A. Yes.

Q. And they can see for themselves that it does not match the live ammunition from the set of Rust; correct?

A. Yes.

Q. And that is obvious, just when you look at it, is it not?

A. Yes.

246. That false testimony was rebutted the next day. As Judge Sommer explained: “Corporal Hancock testified that CST Poppell gave false testimony during the second day of the jury trial. Specifically, Corporal Hancock testified that CST Poppell’s testimony—given in front of the jury—concerning the attributes of the collected Teske-supplied ammunition, when compared to the attributes of the live ammunition collected from the set of Rust, was false.”

247. The State’s cover up crumbled at trial. The State knew that the rounds matched—the three matching rounds were the first ones logged in the hidden report, described as having the three features key to matching the live rounds from *Rust*—.45 caliber, Starline brass, silver primer.

The following items were given to CST Poppell by Mr. Teske:  
Item 1: Miscellaneous live ammunition including  
- Three (3) Star Line Brass 45 Colt with silver in color primer, brass in color casing

248. When Judge Sommer questioned Poppell the next day, she was forced to admit as much:

JUDGE SOMMER: All right. Let me ask it a different way. Do you recognize any of these types of bullets to have been gathered on the Hannah Gutierrez -- on the Rust set?

THE WITNESS: The Starline Brass with silver primer are similar to what was collected on the set.

249. There was no doubt that Teske—a witness known to the SFSO from the *Rust* investigation—had made clear that the evidence he was providing to them was from the same batch of ammunition as the round that killed Hutchins. As the undisclosed SFSO report stated,

Mr. Teske informed CST Poppell that he had live rounds of ammunition that he believed to be connected to the “Rust” case (SFSO 2021007949). Mr. Teske stated that he had ammunition that he believed was from the same “batch” of ammunition that was located at Seth Kenney’s warehouse in Albuquerque. Mr. Teske informed CST Poppell that he had informed Detective Hancock and Seth Kenney about these live rounds on November 3, 2021 via phone. Mr. Teske stated that these rounds originated from Joe Swanson and he was asked to bring them to court by the defense. The defense in turn did not call Mr. Teske to the stand and Mr. Teske no longer wishes to keep the ammunition.



250. Even in light of these explicit and detailed explanations, the State still tried to cover its tracks. It argued first that the evidence had been logged separately because it was not collected at the set. Then it argued that this occurred because the evidence was not collected by SFSO officers independently. And finally, the State claimed it was not logged to the *Rust* case because Teske had supposedly not returned the State's phone calls (notwithstanding his repeated offers to give a statement when he provided the ammunition, and his detailed account of its origin, that were captured on an SFSO lapel video played at trial).

251. Morrissey doubled down. She offered increasingly inconsistent explanations for the failure to disclose the existence of the ammunition to Baldwin. For example, she initially argued that the rounds would have been relevant if they had matched the rounds on *Rust*. But then she argued that they could not have been relevant unless they had been shown to have left the state of Arizona.

252. Morrissey further tried to minimize and sanitize the State's actions, attempting to justify the State's failure to allow the defense to view the ammunition by saying "I had never seen it, and I didn't realize that it wasn't under the same case number because I'm not a law enforcement officer, and I don't work at the Sheriff's department." However, as the Court noted, "this testimony conflicts with that of Corporal Hancock, who testified that SFSO agents and Special Prosecutor Morrissey decided to separately file this evidence apart from the evidence of the *Rust* investigation."

253. There can be no doubt as to what happened here. The State first deliberately ignored this exculpatory evidence and then, when unable to ignore it further, buried the exculpatory evidence. The State never disclosed this evidence to Baldwin, notwithstanding the repeated discovery demands, evidence viewings, and representations by the State that it had complied with its obligations.

254. After extensive testimony from Det. Hancock, Poppell, Det. Brandle, and Morrissey herself, the Court concluded as follows: “The State’s willful withholding of this information was intentional and deliberate. If this conduct does not rise to the level of bad faith, it certainly comes so near to bad faith as to show signs of *scorching prejudice*.” The Court further concluded, “Given the State’s egregious discovery violations constituting misconduct and the false testimony elicited during trial, dismissal with prejudice is the appropriate remedy.”

255. As a result of Defendants’ unlawful conduct, Baldwin has lost significant compensation and suffered significant damages.

**FIRST CLAIM FOR RELIEF**

**For Violation of Rights Under 42 U.S.C. § 1983  
(Conspiracy to Cause Malicious Prosecution and Deprivation of Civil Rights)**

**Against All Defendants**

256. Plaintiff Baldwin incorporates the above allegations as if fully stated here.

257. Defendants, while acting under the color of law, conspired to procure a groundless indictment against Baldwin and to maliciously bring about or advance Baldwin’s trial and conviction, thus violating Baldwin’s constitutional rights by their improper use of the criminal process.

258. Defendants’ conduct included, but was not limited to, the following acts in furtherance of their conspiracy:

a. Defendants Carmack-Altwhies, Padgett Macias, and other members of the FJDA directed law enforcement to de-prioritize the investigation into the source of live ammunition on the *Rust* set and into the key suspects related to that inquiry, and to focus instead on obtaining witness statements and evidence that prosecutors could use to manufacture probable cause to charge Baldwin with a crime.

b. With the explicit motive of “disproving” what Baldwin said during a televised ABC News interview (*i.e.*, that he did not pull the trigger), Defendants Hancock and Poppell requested, ordered, and approved destructive testing on the firearm without documenting the firearm’s internal components before its destruction, knowing that it would prevent Baldwin from examining the state of the firearm as it existed on the day of the incident.

c. Defendants Carmack-Altwhies and Reeb charged Baldwin with a firearm enhancement that was legally barred under the Ex Post Facto clause of the United States Constitution, and for which there could be no probable cause.

d. Because of: (i) Defendant Reeb’s simultaneous role in the state legislature, and (ii) Defendant Carmack-Altwhies’s statutory inability to prosecute Baldwin alongside a special prosecutor under section 36-1-23.1 NMSA, Defendants Carmack-Altwhies and Reeb lacked constitutional and statutory authority to charge Baldwin with any offense.

e. Defendant Carmack-Altwhies appointed Defendant Morrissey as special prosecutor with the understanding that she would advance Baldwin’s malicious prosecution and continued to contribute FJDA resources to Baldwin’s prosecution in violation of section 36-1-23.1 NMSA.

f. At the request of Defendant Morrissey and in furtherance of Morrissey’s malicious objectives, Defendant Hancock presented false, distorted, misleading, and perjurious testimony to the Grand Jury to procure a criminal indictment in the absence of probable cause.

g. Defendant Morrissey knowingly failed to disclose exculpatory information that she had received from the State’s expert witnesses (including but not limited to the Third Haag Report) to deprive the grand jury of information that undermined the case

against Baldwin, or in the alternative, administered policies and practices with respect to the disclosure of evidence that she knew were inadequate to fulfill her constitutional duties to Baldwin.

h. Defendants , Morrissey, Hancock, Poppell, and Brandle, and, on the basis of information and belief, Defendant Carmack-Altwies, intentionally caused and/or agreed to cause exculpatory evidence not to be inventoried to the *Rust* case file but, instead, to be inventoried by creating a new case number and inventorying the evidence to that new case number, and failed to disclose that evidence to Baldwin, or to make it available for his inspection, despite knowing that the evidence was related to the *Rust* case and his defense of the charges against him.

259. Each of the overt acts described above was made in furtherance of Defendants' conspiracy to deprive Baldwin of his civil rights, and throughout the acts described above Defendants acted in concert pursuant to an agreement, meeting of the minds, or general conspiratorial objective.

260. In carrying out their conspiracy, Defendants were driven by ill motives and to accomplish illegitimate ends, including to harass or "humble" Baldwin, to promote their political agendas (in the case of Defendants Carmack-Altwies and Reeb), or to further their own personal agendas or professional ambitions (in the case of Defendants Carmack-Altwies, Reeb, Padgett Macias, Morrissey, Hancock, Poppell, and Brandle).

261. Defendants' actions violated the constitutional rights guaranteed to Baldwin by the Fourteenth Amendment of the United States Constitution and/or the laws of the United States.

262. The immunity typically afforded to prosecutors acting in their quasi-judicial role does not apply to the above actions undertaken by Defendants Carmack-Altwies, Reeb, and Padgett Macias, including because they were performed in an administrative or investigative

capacity beyond the prosecutorial function, before any determination of probable cause was made, outside of any statutory authority or judicial forum, and/or pursuant to an invalid appointment.

263. The immunity typically afforded to prosecutors acting in their quasi-judicial role does not apply to the above actions undertaken by Defendant Morrissey, including because they were performed in an administrative or investigative capacity beyond the prosecutorial function, outside of any statutory authority or judicial forum, and/or in connection with factual testimony given by Morrissey.

264. Defendants' actions were not undertaken in good-faith and were in violation of clearly established law.

265. Defendants' actions were unnecessary, unreasonable, unlawful, and unjustified.

266. On July 31, 2024, the trial court dismissed with prejudice all charges against Baldwin on the grounds that Defendants' "egregious discovery violations," "suppressed evidence," and "false testimony" deprived Baldwin of his constitutional right to a fair trial.

267. The grounds for the trial court's dismissal of the charges against Baldwin are indicative of Baldwin's innocence.

268. As a direct and proximate result of the Defendants' unreasonable and unlawful actions, Baldwin has suffered and continues to suffer substantial past and future damages, both compensatory and general, including, but not limited to, legal expenses, loss of income, severe emotional distress, mental anguish, and embarrassment in an amount to be determined at trial.

269. Because Defendants' actions were motivated by evil motive or intent and involved a reckless or callous indifference to Baldwin's federally protected rights, an award of punitive damages is appropriate to the fullest extent permitted by law.

## **SECOND CLAIM FOR RELIEF**

### **For Violation of Rights Under 42 U.S.C. § 1983 (Suppression of Evidence and Deprivation of Civil Rights)**

**Against Defendants Hancock, Poppell, and Brandle**

270. Plaintiff Baldwin incorporates the above allegations as if fully stated here.

271. Defendants Hancock, Poppell, and Brandle, while acting under the color of law, violated Baldwin's constitutional rights by intentionally causing and/or agreeing to cause exculpatory evidence not to be inventoried to the *Rust* case file but, instead, to be inventoried by creating a new case number and inventorying the evidence to that new case number, and failed to disclose that evidence to Baldwin, or to make it available for his inspection, despite knowing that the evidence was related to the *Rust* case and his defense of the charges against him.

272. Defendants' actions violated the constitutional rights guaranteed to Baldwin by the Fourteenth Amendment of the United States Constitution.

273. Defendants' actions were not undertaken in good-faith and were in violation of clearly established law.

274. Defendants' actions were unnecessary, unreasonable, unlawful, and unjustified.

275. As a direct and proximate result of the Defendants' unreasonable and unlawful actions, Baldwin has suffered and continues to suffer substantial past and future damages, both compensatory and general, including, but not limited to, legal expenses, loss of income, severe emotional distress, mental anguish, and embarrassment.

276. Because Defendants' actions were motivated by evil motive or intent and involved a reckless or callous indifference to Baldwin's federally protected rights, an award of punitive damages is appropriate to the fullest extent permitted by law.

**THIRD CLAIM FOR RELIEF**

**Malicious Abuse of Process**

**Against Defendants Hancock, Poppell, Brandle, and the County**

277. Plaintiff Baldwin incorporates the above allegations as if fully stated here.

278. Defendants Hancock, Poppell, and Brandle, while acting within the scope of their duties, used the judicial process in a manner that was improper, with a primary motive to accomplish an illegitimate end, through conduct that includes but is not limited to the following:

a. They de-prioritized the investigation into the source of live ammunition on the *Rust* set and into the key suspects related to that inquiry, and focused instead on obtaining witness statements and evidence that prosecutors could use to manufacture probable cause to charge Baldwin with a crime.

b. With the explicit motive of “disproving” what Baldwin said during a televised ABC News interview (*i.e.*, that he did not pull the trigger), Defendants Hancock and Poppell requested, ordered, and approved destructive testing on the firearm without documenting the firearm’s internal components before its destruction, knowing that it would prevent Baldwin from examining the state of the firearm as it existed on the day of the incident.

c. Defendant Hancock presented false, distorted, misleading, and perjurious testimony to the Grand Jury to procure a criminal indictment in the absence of probable cause.

d. Defendants Hancock, Poppell, and Brandle intentionally caused and/or agreed to cause exculpatory evidence not to be inventoried to the *Rust* case file but, instead, to be inventoried by creating a new case number and inventorying the evidence to that new case number, and failed to disclose that evidence to Baldwin, or to make it available for his inspection, despite knowing that the evidence was directly related to the *Rust* case and his defense of the charges against him.

279. At all times Defendants Hancock, Poppell, and Brandle were acting in the capacity of agents, servants, or employees of Commissioners and the County of Santa Fe.

280. Under section 41-4-12 NMSA, the immunity granted by section 41-4-4(A) does not apply to liability for personal injury resulting from malicious abuse of process or the deprivation of any rights, privileges, or immunities secured by the Constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties.

281. As a direct and proximate result of the Defendants' unreasonable and unlawful actions, Baldwin has suffered and continues to suffer substantial past and future damages, both compensatory and general, including, but not limited to, legal expenses, loss of income, severe emotional distress, mental anguish, and embarrassment.

#### **FOURTH CLAIM FOR RELIEF**

##### **Intentional Spoliation of Evidence**

##### **Against Defendants Hancock, Poppell, Commissioners, and the County**

282. Plaintiff Baldwin incorporates the above allegations as if fully stated here.

283. Defendants Hancock and Poppell, while acting under color of law and with the explicit motive of "disproving" what Baldwin said during a televised ABC News interview (*i.e.*, that he did not pull the trigger), requested, ordered, and/or approved destructive testing on the firearm that killed Hutchins without documenting the firearm's internal components before its destruction.

284. Defendants Hancock and Poppell knew that performing the destructive testing and failing to document the internal components of the firearm would prevent Baldwin from examining the state of the firearm as it existed on the day of the incident.

285. The destructive testing and Defendants' failure to document the internal components of the firearm did, in fact, prevent Baldwin from examining the state of the firearm,



as it existed on the day of the incident, therefore undermining Baldwin's ability to prove his defense.

286. At all times Defendants Hancock and Poppell were acting in the capacity of agents, servants, or employees of Commissioners and the County of Santa Fe.

287. Under section 41-4-12 NMSA, the immunity granted by section 41-4-4(A) does not apply to liability for personal injury resulting from intentional spoliation of evidence or the deprivation of any rights, privileges, or immunities secured by the Constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties.

288. As a direct and proximate result of the Defendants' unreasonable and unlawful actions, Baldwin has suffered and continues to suffer substantial past and future damages, both compensatory and general, including, but not limited to, legal expenses, loss of income, severe emotional distress, mental anguish, and embarrassment.

#### **FIFTH CLAIM FOR RELIEF**

#### ***Defamation Per Se***

#### **Against Defendants Carmack-Altwies and Reeb**

289. Plaintiff Baldwin incorporates the above allegations as if fully stated here.

290. Defendants Carmack-Altwies and Reeb made false and defamatory statements of fact concerning Baldwin and, to the extent any of their statements can be considered matters of opinion, such statements implied the existence of defamatory facts, as described below.

291. False and defamatory statements by Defendants Carmack-Altwies and Reeb include, without limitation, the following:

a. On January 19, 2023, Defendant Carmack-Altwies appeared on CNN and discussed "key pieces of evidence" with a reporter from the Santa Fe New Mexican.

During the program, Carmack-Altwies asserted that Baldwin “had a duty to make sure the set was safe” and he “should have checked that gun, checked those projectiles,” falsely implying that Baldwin was responsible for Halyna Hutchins’ death.

b. On January 19, 2023, Defendants Carmack-Altwies and Reeb appeared on Jeanine Pirro’s program on Fox News, stating that “it was not a safe set” and asserting that it was Baldwin’s responsibility to ensure the set’s safety, again falsely implying that Baldwin was responsible for Halyna Hutchins’ death. Defendant Carmack-Altwies also falsely accused Baldwin of deleting information from his phone, which she knew was false at the time. In the same interview, Defendant Reeb stated that a lab report confirmed that “definitely the trigger was pulled,” while omitting that the same lab report referred to testing in which the FBI broke the firearm at issue by hitting it repeatedly with a rawhide mallet—without first inspecting or documenting the condition of the firearm—thereby preventing Baldwin from inspecting the condition of the firearm when it discharged or conducting any of his own testing. Defendant Reeb also omitted the “informal testing” that Defendant Carmack-Altwies had conducted in February 2022, which demonstrated that Baldwin’s claim not to have pulled the trigger was plausible.

c. In an interview with NBC News on January 19, 2023, Defendant Reeb commented on Baldwin’s ultimate guilt, stating that he “is somebody who committed a crime.” Defendant Carmack-Altwies repeated factual conclusions about the evidence, *e.g.*, that “we know . . . from the FBI lab report” that “he pulled the trigger.”

d. In these national media appearances, Defendants Carmack-Altwies and Reeb repeatedly stated that Baldwin was facing many years in prison even though, if convicted on the charges, the maximum sentence was 18 months, implying greater criminal culpability and a more severe criminal act on Baldwin’s part.

e. The day before charging Baldwin with two alternative felony counts of involuntary manslaughter under Section 30-2-3(B) NMSA, the Defendant Carmack-Altwhies's office posted on Facebook: "The evidence and the facts speak for themselves."

f. On February 7, 2023, immediately after Baldwin filed a motion to disqualify Defendant Reeb because her appointment violated separation of powers principles, a spokesperson for Defendants Carmack-Altwhies and Reeb told the news media that Baldwin and his lawyers can "use whatever tactics they want to distract from the fact that Halyna Hutchins died because of gross negligence and a reckless disregard for safety on the 'Rust' film set." These statements—made in connection with Baldwin's legal filing—carried the unmistakable implication that Hutchins died because of Baldwin's criminal negligence.

g. On February 10, 2023, immediately after Baldwin filed a motion regarding an unconstitutional charge that was filed against him, a spokesperson for Defendants Carmack-Altwhies and Reeb issued the following statement to the media: "Another day, another motion from Alec Baldwin and his attorneys in an attempt to distract from the gross negligence and complete disregard for safety on the *Rust* film set that led to Halyna Hutchins' death." The statement further claimed that Defendants Carmack-Altwhies and Reeb would remain focused on justice and ensuring "that everyone—even celebrities with fancy attorneys—is held accountable under the law." These statements—made in connection with Baldwin's legal filing—carried the unmistakable implication that Hutchins died because of Baldwin's criminal negligence.

h. On February 20, 2023, after conceding that they had erroneously charged Baldwin with a sentencing enhancement that violated the ex post facto clause of the United States Constitution, Defendants Carmack-Altwhies and Reeb made a public announcement.

Instead of acknowledging the impropriety of what they had done, or that they had filed an unconstitutional charge, they stated that they were withdrawing the enhancement to “avoid further litigious distractions by Baldwin and his attorneys”; the District Attorney’s Office told the media that the prosecution’s priority is “securing justice, not securing billable hours for big-city attorneys.” These statements carried the unmistakable implication that the sentencing enhancement—which carried a mandatory minimum sentence of five years in prison—had been properly filed against Baldwin even though Defendant Reeb had privately conceded to Baldwin’s attorney that she “100 percent agree[d]” that charging the firearm enhancement violated Baldwin’s rights under the ex post facto clause of the United States Constitution.

i. On March 14, 2023, Defendant Reeb announced that she was stepping down as Special Prosecutor. But rather than acknowledge that her appointment had violated the U.S. Constitution’s guarantee of separation of powers, Reeb issued a public statement that “the best way I can ensure justice is served in this case . . . is to step down so that the prosecution can focus on the evidence and the facts, which clearly show a complete disregard for basic safety protocols led to the death of Halyna Hutchins.” These statements—made in connection with Baldwin’s case—carried the unmistakable implication that Hutchins died because of Baldwin’s criminal misconduct.

292. The above statements were false when made, and Defendants Carmack-Altwies and Reeb made them knowing that they were false, or with reckless disregard as to their truth or falsity.

293. The false and defamatory statements carry the unmistakable message that Baldwin committed a serious crime—*i.e.*, that he negligently or recklessly caused the death of another human. The false and defamatory statements also relate to Baldwin’s trade or profession, because they carry the unmistakable implication that Baldwin disregards safety protocols on film sets and

was “grossly negligent” to a criminal degree. Based on the foregoing, the false and defamatory statements above constitute defamation *per se*. If they were not defamatory *per se*, they were defamatory *per quod*.

294. The immunity typically afforded to prosecutors acting in their quasi-judicial role does not apply to the above actions and statements made by Defendants Carmack-Altwies and Reeb to the news media, because they were made beyond the scope of their statutory authority and prosecutorial function and outside of any judicial forum.

295. As a direct and proximate result of the false and defamatory statements above, Baldwin has suffered and continues to suffer substantial past and future damages, both compensatory and general, including, but not limited to, legal expenses, loss of income, severe emotional distress, mental anguish, and embarrassment.

#### **SIXTH CLAIM FOR RELIEF**

#### **For Violation of the New Mexico Civil Rights Act (Deprivation of Civil Rights in Violation of N.M. Const. art. II, §§ 4, 18, and 19)**

#### **Against FJDA, Commissioners, and the County**

296. Plaintiff Baldwin incorporates the above allegations as if fully stated here.

297. Defendants, through the acts and omissions of persons acting on their behalf, deprived Baldwin of his rights under Article II, sections 4 and 18 of the New Mexico Constitution.

298. Defendants’ conduct included but was not limited to the following acts:

a. With the explicit motive of “disproving” what Baldwin said during a televised ABC News interview (*i.e.*, that he did not pull the trigger), Defendants Hancock and Poppell requested, ordered, and approved destructive testing on the firearm without documenting the firearm’s internal components before its destruction, knowing that it would prevent Baldwin from examining the state of the firearm as it existed on the day of the incident.

b. Defendants Carmack-Altwhies and Reeb charged Baldwin with a firearm enhancement that was legally barred under the Ex Post Facto clause of the New Mexico Constitution, and for which there could be no probable cause.

c. At the request of Defendant Morrissey and in furtherance of Morrissey's malicious objectives, Defendant Hancock presented false, distorted, misleading, and perjurious testimony to the Grand Jury to procure a criminal indictment in the absence of probable cause.

d. Defendant Morrissey knowingly failed to disclose exculpatory information that she had received from the State's expert witnesses (including but not limited to the Third Haag Report) to deprive the grand jury of information that undermined the case against Baldwin, or in the alternative, administered policies and practices with respect to the disclosure of evidence that she knew were inadequate to fulfill her constitutional duties to Baldwin.

e. Defendants Morrissey, Hancock, Poppell, and Brandle, and, on the basis of information and belief, Defendant Carmack-Altwhies, intentionally caused and/or agreed to cause exculpatory evidence not to be inventoried to the *Rust* case file but, instead, to be inventoried by creating a new case number and inventorying the evidence to that new case number, and failed to disclose that evidence to Baldwin, or to make it available for his inspection, despite knowing that the evidence was directly related to the *Rust* case and his defense of the charges against him.

299. Each of the overt acts described above was made in furtherance of Defendants' conspiracy to deprive Baldwin of his civil rights, and throughout the acts described above Defendants acted in concert pursuant to an agreement, meeting of the minds, or general conspiratorial objective.

300. In carrying out their conspiracy, Defendants were driven by ill motives and to accomplish illegitimate ends, including to harass or “humble” Baldwin, to promote their political agendas (in the case of Defendants Carmack-Altwies and Reeb), or to further their own personal agendas or professional ambitions (in the case of Defendants Carmack-Altwies, Reeb, Padgett Macias, Morrissey, Hancock, Poppell, and Brandle).

301. Defendants’ actions violated the constitutional rights guaranteed to Baldwin by Article II, sections 4, 18, and 19 of the New Mexico Constitution.

302. Defendants’ actions were not undertaken in good-faith and were in violation of clearly established law.

303. Defendants’ actions were unnecessary, unreasonable, unlawful, and unjustified.

304. Under section 41-4A-3 NMSA, the immunity granted by section 41-4A-4 does not apply to liability for the “deprivation of any rights, privileges or immunities secured pursuant to the bill of rights of the constitution of New Mexico” caused by “a public body or person acting on behalf of, under color of or within the course and scope of the authority of a public body.”

305. The immunity typically afforded to prosecutors acting in their quasi-judicial role does not apply to the above actions undertaken by Defendants Carmack-Altwies, Reeb, and Padgett Macias, including because they were performed in an administrative or investigative capacity beyond the prosecutorial function, before any determination of probable cause was made, outside of any statutory authority or judicial forum, and/or pursuant to an invalid appointment.

306. The immunity typically afforded to prosecutors acting in their quasi-judicial role does not apply to the above actions undertaken by Defendant Morrissey, including because they were performed in an administrative or investigative capacity beyond the prosecutorial function, outside of any statutory authority or judicial forum, and/or in connection with factual testimony given by Morrissey.

307. On July 31, 2024, the trial court dismissed with prejudice all charges against Baldwin on the grounds that Defendants’ “egregious discovery violations,” “suppressed evidence,” and “false testimony” deprived Baldwin of his constitutional right to a fair trial.

308. The grounds for the trial court’s dismissal of the charges against Baldwin are indicative of Baldwin’s innocence.

309. As a direct and proximate result of the Defendants’ unreasonable and unlawful actions, Baldwin has suffered and continues to suffer substantial past and future damages, both compensatory and general, including, but not limited to, legal expenses, loss of income, severe emotional distress, mental anguish, and embarrassment in an amount to be determined at trial.

310. Because Defendants’ actions were motivated by evil motive or intent and involved a reckless or callous indifference to Baldwin’s constitutionally protected rights, an award of punitive damages is appropriate to the fullest extent permitted by law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- a. Awarding general and/or compensatory damages in an amount to be determined at trial for all injuries suffered as a result of Defendants’ wrongdoing;
- b. Awarding punitive damages;
- c. Awarding prejudgment interest at the maximum legal rate;
- d. Awarding the costs of suit as incurred in this action and attorneys’ fees; and
- e. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Baldwin demands a trial by jury.



Date: January 9, 2025

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