

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

**ROSS ADDIEGO,
DORAN CURTIN, and
REESE PRICE,**

Plaintiffs,

v.

Case no. D-101-CV-2023-00427

Case assigned to Biedscheid, Bryan

**ALEXANDER R. BALDWIN III, an individual;
RUST MOVIE PRODUCTIONS, LLC,
a New Mexico limited liability company; and
EL DORADO PICTURES, a California corporation.**

Defendants.

**COMPLAINT FOR NEGLIGENCE, NEGLIGENCE PER SE, & INTENTIONAL
INFLICTION OF EMOTIONAL DISTRESS**

Ross Addiego, Doran Curtin, and Reese Price through their attorneys, Vigil Law Firm, P.A., file suit against the above-named entities (“Defendants”) and state:

1. On October 21, 2021, Defendant Alexander R. Baldwin III fired a Colt .45 revolver towards the crew on the set of the movie *Rust*, killing the film’s Director of Photography—Halyna Hutchins—and injuring Ross Addiego, Doran Curtin, and Reese Price (“Plaintiffs”).

2. These injuries were caused by Defendants’ failure to follow industry safety rules. Defendants cut corners; ignored reports of multiple, unscripted firearms discharges; and persisted, rushed and understaffed, to finish the film.

3. Plaintiffs are entitled to damages for their injuries caused by Defendants’ negligent and reckless conduct.

PARTIES, JURISDICTION, AND VENUE

4. Plaintiff Ross Addiego is a resident of Bernalillo County and a citizen of the State of New Mexico. He was an independent contractor retained by Defendant Rust Movie Productions, LLC to serve as the dolly operator. Plaintiff Addiego was responsible for building and operating mechanisms for camera movement. He worked closely with Director of Photography Halyna Hutchins.

5. Plaintiff Doran Curtin is a resident of Santa Fe County and a citizen of the State of New Mexico. She was an independent contractor retained by Defendant Rust Movie Productions, LLC to serve as a set costumer. Plaintiff Curtin was responsible for overseeing costumes and accessories, distressing costumes, and ensuring costume continuity.

6. Plaintiff Reese Price is a resident of Sandoval County and citizen of the State of New Mexico. He was an independent contractor retained by Defendant Rust Movie Productions, LLC to serve as the key grip. Plaintiff Price was responsible for non-electric support gear, and the direction of crew in the rigging department.

7. Defendant Alexander Baldwin III (a.k.a. Alec Baldwin) is a resident of Suffolk County, New York, and citizen of the State of New York.

8. Defendant Baldwin served as a producer, lead actor, and contributing writer for Defendant Rust Movie Productions, LLC. Defendant Baldwin is, and at all relevant times was, an owner, director, officer, managing member, employee, agent, or apparent agent of Defendant El Dorado Pictures. Defendant Baldwin was acting in his capacity in each of these roles on behalf of himself, Defendant El Dorado Pictures, and Defendant Rust Movie Productions, LLC during the production of the film *Rust*.

9. Defendant El Dorado Pictures (or “El Dorado”) is a corporation incorporated in and existing under the laws of the State of California with its principal place of business in the County of Los Angeles, California. Defendant El Dorado Pictures is a citizen of the State of California and Defendant Baldwin serves as Defendant El Dorado Pictures’ Chief Executive Officer, Chief Financial Officer, and Secretary. Defendant El Dorado Pictures was contracted by Defendant Rust Movie Productions, LLC to provide production, talent, and writing services.

10. Defendant Rust Movie Productions, LLC ("Rust Movie Productions") is a domestic limited liability company organized in and existing under New Mexico law with its principal place of business in Thomasville, Georgia. Defendant Rust Movie Production is a citizen of the State of New Mexico. Defendant Rust Movie Productions was organized to produce the feature film entitled *Rust*.

11. As members of a joint venture, each Defendant is responsible for the wrongful conduct of the others. Defendants each:

- a. Combined their money, skill, and knowledge with the intent to carry out a single business undertaking i.e., the production, sale, distribution, and marketing of *Rust*;
- b. Had a community interest and proprietary interest in the production, sale, distribution and marketing of *Rust*;
- c. Had a mutual right to control the undertaking; and
- d. Agreed to share the profits and losses of the undertaking.

12. An agreement existed between Defendant Baldwin, Defendant El Dorado Pictures, and Defendant Rust Movie Productions, LLC (“Producer Agreement”). The Producer Agreement provided for “mutual approval on all business and creative decisions.” The Producer Agreement

also documented Defendants' engagement in a joint venture for the development, financing, production, marketing, and/or distribution of *Rust*.

13. The Production Agreement outlined Defendant Baldwin's roles as a producer—engaging in the film-making venture—and as a principal actor—playing the leading role of Harlan Rust.

14. Defendant Baldwin signed the Producer Agreement on behalf of himself and Defendant El Dorado Pictures.

15. Ryan Smith signed the Producer Agreement on behalf of Defendant Rust Movie Productions, LLC.

16. Venue is proper in this court under NMSA 1978, Section 38-3-1. The offenses that gave rise to this lawsuit occurred in Santa Fe County, New Mexico.

17. This Court has personal jurisdiction over each Defendant, because each Defendant's acts and omissions occurred in New Mexico, initial production of *Rust* occurred in New Mexico, and each Defendant purposefully availed itself of New Mexico's laws and protections.

18. This Court also has subject matter jurisdiction of this action. Diversity jurisdiction does not exist, because Plaintiffs and one or more Defendants are citizens of New Mexico. This action also does not involve any federal question and is not removable to Federal Court.

APPARENT AGENCY

19. Defendants are liable for the acts and omissions of their apparent agents Alec Baldwin, Ryan Smith, Gabrielle Pickle, Katherine Walters, Hannah Gutierrez Reed, Sarah Zachry, and David Halls.

20. Defendants, by their statements, acts or conduct led Plaintiffs to reasonably believe Alec Baldwin, Ryan Smith, Gabrielle Pickle, Katherine Walters, Hannah-Gutierrez Reed, Sarah Zachry, and David Halls were Defendants' agents.

21. Plaintiffs dealt with Alec Baldwin, Ryan Smith, Gabrielle Pickle, Katherine Walters, Hannah-Gutierrez Reed, Sarah Zachry, and David Halls in justifiable reliance on Defendants' representations.

22. At the time of Plaintiffs' injuries Alec Baldwin, Ryan Smith, Gabrielle Pickle, Katherine Walters, Hannah-Gutierrez Reed, Sarah Zachry, and David Halls were acting within the scope of apparent agency of Defendants.

BACKGROUND

DEFENDANTS' COST CUTTING ENDANGERED THE CAST AND CREW

23. The western film *Rust* tells the story of a young boy and his outlaw grandfather on the run from law enforcement. It contains over 130 scenes—most of which, Defendants decided, would include the use and/or presence of operable firearms.

24. Defendants contracted Gabrielle Pickle and Katherine Walters to manage budget and scheduling decisions as the line producer and production manager, aware of the duo's previous dangerous cost cutting decisions resulting in safety complaints and litigation.

25. Despite the gun-heavy nature of the film, Defendants allotted only 21 days to film *Rust*, cutting the costs associated with additional production days.

26. Defendants contracted David Halls to serve as *Rust's* Assistant Director and manage this tight schedule. Defendants also charged Halls with arranging logistics, preparing daily call sheets, and maintaining safety and order on set.

27. Halls' responsibilities included holding daily safety meetings.

28. Defendants moved forward with Halls in this critical role despite documented complaints by former productions about Halls' failure to maintain safe sets.

29. Like he had done on previous productions, Halls cut corners when it came to safety on the *Rust* set. In order to complete *Rust* within a rushed time frame, he skipped required safety practices like rehearsals, safety meetings, and demonstrations verifying any firearms in use were "cold." He rushed critical set moves involving heavy equipment, rough terrain, and firearms, failing to allow time for safety measures to be taken and creating a perilous atmosphere. He also failed to properly distribute and maintain production documents including production reports and safety bulletins.

30. Safety bulletins, in part, document various safety protocols adopted as industry standards to protect everyone on a film set where operable firearms are present. These protocols prohibit the presence of live ammunition—ammunition consisting of a bullet, propellant powder, and primer—anywhere on a movie set. Bonanza Creek Ranch, the location of the *Rust* set, also forbade the presence of live ammunition on its property.

31. In addition to the safety bulletins, basic safe gun handling rules also dictate how cast and crew are to behave on set when using firearms. These safe gun handling rules include:

- a. Always treat a gun as if it were loaded;
- b. Never point the gun at anything the operator of the gun does not intend to destroy;
- c. Always keep the gun pointed in a safe direction and never at yourself or anyone else;
- d. Always keep the gun unloaded unless it is necessary to load the gun for use on a scene. Then, and only then, a qualified person acting as the armorer should load the gun;

- e. Never place a finger on the trigger unless the operator is ready to shoot;
- f. Be sure of the person's target and what is behind the target;
- g. Learn the mechanical and handling characteristics of the particular gun being used;
- h. Load the gun in front of the actors or crew who may be in the line of fire; and
- i. Personally perform or observe a visual inspection of the gun to ensure no live ammunition is contained in the cartridge.

32. The use of firearms and ammunition on movie sets is an inherently dangerous activity. Firearm rules and standards exist, in part, because firearms are deadly weapons designed to inflict bodily harm or death. Each member of the production must follow the industry protocols and adhere to gun safety rules.

33. Despite the risks associated, Defendants chose to use operable firearms during production on 17 of the 21 scheduled film days. They did so despite ample alternatives including using replicas, Airsoft guns, rubber prop guns, special effects simulations, and post-production visual effects.

34. Because of Defendants' choice to use operable firearms on set, Defendants needed to contract a knowledgeable, experienced firearms expert as the film's armorer.

35. The armorer is responsible for complying with industry protocols and gun handling rules, testing the firearms, ensuring proper storage and maintenance of the firearms, checking the cylinders and barrel for ammunition and foreign objects before usage, instructing actors and crew on proper handling and use, supervising firearm use, and ensuring that the set has no dangerous conditions related to the use of firearms. The armorer is also responsible for loading firearms with proper ammunition—either blank or dummy rounds, never live ammunition.

36. Defendants initially engaged a highly trained and experienced firearms specialist who was willing and able to accept the role of armorer. But Defendants ultimately contracted Hannah Gutierrez Reed even though she had only worked as an armorer on one film prior and lacked essential experience. This decision was motivated by Defendants' aim for a quick and cheap production. Gutierrez Reed agreed to a dual role within the props department where she split her time between armorer and key props assistant, allowing Defendants to pay one person to perform the jobs of two. Other armorer candidates cautioned against splitting time in a gun-heavy production which required the handling of multiple operable firearms nearly every day. But Defendants charged ahead with Gutierrez Reed, an inexperienced armorer who would work two jobs for the price of one.

37. Industry protocols detail the armorer's responsibilities. One of those responsibilities is to "ensure a sufficient amount of time is allotted for training and rehearsal."

38. Defendant Baldwin was scheduled for only 90 minutes of shooting and firearms safety training at Bonanza Creek Ranch on October 12, 2021. He chose to spend most of the allotted time speaking on his cell phone. This limited training time did not comport with industry protocols or safety standards.

39. Despite this sub-standard and reckless practice session, Gutierrez Reed allowed Defendant Baldwin to handle operable firearms on set.

DEFENDANTS RECEIVE NOTICE OF SAFETY ISSUES ON SET

40. The defects with Defendants' decision to contract Gutierrez Reed as *Rust's* armorer and key props assistant became quickly apparent.

41. On October 9th, only three days into filming, Gutierrez Reed complained to *Rust's* line producer, Gabrielle Pickle, of "guns jamming" and the lack of dedicated armorer days where

her primary responsibility would be firearm safety. The jamming guns caused misfirings—failures to discharge blanks when fired.

42. Crew members also experienced multiple, unscripted firearms discharges. During the ninth day of filming, Sarah Zachry, the production’s property master, fired a blank round at her foot. That same day, Defendant Baldwin’s stunt double fired a blank round inside a cabin set.

43. In response to these unscripted firearm discharges, crew members complained about the set’s safety to various *Rust* supervisors, including the unit production manager, line producer, producers, and executive producers.

44. On October 16, 2021, Lane Luper, the First Camera Assistant, notified Rust’s unit production manager, Katherine “Row” Walters, that there had been three unscripted discharges and that the set was “super unsafe.” Defendants chose to dismiss his complaints and those of other crew members:

- a. Defendants did not regularly hold daily safety meetings, during which firearm concerns could be addressed;
- b. Defendants did not seek a new more experienced armorer;
- c. Defendants did not allocate dedicated armorer days as Gutierrez Reed requested; and
- d. Defendants did not suspend production to investigate the discharges or the inadequate adherence to safety protocols.

Instead, the rushed, chaotic atmosphere persisted.

45. On the evening of October 20, 2021, Luper emailed his resignation to Defendants through the unit production manager.

46. In his resignation email, Luper gave Defendants written notice that there had been two unscripted firearm discharges and one unscripted special effects explosive discharge on the *Rust* set. Defendants failed to address all three. Luper also reported in his email that “[d]uring filming of gunfights on this job things [we]re often played very fast and loose.”

47. Luper complained that despite the dangerous firearms discharges and recurring safety issues on set, Defendants held no regular safety meetings, provided no guidance, and set no expectations for gunfight scenes. Supervisors regularly cited a rushed schedule as the reason for their inability to hold meetings, address complaints, or rehearse.

48. Between the evening of October 20, 2021 and early morning of October 21, 2021, seven of the eight members of the film’s camera department also resigned from *Rust* citing concerns similar to Luper’s.

49. Defendants, through their line producer, Gabrielle Pickle, responded to Luper’s resignation email on October 21, 2021. Pickle’s response did not acknowledge or otherwise address any of Luper’s concerns. Instead, she only asked that Luper coordinate the retrieval of his production equipment and belongings quickly and in a way that avoided impacting the day’s schedule and budget.

50. Defendants took no action in response to the concerns documented in Luper’s resignation. They stuck to the tight production schedule on October 21, even though all but one member of the camera department had resigned. This strained an already thinly staffed production and created new safety issues. Again, Defendants made it clear that safety was not a concern—Defendants’ priority remained *Rust*’s quick and cheap production.

51. Luper and the other former crew members collected their personal production equipment and left Bonanza Creek Ranch in the early morning of October 21st. By that afternoon another unscripted firearm discharge would kill the Director of Photography and injure Plaintiffs.

DEFENDANTS DISCHARGE A LIVE BULLET ON SET

52. After a strained morning on October 21, 2021, Gutierrez Reed and the rest of the remaining *Rust* crew broke for lunch after working on a scene utilizing an operable Colt .45 revolver.

53. Gutierrez Reed stored the revolver which was loaded with at least one live round of ammunition in a safe located on the property truck (“props truck”) before heading to lunch.

54. As the armorer for *Rust*, Gutierrez Reed was responsible for maintaining, storing, and securing the revolver and any ammunition while not in use in addition to supervising its handling by cast members.

55. The crew returned from lunch to the church set of Bonanza Creek Ranch to prepare for another scene involving the revolver. Hutchins, Plaintiffs, and other crewmembers were conducting a “line up” to confirm the positioning, frame, and focus of the camera for a close-up insert shot of Defendant Baldwin’s hand and the revolver he would be holding.

56. Defendant Baldwin called for the revolver.

57. Industry safety standards required that Gutierrez Reed reexamine the revolver after removing it from storage and bringing it to set after lunch. She chose not to.

58. No one examined the revolver after it was removed from the property truck’s safe.

59. Gutierrez Reed handed the unchecked, loaded revolver to Halls, the first assistant director. She told him she had not checked the revolver after the lunch break.

60. No one examined the revolver before Gutierrez Reed handed it to Halls.

61. Despite being informed that the revolver had not been examined by the armorer and knowing that industry standards require that firearms be provided to cast members directly by the armorer, Halls accepted the revolver from Gutierrez Reed.

62. Halls did not personally check the revolver to ensure that it was a “cold gun”—that the barrel was empty, or that the chamber was loaded with only verified dummy rounds.

63. Dummy rounds are used solely for aesthetic purposes on a film set and have a small hole on the side of the casing indicating no propellant powder is present. They also often contain a ball bearing or BB inside so that the ammunition makes noise when shaken. By contrast, blank rounds and live rounds do not have holes in their casings and do not make noise when shaken.

64. Halls did not check the revolver’s chamber, remove visible ammunition from the revolver’s chamber to examine it, or shake the ammunition to listen for a rattling noise.

65. No one examined the revolver before Halls handed it to Defendant Baldwin.

66. Defendant Baldwin then accepted the revolver from Halls rather than from the armorer as required by industry rules. He did not request that anyone verify or demonstrate the revolver’s safety before this exchange. And he did not ask to see whether ammunition was present inside the revolver’s chamber—despite his knowledge of the observable differences between a live and dummy round, and a loaded and unloaded chamber. Instead, Defendant Baldwin accepted the revolver without any verification that it was a “cold gun.”

67. The church was small and the number of crew members inside was limited. Those present included Hutchins, Souza, Halls, Plaintiffs, and Defendant Baldwin. Notably missing from the church was Gutierrez Reed and Sarah Zachry.

68. The actors and crew present in the church and in the line of fire were also not given the opportunity to verify the revolver's safety. At no point after lunch did anyone verify or demonstrate that the revolver was safe for use.

69. The crew in the church continued to surround Defendant Baldwin and prepare for the scene without any warning that an operable firearm loaded with live ammunition was on set.

70. Then, without Gutierrez Reed's supervision or a call for a proper rehearsal, Defendant Baldwin began to practice his draw with the loaded revolver.

71. With his right hand, Defendant Baldwin repeatedly drew the revolver across his body from the left shoulder holster and pointed it in the direction of the crew members standing in front of him, including Plaintiffs:

- a. Hutchins was facing Defendant Baldwin less than three feet in front of him.
- b. Plaintiff Addiego was arm's length from Hutchins and also facing Defendant Baldwin.
- c. Plaintiff Curtin stood slightly to the right of Hutchins and was also facing Defendant Baldwin.
- d. Souza stood slightly behind Plaintiffs Curtin and Addiego.
- e. Plaintiff Price was walking towards Defendant Baldwin in the church aisle and was roughly six feet away.

72. The camera line up did not call for Defendant Baldwin to cock the revolver or pull the trigger.

73. Nothing in the script warned the crew that discharge of a firearm was imminent.

74. No one present had been provided with eye and ear protection.

75. But, on his third draw, Defendant Baldwin cocked the hammer of the revolver with the trigger pulled and fired it towards the crew striking Hutchins, and injuring Plaintiffs.

76. A live .45 caliber bullet fired from the revolver, passed through Hutchins' body, and lodged into Souza's shoulder.

77. The sound from the live discharge inside the small church was deafening, causing Plaintiffs to suffer blast injuries.

78. Plaintiff Price saw the muzzle flash of the revolver in Defendant Baldwin's hand. He felt the physical force of the gunfire in the small space. His ears began to ring. He felt as if everything was moving in slow motion. He saw Souza screaming and crawling away from Defendant Baldwin. Desperate and scared, crew members began to yank Plaintiff Price by the shirt and out of the church. Plaintiff Price realized the revolver had been fired towards him and his colleagues.

79. Plaintiff Addiego witnessed the same flash. He felt the same disorienting sound, force, and physical trauma from the gunshot. He heard Souza's muffled screams and began to navigate the chaos. He became aware that he had just witnessed Defendant Baldwin fire the revolver towards him and the group in which he was standing. Hutchins and Souza fell to the ground. As he examined Souza for injuries, Plaintiff Addiego saw a hole in the front of Souza's sweatshirt. Assisted by another crew member and the set medic, Plaintiff Addiego removed Souza's shirt and rolled him over. Souza's scapula was shattered, and a bullet was lodged just beneath his skin. Plaintiff Addiego applied pressure to Souza's wound until emergency medical professionals arrived.

80. Plaintiff Curtin felt the same sound, force, and physical trauma from the gunshot. She watched Hutchins fall to the ground right in front of her. With Hutchins at her feet, other crew

members instructed Plaintiff Curtin to remove Hutchins' headset. She bent down and removed the equipment from Hutchins' head. She watched in shock as Hutchins grabbed at her abdomen. Plaintiff Curtin put her hands on Hutchins' stomach, trying to find the source of Hutchins' pain and figure out what was going on. As the chaos continued, Plaintiff Curtin was ushered out of the church. Once outside, she collapsed from the effects of the blast and the shock of the shooting.

81. Hutchins was flown by helicopter to the University of New Mexico Hospital where she died of her injuries.

82. Souza was transferred by ambulance to Christus St. Vincent Hospital where personnel removed the live round from his shoulder and treated his injuries.

83. As Hutchins and Souza received medical intervention, Plaintiffs and other crew members were compelled to remain at Bonanza Creek Ranch to speak with law enforcement and aid in the criminal investigation.

84. After the shooting, Defendants offered no diagnostic services or any meaningful emotional or mental health services to Plaintiffs. Despite this, Plaintiffs have independently sought support in dealing with their injuries which include, but are not limited to, insomnia, anxiety, depression, and symptoms of post-traumatic stress disorder.

INVESTIGATION OF THE DISCHARGE

85. The fatal shooting was investigated by the Santa Fe County Sheriff's Office, New Mexico Environment Department Occupational Health and Safety Bureau ("OHSB"), the Federal Bureau of Investigation ("FBI"), and the Santa Fe County District Attorney's Office.

86. During the FBI's investigation, the FBI conducted firearm discharge testing on the revolver. Through that testing, the FBI concluded that when the revolver's hammer was at full cock position, "it could not be made to fire without pull of the trigger" This held true with the

revolver at $\frac{1}{4}$ and $\frac{1}{2}$ cock positions. The FBI also analyzed ammunition collected by law enforcement from the *Rust* set and found dozens of live cartridges. Some of these live cartridges were found on the prop cart and in the bandelier Defendant Baldwin was wearing at the time of the shooting. Live ammunition was also found in the ammunition box from which law enforcement suspected the revolver was loaded.

87. On January 19, 2023, the Santa Fe County District Attorney's Office announced its decision to charge Defendant Baldwin and Hannah Gutierrez Reed with Involuntary Manslaughter. The DA's office also announced David Halls would be entering into a plea agreement for a charge of Negligent Use of a Deadly Weapon.

88. A Criminal Information formally charging Defendant Baldwin, in his capacity as an actor and producer, was filed by the State of New Mexico. A Statement of Probable Cause was also filed in the First Judicial District Court, case no. D-0101-CR-202300039, on January 31, 2023. In support of probable cause of the crime of Involuntary Manslaughter having been committed by Defendant Baldwin, the State of New Mexico provided the following information:

- a. Statements and evidence show Defendant Baldwin was not present for required firearms training and failed to appear for mandatory safety training prior to the commencement of filming. A training session for at least an hour or more in length was scheduled but consisted only of approximately 30 minutes as Defendant Baldwin was "distracted and talking on his cell phone to his family during the training".
- b. By not receiving the required training on firearms, deviating from the required duties of checking the firearm with the armorer, letting the armorer leave the firearm in the church without being present, deviating from the practice of only

accepting the firearm from the armorer, not dealing with safety complaints on the set, not making sure safety meetings were held, putting his finger on the trigger of a real firearm when a replica or rubber gun should have been used, pointing the gun at Hutchins and Souza [and Plaintiffs], and the overall handling of the firearm in a negligent manner, Defendant Baldwin acted with willful disregard of the safety of others and in a manner which endangered other people.

89. In the Statement of Probable Cause, the State of New Mexico provided the following information about Defendant Baldwin in his capacity as a producer:

- a. Defendant Baldwin was in a position to manage, oversee, commence, and require firearm safety training to industry standards.
- b. Defendant Baldwin allowed, through acts or omissions, the hiring of Hannah Gutierrez Reed as the film's armorer, who was inexperienced and unqualified. Defendant Baldwin 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 the set of *Rust*.
- c. Defendant Baldwin allowed Sarah Zachry to assist with armorer duties—including loading and unloading ammunition in firearms, handling firearms, taking possession of firearms—despite Zachry's minimal experience with firearms, firearm safety, and armorer duties and responsibilities.
- d. After two unscripted discharges occurred, Defendant Baldwin failed to act to address the reckless situations or direct Gutierrez Reed to mitigate or address the discharge with Zachry through remedial training, demotion, removal from set, termination, or any other means.

- e. After Rust's original camera crew resigned, citing safety concerns, and left the set with their production equipment, Defendant Baldwin failed to act to address or mitigate any safety or continuity concerns.
- f. On the day of the shooting, no less than a dozen acts or omissions of recklessness, occurred in the short time prior to lunch and at the time of the shooting not including the reckless handling of the firearm by Defendant Baldwin. Defendant Baldwin by act or omission or failure to act in his position as a producer directly contributed to and/or failed to mitigate numerous reckless and dangerous actions during a very short time period.

90. A Criminal Information formally charging Gutierrez Reed with Involuntary Manslaughter was filed by the State of New Mexico. A Statement of Probable Cause was also filed in the First Judicial District Court, case no. D-0101-CR-202300040, on January 31, 2023. In support of probable cause of the crime of Involuntary Manslaughter having been committed by Gutierrez Reed, the State of New Mexico provided the following information:

- a. All on-set protocols when firearm(s) are present were the responsibility of Gutierrez Reed to manage, be present and enforce.
- b. By not insisting Baldwin had the proper training, not checking the rounds she was loading into the firearms, not showing Halls or Baldwin each bullet before handing them the firearm, allowing live rounds on scene, not staying in the church with the firearm, allowing Baldwin to point the firearm at Hutchins, not voicing her concerns to management of her double duties as armorer and props assistant, allowing ammunition to not be secured, not making sure a rubber or replica gun was used in a rehearsal scene, and allowing Baldwin to handle a firearm in a

negligent manner, Gutierrez Reed acted with willful disregard of the safety of others and in a matter which endangered other people.

COUNT 1
NEGLIGENCE
(Against All Defendants)

91. Plaintiffs reallege and incorporate all previous paragraphs.

92. Defendants owed Plaintiffs a duty of ordinary care.

93. Defendants had a duty to ensure their agents performed their duties with reasonable care and diligence for Plaintiffs' safety.

94. Defendants had a duty to provide a reasonably safe work environment. This included duties to:

- a. Establish, adopt, implement, and oversee reasonable safety rules to protect the safety of all cast and crew on site;
- b. Reasonably respond to the safety concerns Luper detailed in his resignation email;
- c. Report and document breaches of safety standards;
- d. Comply with movie industry protocols and Bonanza Creek Ranch rules;
- e. Comply with gun handling rules;
- f. Hold regular safety meetings;
- g. Investigate and reasonably respond to the crew members' safety complaints;
- h. Suspend production to properly restaff after the resignation of several crew members;
- i. Train all those handling firearms in basic firearm safety and ensure all handlers were complying with state law, movie industry protocols, Bonanza Creek Ranch rules, and gun handling rules;

- j. Allot sufficient time for firearms training;
- k. Suspend production to investigate all unscripted discharges and reasonably respond to those discharges;
- l. Terminate any persons responsible for unscripted discharges or the prevention of those discharges on set;
- m. Provide firearm safety bulletins to cast and crew each day firearms are present on set;
- n. Hold regular safety meetings that include a walk through or “dry-run” with anyone who will be handling a firearm;
- o. Rehearse any scenes involving firearms before filming;
- p. Use replicas, rubber guns, Airsoft guns, special effects simulations, or post-production visual effects rather than real firearms whenever possible;
- q. Ensure all cast and crew are a safe distance from any weapon firing area;
- r. Ensure that guns were unloaded during line ups;
- s. Ensure crew members have appropriate protective ear and eye equipment when firearms are in use;
- t. Prevent the presence of live ammunition on set;
- u. Prevent the loading of live ammunition into any firearms;
- v. Inspect every firearm before transferring it from person to person, or from storage to person to ensure no ammunition was in the cartridge or, if ammunition was needed, that the ammunition was not live;
- w. Prioritize safety over a quick and cheap production;
- x. Comply with state law; and

- y. Comply with all industry safety rules, protocols, and guidelines.
95. Defendants had a duty to exercise reasonable care in contracting and managing their agent Hannah Gutierrez Reed. This included duties to:
- a. Retain an experienced armorer with the knowledge, skill, and experience necessary to oversee the safe use of firearms and ammunition on a gun-heavy set;
 - b. Retain an armorer who did not have to split her time between multiple jobs on set;
 - c. Honor the armorer's request to have dedicated armorer days;
 - d. Ensure that the armorer was in exclusive possession of all weapons and ammunition unless a firearm was being used on scene;
 - e. Ensure that the armorer was present to supervise the handling of firearms during all scenes involving them;
 - f. Ensure that the armorer verified the firearm was safe to handle before handing it off to a cast or crew member;
 - g. Ensure only the armorer supplied firearms directly to handlers and/or actors – not any other member of the cast or crew;
 - h. Ensure that cast or crew members present during scenes involving firearms were allowed to witness the armorer demonstrate the firearm was safe to use;
 - i. Ensure that the armorer showed the operator how to safely use the firearm before allowing the operator to receive the firearm;
 - j. Ensure that the armorer stored weapons and ammunition in a manner consistent with industry safety rules and state laws;
 - k. Require the armorer, after conducting a safety check with the assistant director, to conduct an additional safety check with the actor to be handling the firearm;

- l. Mitigate or establish more precautions to protect against Gutierrez Reed's inexperience; and
 - m. Ensure the armorer possessed the necessary certification and/or had certifiable training for the safe handling of firearms.
96. Defendants had a duty to exercise reasonable care in contracting and managing agent Sarah Zachry. This included duties to:
- a. Ensure firearms were being loaded and unloaded by the armorer, not by Sarah Zachry;
 - b. Ensure that firearms were being handled, or that the handling of firearms was being immediately supervised, by the armorer, not by Sarah Zachry;
 - c. Ensure that only the armorer took possession of the firearms, not Sarah Zachry; and
 - d. Ensure that Sarah Zachry was fulfilling her duties as property master and that she was not taking on responsibilities owed by the armorer.
97. Defendants had a duty to exercise reasonable care in contracting and managing agent David Halls. This included duties to:
- a. Hire an assistant director without a documented history of failing to maintain safe sets;
 - b. Ensure that firearms were being handled, or that the handling of firearms was being immediately supervised, by the armorer, not by David Halls;
 - c. Ensure that David Halls conduct daily safety meetings; and
 - d. Ensure that David Halls conducted onsite safety meetings prior to any scenes involving firearms.

98. Defendants—either individually or through their owners, management, employees, or agents—breached the duties described above.

99. Defendants Baldwin and El Dorado Pictures also had duties to:

- a. Act with reasonable care for the safety of others;
- b. Learn and comply with basic firearm safety rules;
- c. Attend and fully participate in all mandatory firearm safety training without distraction;
- d. Request the use of a replica firearms for lineups and rehearsals and any scenes where a firearm is not explicitly necessary;
- e. Safely handle all firearms on set;
- f. Accept firearms only from the armorer;
- g. Demand at least two safety checks—between the armorer and David Halls, and David Halls and himself—before accepting the revolver;
- h. Require that the armorer demonstrate the revolver’s safety prior to accepting it;
- i. Visually inspect the revolver before taking possession of it;
- j. Wait for a proper rehearsal to be called prior to practicing any firearm draw;
- k. Ensure the armorer was present before rehearsing any firearm draw;
- l. Treat the revolver as if it were loaded;
- m. Assess what he was pointing the revolver at and what was behind that target;
- n. Avoid pointing the revolver at any person;
- o. Avoid placing his finger on the trigger until he was ready to shoot;
- p. Avoid pulling the revolver’s trigger when the script did not call for or give notice of a firearm discharge;

- q. Avoid the discharge of any deadly weapon; and
- r. Comply with New Mexico law.

100. Defendants Baldwin and El Dorado Pictures breached the duties described above.

101. It is foreseeable that an actor who discharges a loaded revolver on a set would directly and proximately cause physical or emotional injuries to persons on that set.

102. As a proximate and direct result of all of the above breaches, Plaintiffs suffered physical trauma from the discharging of an operable firearm on the *Rust* set. This resulted in actual injury or damage to Plaintiffs including, but not limited to, hearing loss, temporary deafness, and vibrational shock.

103. These injuries or damages to Plaintiffs were proximately caused by the discharge of an operable firearm loaded with live ammunition which was Defendants' responsibility to manage and control.

104. The event causing the injuries or damages to Plaintiffs was of a kind which does not ordinarily occur in the absence of negligence on the part of Defendants in control of an operable firearm loaded with live ammunition.

105. This evidence is sufficient to establish an inference of negligence under the doctrine of *res ipsa loquitur*.

106. The conduct of Defendants and their agents, taken as a whole, was reckless or wanton, such that punitive damages are appropriate.

COUNT 2
NEGLIGENCE PER SE
(Against All Defendants)

107. The New Mexico Negligent Use of a Deadly Weapon Statute, in force in this state at the time of the occurrence in question, provided that:

A. Negligent use of a deadly weapon consists of:

- (1) discharging a firearm into any building or vehicle or so as to knowingly endanger a person or his property;
- (2) carrying a firearm while under the influence of an intoxicant or narcotic;
- (3) endangering the safety of another by handling or using a firearm or other deadly weapon in a negligent manner; or
- (4) discharging a firearm within one hundred fifty yards of a dwelling or building, not including abandoned or vacated buildings on public lands during hunting seasons, without the permission of the owner or lessees thereof.

NMSA 1978 § 30-7-4.

108. The New Mexico Negligent Use of a Deadly Weapon Statute prescribes certain actions or defines a standard of conduct, either explicitly or implicitly;

109. Defendant Baldwin violated the Negligent Use of a Deadly Weapon Statute.

110. Gutierrez Reed violated the Negligent Use of a Deadly Weapon Statute.

111. David Halls violated the Negligent Use of a Deadly Weapon Statute.

112. Plaintiffs, as bystanders within the line of fire, are in the class of persons sought to be protected by the Negligent Use of a Deadly Weapon Statute.

113. The harm or injuries to Plaintiffs are of the type of harm or injuries the legislature, through the statute, sought to prevent.

114. Because Defendant Baldwin violated the Negligent Use of a Deadly Weapon Statute, his conduct constitutes negligence as a matter of law.

115. Because Gutierrez Reed violated the Negligent Use of a Deadly Weapon Statute, her conduct constitutes negligence as a matter of law.

116. Because David Halls violated the Negligence Use of a Deadly Weapon Statute, his conduct constitutes negligence as a matter of law.

117. Defendant Rust Movie Productions is liable for the violation of the Negligence Use of a Deadly Weapon Statute by its agent, Gutierrez Reed, because it authorized or ratified her criminal acts.

118. Defendant Rust Movie Productions is liable for the violation of the Negligence Use of a Deadly Weapon Statute by its agent, David Halls, because it authorized or ratified his criminal acts.

119. The conduct of Defendants and their agents, taken as a whole, was reckless or wanton, such that punitive damages are appropriate.

COUNT 3
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against All Defendants)

120. Plaintiffs re-allege and incorporate all previous paragraphs above.

121. The conduct of Defendants, and their agents, Gutierrez Reed, Zachary, Halls, and Baldwin, was extreme and outrageous under the circumstances.

122. Defendants and their agents acted recklessly.

123. As a result of the conduct of Defendants and their agents, Plaintiffs experienced severe emotional distress.

124. The conduct of Defendants and their agents, taken as a whole, was reckless or wanton, such that punitive damages are appropriate.

PRAYER FOR RELIEF

125. Wherefore Plaintiffs request that a Judgment be entered in their favor against Defendants for compensatory and punitive damages, jointly and severally, in an amount to be determined by the trier of fact at trial including for, but not limited to:

- a. The loss of enjoyment of life experienced and reasonably certain to be experienced in the future as a result of the injury;
- b. The pain and suffering experienced and reasonably certain to be experienced in the future as a result of the injury;
- c. The nature, extent and duration of the injury;
- d. The reasonable value of necessary nonmedical expenses which have been required as a result of the injury and present cash value of such nonmedical expenses reasonably certain to be required in the future;
- e. The value of lost earnings and present cash value of earning capacity reasonably certain to be lost in the future;
- f. The reasonable expense of necessary medical care, treatment and services received and the present cash value of the reasonable expenses of medical care, treatment and services reasonably certain to be received in the future;
- g. Pre- and post- judgment interest;
- h. Punitive damages;
- i. Costs; and
- j. Such other relief as the court or jury finds appropriate.

JURY DEMAND

Plaintiffs hereby demand a six (6) person jury.

Respectfully submitted,

VIGIL LAW FIRM, P.A.

/s/ Jacob G. Vigil, Esq.

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