

SECOND JUDICIAL DISTRICT COURT  
COUNTY OF BERNALILLO  
STATE OF NEW MEXICO

HANNAH GUTIERREZ REED,

Plaintiff,

vs.

D-202-CV-2022-00217

SETH KENNEY, and  
PDQ Arm and Prop, LLC.

Defendants.

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**COMPLAINT FOR VIOLATIONS OF NEW MEXICO UNFAIR TRADE PRACTICES  
ACT, INTRODUCING DANGEROUS PRODUCTS ONTO MOVIE SET, STRICT  
PRODUCT LIABILITY, AND FALSE LABEL REPRESENTATIONS.**

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Plaintiff Hannah Gutierrez-Reed, by and through her counsel of record, Jason Bowles of Bowles Law Firm and Todd J. Bullion of Law Office of Todd J. Bullion, hereby brings this action against Defendants Seth Kenney and PDQ Arm and Prop, LLC. (collectively “Defendants”), and alleges upon information and belief, as follows:

**NATURE OF THE CASE**

1. This case arises out of a shooting that occurred on the Rust production set (herein “Rust”) that occurred on October 21, 2021, that killed Halyna Hutchins and wounded Joel Souza.

**THE PARTIES AND JURISDICTION**

2. Plaintiff Hannah Gutierrez Reed is a resident of Bullhead City, Arizona.
3. Defendant Seth Kenney is believed to be a resident of Albuquerque, New Mexico, County of Bernalillo. Seth Kenney is the founder and managing member of PDQ Arm and Prop. LLC.

4. Defendant PDQ Arm and Prop, LLC, is a domestic limited liability company, with a registered agent listed as Jeremiah Bitsui, physical address of [REDACTED] and with a mailing address of [REDACTED]. PDQ Arms and Props maintains a physical location at 126 Monroe St. NE, Albuquerque, NM. This business shows revoked and not in good standing with the New Mexico Secretary of State.
5. At all relevant times Defendants, each of them, have engaged in the business of assembling, labeling, marketing, promoting, packaging, advertising, and distributing props to individuals and entities in the State of New Mexico.
6. This Court has subject matter jurisdiction and venue is proper.
7. This Court has personal jurisdiction over Defendants because Defendants do business within the State of New Mexico and/or have sufficient minimum contacts with New Mexico necessarily to permit the Court to exercise jurisdiction with such jurisdiction also within the contemplation of the New Mexico “long arm” statute, NMSA 1978 Section 38-1-16 (1971).

#### **PLAINTIFFS’ FACTS AND ALLEGATIONS**

8. All previous paragraphs are incorporated by reference herein.

#### **THE BACKGROUND**

9. In and about August and September 2021, on a different movie set in Texas, Defendant Seth Kenney enlisted Thell Reed to help train actors at a shooting range in the use of live fired rounds at a licensed range off the movie set. This training was to help the actors understand the way a firearm will recoil after live fire, so that they could simulate the recoil

during filming. There were never live rounds on the Texas set, but instead this instruction occurred off site at a licensed shooting range.

10. Following that training, Seth took the ammo can and its contents with him in his van. Thell estimated that the ammo can contained 200-300 live .45 Colt rounds, which included Starline Brass reloaded “live” rounds.
11. Starline Brass is a company that produces ammo brass casings, that can be made into dummy, blank or live ammunition by anyone with the knowledge and equipment to do so. The company does not itself make live rounds. Anyone with access to the dummy rounds could convert them into live rounds with the proper reloading equipment.
12. On October 4, 2021, Rust production hired Hannah Gutierrez Reed as an independent contractor for the positions of Armorer and key props assistant, on Rust.
13. Hannah is the daughter of Thell Reed, longtime Hollywood Armorer, who trained Hannah.
14. As Rust Armorer, Hannah was responsible for maintaining and managing operation of firearm related movie props. As key props assistant, she was also responsible for assisting with a multitude of props duties as requested by Ms. Zachry and Production.
15. The Rust script was a very “gun heavy” western script, with guns needed on 10 of the 12 film days leading up to October 21, and gunfire on at least half of the shooting days, according to the call sheets. This gun heavy script required Hannah to perform a significant amount of work each day as both an armorer and key props assistant.
16. Hannah was to be paid approximately a total of \$7,500 for both jobs combined.
17. Production hired Sarah Zachry as Props Manager and she was responsible for obtaining and maintaining all movie props for Rust. Production also hired Sarah’s future sister in law, Nicole Montoya, as props assistant.

18. Both Hannah and Sarah were 24 years old when they were hired to work on Rust and Nicole was 19.
19. Defendant Seth Kenney was instrumental in recommending both Hannah and Sarah for hire on the Rust set.
20. The Rust production was a “low budget” film. It had a rushed and chaotic atmosphere at times, culminating the day before the tragedy with the abrupt and unexpected resignations of members of the camera crew on October 20. All the while, the props and armorer departments were expected to teach each other and do more with less. The introduction of live rounds onto the set, which no one anticipated, combined with the rushed and chaotic atmosphere, created a perfect storm for a safety incident.
21. Rust was a western movie whose props included pistols, rifles, dummy ammunition, and blank ammunition (herein “blanks” or “dummies”).
22. A **dummy round** or **drill round** is a round that is completely inert, i.e., contains no primer, propellant, or explosive charge ([Brown, Edmund G. \(2009\). Handgun Safety Certificate. West Sacramento, California: California Department of Justice. p. 52.](#))
23. A **blank round** is a cartridge containing powder only, without a bullet.  
(<https://www.collinsdictionary.com/us/dictionary/english/blank-cartridge>)
24. At no time was live ammunition to be used during the production of Rust.
25. **Live ammunition** means a [cartridge consisting of a case, primer, propellant powder](#), and a [single metallic projectile](#) (<https://www.lawinsider.com/dictionary/live-ammunition>)

### THE SOURCE OF AMMO AND FIREARMS

26. On or about October 4, 2021, Sarah and Hannah met with Defendant Seth Kenney at PDQ Arm and Prop’s “office” in Albuquerque to collect the necessary dummy and blank

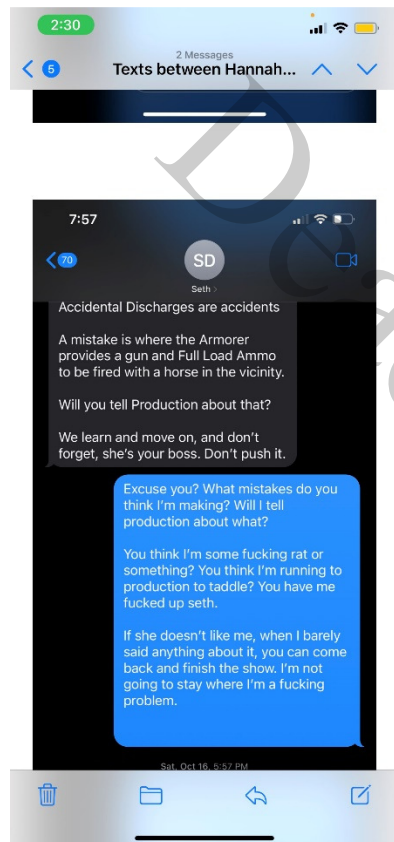
ammunition and firearms for Rust. Defendants Kenney and PDQ were the primary distributor of ammunition and firearms to Rust.

27. Over the course of the Rust production, Sarah would from time to time bring other boxes labeled dummy ammunition onto the set.
28. Defendants Kenney and his company distributed dummies in boxes with labels affixed that read “dummy rounds .45 long or .45 LC” Within each box is a plastic tray of 50 cartridges packaged in 10 columns of 5 individual dummy rows. Defendants also supplied .44/.40 caliber dummy rounds.
29. When not in use, all firearms were maintained in a locked safe in a prop truck. Dummy and blank ammunition were not routinely locked in the safe and there was no protocol calling for the ammunition to be locked up.
30. Hannah purchased this safe for Production using a Production credit card and has a copy of the receipt of this purchase. Only Hannah, Sarah, and props assistant, Nicole Montoya, knew the code to the safe, Hannah believed.

#### **THE CAUSE OF FALLOUT BETWEEN SETH AND HANNAH**

31. On October 16, five days prior to the tragic shooting on the Rust set, Sarah had an accidental/negligent discharge of a weapon on set, firing a blank round at her foot. Within 15-20 minutes of that accidental discharge, Baldwin’s stunt double accidentally/negligently discharged a round from his weapon inside a cabin on the set, nearby, as confirmed and reported by the LA Times on November 20.
32. Hannah confronted Sarah on her accidental/negligent discharge, wanted to know what had happened, and indicated that they would need to tell production about it and that it could impact Sarah’s ability to handle weapons on set.

33. This led to a heated text exchange between Seth Kenney and Hannah over Sarah's accidental/negligent discharge and the reporting of it. Seth took Sarah's side and essentially told Hannah to back off and that "mistakes happen" and that Hannah needed to remember that Sarah was her boss and not to "push it." Hannah interpreted this as that Seth, who was called the "Armorer/Mentor" in call sheets, wanted to sweep this security incident under the rug. The term "Armorer/Mentor" does not seem to be a position that is used or understood on film sets generally.



34. Around October 17-18, Seth called a friend of his who he had met through Thell Reed, Officer Troy Teske, of Bullhead City, Arizona. Seth stated to Troy that he never wanted to work with Hannah again. Seth also falsely accused Hannah of using derogatory language about Sarah "three times" on set.

**THE MORNING OF THE TRAGEDY AND THE  
UNEXPLAINED ARRIVAL OF A NEWLY FULL AMMO BOX**

35. The morning of the tragedy on October 21, fellow Rust employees Sarah Zachry and Nicole Montoya were the first people in the prop trailer. Sarah was already in the prop safe retrieving the firearms when Hannah arrived at approximately 6:30 am.
36. This was unusual, as Hannah was the person who typically retrieved the firearms from the safe by herself.
37. When Hannah arrived at the prop truck that same morning, she saw a box labeled “dummy rounds .45 LC”, completely full, which someone had placed on top of Hannah’s equipment bag. Hannah had not seen a full box of dummy rounds in weeks and nor was this full box on the equipment bag when Hannah had last been in the prop trailer.
38. Upon information and belief, the dummy rounds and live rounds came from Defendants.
39. Sarah has since acknowledged, in a report by the LA Times on November 20, that a new box of presumed .45 caliber Long Colt “dummy” rounds appeared on set that day.
40. Hannah exclaimed words to the effect of “what is this?” We have been looking for a full box of dummy rounds for weeks! Where did this come from?
41. Sarah was the person who had been bringing all the dummy ammo boxes onto set from Defendants, but she did not respond as to where this full box had come from after Hannah made her comments. Props assistant Nicole simply giggled in response to Hannah’s questions.
42. No one in the prop truck acknowledged or claimed to be the source of the full box of .45 caliber Long Colt dummy ammunition that morning.
43. Hannah shook the box and heard a “jingling” sound, which is what a dummy round box should sound like.

44. It was a busy morning and Hannah was happy that they had a full box of dummy rounds to work with and because Sarah as prop manager had brought dummy boxes to the set in the past as part of her duties, Hannah didn't think any more of it at the time.
45. Around 7:30 a.m., Hannah noted that the video camera system and app that allowed the crew to watch scenes going on in real time and store content in the cloud, "Video Village" was down. As a result, Hannah was unable to view the various camera scenes and what they were filming. Video Village was always supposed to be up so that Hannah, makeup, and others on set could see when they were needed and follow what was going on with filmed scenes as they were happening, for example, inside buildings.
46. Video Village provides several apps, which apparently offer secure cloud storage and the ability for set crews to watch scenes in real time at a distance and monitor scenes. The failure of Video Village that day was very significant because no one could see inside the Church at the time of the impromptu Baldwin gun scene. In effect, the de facto camera security system on the Rust set was shut down that day.
47. At approximately 10:00 a.m., Hannah, Sarah and Nicole loaded Alec Baldwin's gun, and two other guns for use in scenes that day, with dummy rounds from the full dummy round box found that morning in the prop truck.
48. For Alec Baldwin's gun, Hannah loaded 4 dummy rounds with holes in them from her pants pocket, a 5th dummy round from the box with a hole in it and attempted to load a 6<sup>th</sup> dummy round without a hole in it from the box but it would not go into the chamber, and she thought the chamber might need to be cleaned.
49. Hannah remembers shaking the 6<sup>th</sup> round to ensure herself that it was a dummy round.



50. Sarah and Nicole helped load the other weapons and the bandoliers. They were all placed on the prop cart.
51. Hannah handed the gun to Alec Baldwin just after 10:00 a.m. and he had continuous possession of the gun with the 5 dummy rounds loaded into it until the set broke for lunch around 12:30. During this time, Baldwin was involved in various scenes.
52. Hannah asked Baldwin approximately every 30 minutes when a scene “cut” if Baldwin wanted to give her the gun back and he said, “no.” Hannah also sent Nicole over to ask Baldwin if he wanted to hand the gun back to her for holding but Baldwin said no that he was ok to continue holding it.
53. When the set broke for lunch at 12:30, Baldwin gave his gun back to Hannah. Hannah, Sarah, and Nicole locked the guns back up in the safe in the prop truck, inside gun “socks”. Gun “socks” provide an extra layer of protection for rifles and guns when traveling or in storage. <https://www.rangeoften.com>blog>.

### **THE AFTERNOON OF THE TRAGIC SHOOTING**

54. When the three returned from lunch a little before 1:30 p.m., Sarah and Nicole pulled the guns out of the safe and they and Hannah carried the guns and placed them back on the cart.
55. Hannah had to step away for a brief period and asked Sarah and Nicole to watch the guns. When she came back she noticed that the two had wandered some feet away and the guns were unattended for perhaps 5 minutes.
56. Hannah remembered the chamber that she believed needed to be cleaned in Baldwin’s gun and she cleaned it and then Hannah pulled another round from the dummy box, shook it, and placed it in the chamber.

57. To the best of Hannah's knowledge, the gun was now loaded with 6 dummy rounds.
58. Indeed, Defendants as suppliers of prop ammunition to the Rust set, sold, distributed, and advertised its props as dummy ammunition and not live rounds. Hannah relied upon and trusted that Defendants would only supply dummy prop ammunition, or blanks, and no live rounds were ever to be on set.
59. Assistant Director Halls told Hannah in her earpiece in a rushed fashion that Baldwin's gun was needed inside the Church.
60. Production was behind several hours because the camera crew had quit the night before. Apparently, this also was the cause of Video Village being down on October 21.
61. The camera crew quit the night before but left their equipment behind. Instead, they opted to drive the long distance again the next morning to the set apparently to get their equipment. Curiously, the long-distance drive was the main reason for them quitting in the first place.
62. Hannah brought the gun to AD Halls inside the Church. Hannah spun the cylinder for Halls and showed him the 6 loaded dummy rounds. Baldwin was not inside the Church.
63. Halls then took custody of the weapon and was inside the Church sitting in a pew. There were multiple people inside the Church.
64. Production had emphasized to everyone on set that they would be adhering to the strictest of COVID protocols and Hannah was cognizant that the inside of the Church was not a large space for the number of people inside.
65. Halls said to Hannah that he would just be "sitting in" with the gun, meaning the gun wasn't going to be used at all since this wasn't a scene or rehearsal.

66. Hannah told Halls to let her know if Baldwin came back so that she could come back inside the Church and re-inspect the weapon and provide it to Baldwin herself as she had done every time before on set. Her point was that if plans were to change for use of the gun to be more than just “sitting in” status, Hannah needed to be called back into the Church.
67. On this set, Hannah had a split role of both Armorer and key assistant props. She had to fulfill both roles, frequently flitting back and forth between the two sets of responsibilities.
68. Knowing that no gun scene was going on at that time according to Halls, and with awareness of COVID protocols and social distancing, Hannah then walked outside the Church to prepare her fanny pack for scenes that afternoon and to do some of her prop duties. Again, production was behind that day and Hannah was acutely aware of the need to attend to her prop duties as well, for scenes that afternoon.
69. Thereafter, Hannah did not see the weapon, nor did she have custody of it for approximately 15 minutes.
70. Sometime in that approximate 15-minute period, AD Halls gave the firearm to Alec Baldwin, calling out “cold gun,” which signified that the firearm was empty or contained only inert dummy ammunition. Hannah was not inside the Church and out of earshot and did not hear this called out by Halls.
71. After receipt of the firearm from AD Halls, Alec Baldwin has stated that he began practicing the cross-draw from his shoulder holster and camera angles with Halyna Hutchins for an upcoming scene.
72. No one from production including Halls told Hannah that Baldwin was back and that he was going to rehearse a gun scene inside the Church. It was protocol for Halls to tell Hannah when “first team” including Baldwin was back on scene to film.

73. This was not a scheduled rehearsal and neither Halls nor anyone else called out a rehearsal.
74. Inside the Church, as Alec Baldwin cross drew the firearm, he stated that Halyna directed him to point the firearm at an angle that was pointed toward Halyna, which he did. As Baldwin further described, he pulled the hammer back and let it go and according to him the gun “just went off,” firing what he later learned was a live round right at Halyna, fatally striking her.
75. Had Hannah been called back in, she would have re-inspected the weapon, and every round again, and instructed Baldwin on safe gun practice with the cross draw, as was her standard practice on set and under circumstances where: (1) Baldwin did not respond to Hannah’s request on October 15 to schedule cross draw training and (2) the gun had been out of her possession for 15 minutes.
76. Hannah would never have let Baldwin point the weapon at Halyna, as part of standard safe gun practices. Apparently, no one inside the Church stopped Baldwin from doing so, including AD Halls.

### **THE AFTERMATH OF THE SHOOTING**

77. As the shot went off, Sarah who was outside the Church and near Hannah at the ammo cart, exclaimed: “What was that?!” Hannah responded that she didn’t know. Sarah then asked, “Was that the gun?!” Hannah said it couldn’t be the gun and she believed it had to be special effects because Hannah knew in her mind that the gun was loaded with dummy rounds when she handed it to Halls.
78. Thereafter, Hannah heard shouting in her earpiece and complete commotion. Hannah went inside the Church whereupon she saw Halyna and Joel Souza laying on the ground, and they were bleeding.

79. Reports from the Santa Fe Sheriff's Office reveal that there were 14 people total in the Church at the time of the shooting (including Halyna and Joel). Hannah was trying to make sense of the situation while people shouted for her to leave the Church. It became apparent that a tragedy had occurred and that it had involved Alec Baldwin's weapon.
80. Hannah ran outside of the Church and yelled back to Halls that she needed to take custody of the weapon and inspect it. Halls brought her the weapon and Hannah inspected it, finding the spent casing. At that point Hannah was trying to figure out if this had been a dummy round with a "hot" primer or possibly a live round inside the weapon.
81. At or around 1:49 p.m. a call was made to 911 by Mamie Mitchell. Law enforcement was dispatched to the scene at 1:52 p.m.
82. Meanwhile, Hannah told Sarah to inspect the ammo box immediately to determine if there were any live rounds in the box. Sarah returned from the prop cart within minutes and said that there were other suspected live rounds in the ammo box. It is unclear how Sarah was able to make this determination so quickly, what her procedure was in checking the rounds, and how thoroughly she did so.
83. At some point thereafter, Sarah told Hannah that she had called Seth Kenney and that he said that the live rounds were not his.
84. Hannah was upset and Art Manager, Brian, led her around another building out of view of the cart to console her.
85. When Hannah reemerged to speak to authorities who had just arrived, she saw that the cart had been moved about 40 feet to the other side of the Church. It is unclear as to who moved the cart and for what reason.

## LAW ENFORCEMENT RESPONSE

86. After law enforcement and medics attended to the shooting victims Halyna and Joel inside the Church, the Sheriffs then secured the scene and began collecting evidence. In doing so, they found a suspected 7 live rounds distributed inside an ammo box, on the ammo cart and in the bandoliers. The live rounds had Starline Brass casings with “nickel” primers.
87. Pictures taken from the scene by authorities on October 21 show that other guns and the ammo box were missing from the cart. Hannah wasn’t sure if someone had taken some of the items from the cart to the prop truck after the shooting.
88. Law enforcement did not search the prop truck until a full 6 days later, on October 27.
89. Regarding that search of the prop truck, Katherine “Row” Walters, on behalf of production, told the Sheriffs that she would unlock the padlock placed on the truck for them. However, throughout production on the Rust set, prior to the shooting, the prop truck was virtually always left unlocked and accessible by anyone.
90. After the police had arrived on October 21, and before Halyna had been pronounced deceased, Seth made a call to a police officer in Bullhead City, Arizona, named Officer Troy Teske. Officer Teske is best friends with Thell Reed. During that call from Seth to Troy at 4:03 p.m. on October 21, just hours after the shooting and before Halyna had been pronounced deceased, Seth stated words to the effect to Troy that Hannah had messed up.
91. How and why, Seth came to this almost immediate conclusion that Hannah had “messed up” and offered it up unsolicited to Troy is neither understood or yet to be explained or clarified.
92. Troy felt the call was very unusual in that Seth had made one of his first calls to him right after the incident. Seth knew Troy only through Thell, from prior movie sets. It was

suspect to Troy that Seth almost immediately was implicating Hannah, right after the incident without any first-hand information about the incident.

93. Seth repeatedly called Troy over the next two weeks. He also texted Troy. In total, there were over 20 calls and texts that Seth made to Troy.

94. During one of these later calls, on November 1, Seth was with the Sheriff's lead investigator. He called Troy and asked if Troy could send some of Thell's live, reloaded rounds that originally came from a known reloader, who specializes in reloading rounds. Seth also texted Troy and asked if he had any live reloaded rounds with "nickel" primers and if he could send some of those. Seth had become aware that Thell kept reloaded rounds at Troy's house, for safe keeping.

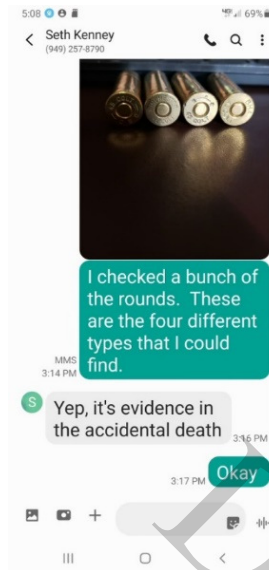
95. Upon information and belief, Seth was attempting to match one of Thell's reloaded rounds to the live rounds retrieved on the Rust set. If there were a match, presumably, Seth sought to shift blame to Hannah and connect her to these rounds through Thell's rounds kept at Troy's house. Seth took it upon himself to essentially investigate this matter for the Sheriff's Office and insert himself into this matter and attempt to implicate Hannah.

96. Troy did not send any rounds to Seth. He did text pictures of samples of four rounds from his house to Seth, one of which included the Starline Brass "headstamp" markings, which have the same distinct markings as the Starline Brass rounds seized from the Rust scene.

97. In fact, the actual live round casing that was the fatal shot had a Starline Brass "headstamp."

98. Seth texted back "yep its evidence in the accidental death," essentially linking the Starline Brass markings of the live rounds seized by law enforcement on set to the Starline Brass markings in Troy's pictures. Yet, Seth possessed hundreds of Starline Brass rounds from

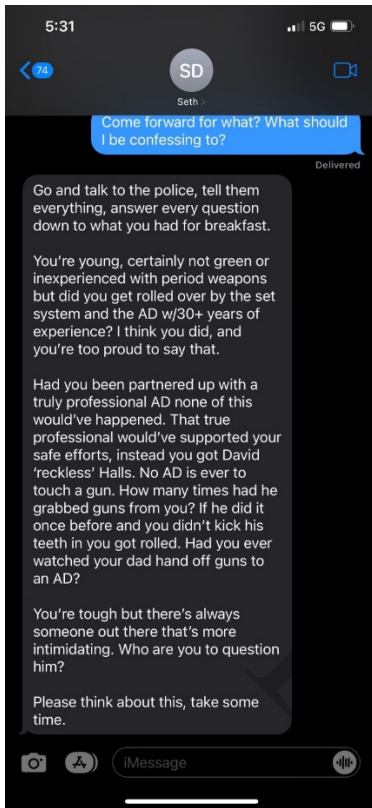
Thell Reed in the ammo can that he took from Thell on the previous movie set, all of which are now unaccounted for.



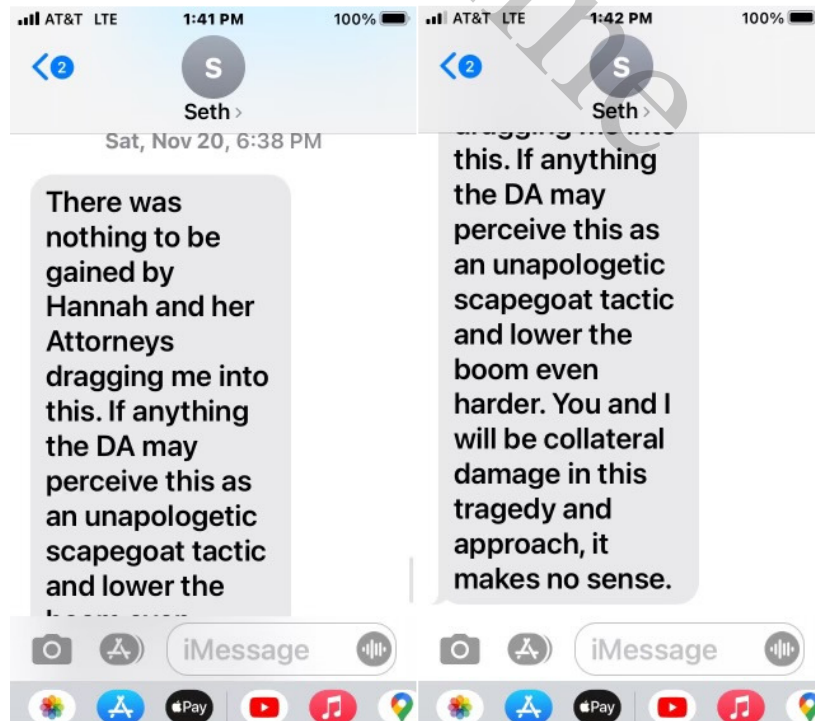
### **DEFENDANTS' ATTEMPTS TO SHIFT BLAME AND RESPONSIBILITY FROM THEMSELVES**

99. On November 3, 2021, counsel for Hannah went on the Today show and Good Morning America, and on behalf of Hannah, indicated that they believed that the Rust set had been sabotaged and that someone had introduced live rounds on set.
100. On that same day, on November 3, Seth texted Troy, again blaming Hannah for the “accidental shooting.”
101. Thereafter, later in November 2021, Seth Kenney texted Hannah and attempted to have her drop her claims of “sabotage” and to instead cooperate with the police and implicate AD Halls as being the person responsible for the tragedy. Seth suggested that AD Halls had essentially bullied Hannah and not allowed her to do her job safely. Seth stated that if she would shift blame to Halls, he would “have her back.”





102. Seth also texted Thell Reed and essentially suggested that he get Hannah to drop claims of sabotage, and to not let Hannah “drag” himself or Thell into this.



103. By this point, Seth, who had no official role in the investigation, had made multiple attempts to direct the investigation and to cast blame on a variety of people and deflect scrutiny from himself.
104. The day after the shooting, Thell Reed was set to fly out from Las Vegas, Nevada to get his daughter Hannah in Albuquerque.
105. While in Albuquerque, Thell also wanted to retrieve an ammo can and live rounds that Seth had taken from him on the prior movie set in August or September 2021.
106. Thell had only told Seth, Hannah, and Troy about his flight. Strangely, when he got to the airport, American Airlines told Thell that “Thell Reed’ had called to cancel his flight. Thell said no that’s impossible, I’m Thell Reed. I never called.
107. The airline was able to rebook Thell on a later flight, but it pushed him back a day.
108. It was apparent to Thell that Defendant Seth Kenney had to be the one who called to cancel his flight in an apparent attempt to thwart his plans to come to Albuquerque or at least delay them. Neither Troy nor Hannah made the call canceling the flight and nor did Thell himself.
109. When Thell got to Albuquerque, he proceeded to Seth’s house/PDQ Arm & Prop location. Unlike every other time Thell had come, Seth did not invite him into his house/PDQ Arm & Prop location. When Thell asked for his ammo can back, Seth said for him just to “write it off” and that he would use the rounds on other sets. Thell agreed and Seth maintained possession of the ammo can and rounds.
110. Upon execution of a search warrant on PDQ Arm & Prop about 4 weeks later, authorities found the ammo can belonging to Thell, but it was empty of the live rounds.

There is no explanation as to where the remainder of the live rounds went or what Seth did with them.

111. Thell has identified this ammo can as being his.
112. Thell would testify that Hannah never had access to nor possession of the live reloaded Starline Brass rounds that were found on the Rust set, but that Seth took hundreds of the live Starline Brass rounds with him in the ammo can from the prior movie set.
113. Troy would also testify that Hannah never had access to the reloaded, live rounds kept at his house for Thell Reed. Troy can verify that he gave the ammo can containing live reloaded rounds to Thell in August, to go to his movie shoot.
114. Troy also would relate that when Hannah learned of Seth's false accusations regarding her insulting Sarah with a derogatory name, Hannah was baffled as to why Seth would make this allegation up and Hannah denied ever doing so.
115. Defendant Seth Kenney has denied ever being on the set of Rust, but somehow had the code to the prop truck safe that Hannah had purchased for production. Hannah never gave him the code. Seth was on set, supposedly for the first time ever, when the warrant was served on the prop truck, 6 days after the shooting on October 27, 2021, to help the Sheriffs get into the safe. It is unknown who gave him the code to the production's safe.
116. Contrary to the truth, upon information and belief, Seth told law enforcement that it was his prop safe. It was the production's safe, and Hannah purchased it and has a copy of the receipts to prove this.
117. Defendant Seth Kenney had access to the Rust set, knowledge of the code to the prop safe, and with his company PDQ Arm & Prop was the primary supplier of guns and ammo to the Rust set. Upon information and belief, after the October 16 accidental

discharge by Sarah Zachry, Defendant Seth Kenney said that he never wanted to work with Hannah again.

118. The live, reloaded Starline Brass rounds upon information and belief, originated from a known reloader, then went to Thell Reed, and into the Thell Reed ammo can to Defendant Seth Kenney. Seth Kenney had a long-standing relationship with the reloader. Seth Kenney apparently believed that the rounds found on set connected back to the rounds from the reloader, which is why he made the calls to Troy Teske right after the shooting incident, requesting Troy send him live round samples.

**COUNT I: VIOLATION OF THE NEW MEXICO UNFAIR TRADE PRACTICES ACT (NMSA 57-12-3)**

119. All previous paragraphs are incorporated by reference herein.

120. Defendants engaged in a course of unfair trade practices, through the acts and omissions described above.

121. At all material times, the Defendants practices furthered their trade and commerce.

122. Defendants acts as described above, constitute unfair methods of competition, and they constitute unfair or deceptive acts or practices in the conduct of commerce, both of which violate the New Mexico Unfair Practices Act, NMSA 1978 Section 57-12-2. These acts include but are not limited to the following:

- a. Representation of a particular standard. That props were dummy rounds and safe and effective products for use on a movie set when in fact they were unsafe live rounds and never should have been on a movie set; such representations were untrue, false, and misleading in violation of NMSA 1972 57-12-2(d)(7).

- b. Defendants provided ammunition boxes with “45 Colt Dummies” labels. The ammunition boxes failed to state a material fact, the contents contained both dummy and live ammunition, which were deceptively sold in violation of NMSA 1972 57-12-4(d)(14).
123. For such actions, Defendants are liable for all compensatory damages allowable by law, for treble damages under this Act, punitive damages for willful and/or reckless or grossly negligent conduct, and attorney’s fees and costs.

**COUNT II: CREATION OF A DANGEROUS CONDITION, STRICT PRODUCT LIABILITY**

124. All previous paragraphs are incorporated by reference herein.
125. Defendants are in the business of putting prop dummy ammunition into the market. The ammunition was misrepresented as only dummy ammunition when it contained both dummy and live ammunition.
126. Defendants distributed boxes of ammunition purporting to contain dummy rounds, but which contained a mix of dummy and live ammunition to the Rust production. Defendants knew or should have reasonably believed that the ammunition they supplied to the Rust production would be used in the filming of scenes involving the discharging of firearms.
127. Defendants in turn failed to provide any warning as to this potentially dangerous condition that they created. Hannah and the entire Rust movie crew relied on the Defendants’ misrepresentation that they provided only dummy ammunition.
128. In so doing, Defendants created a dangerous condition on the movie set, Unbeknownst to Hannah Gutierrez Reed, which caused a foreseeable risk of injury to numerous people.

129. For such conduct, Defendants are responsible for all compensatory damages as allowable by law, punitive damages for grossly negligent, reckless, or willful violations, and costs.

**COUNT III: STRICT PRODUCT LIABILITY, FALSE AND DECEPTIVE PRODUCT LABELS AND FALSE AND MATERIAL MISREPRESENTATIONS**

130. All previous paragraphs are incorporated by reference herein.

131. Defendants are a commercial supplier.

132. Defendants had a duty to supply a safe product, properly labeled, for the Rust movie set.

133. Defendants distributed and sold prop ammunition which presented as unreasonable risk of injury, without warning of the risks that could have been avoided had the risks been disclosed. Defendants prepared dummy ammunition cartridge boxes from surplus ammunition stockpiles that comprised of both dummy and live ammunition.

134. Defendants, as sellers, had reason to know at the time the contract was made that the props were purchased for a particular purpose and that Hannah was relying on the Defendants skill or judgement to select or furnish suitable props, as a result, there is an implied warranty that the props were fit for the purpose. All parties believed that Defendants were providing “dummy” rounds if the box was so labeled.

135. The Defendants breached the implied warranty of fitness for a particular purpose since their props, though not defective, were unsuitable for the particular purpose for which they were purchased. Hannah’s purpose for using dummy ammunition was to portray live ammunition, without using live ammunition, in movie scenes involving gun fights.

136. These false representations caused live rounds to be introduced on set, resulting in a foreseeably catastrophic outcome, and causing damages to persons on the Rust set.

137. For this conduct, Defendants are liable for all compensatory damages allowable at law, punitive damages as allowable, and costs.

#### **COUNT IV: BREACH OF CONTRACT**

138. All previous paragraphs are incorporated by reference herein.

139. Plaintiff and Defendants had an oral contract to share proceeds for prop and armorer work on “The Old Way” movie set, filmed in Montana, also in 2021, before Rust.

140. Seth has acknowledged in a text message the validity of the agreement.

141. Plaintiff also rented leathers and guns to this set on production.

142. These were rented through Defendants on an invoice to production.

143. Payment has been made to Defendants by the movie set for the Old Way, and Plaintiff is owed over \$10,000 for her payment and rental of the leathers and guns.

144. Defendant has not paid Plaintiff her monies owed for that prior set.

145. Defendant is liable for payment of this money owed, for pre and post judgment interest, and for costs of court.

146. For willful breach, Defendants are liable for punitive damages.

#### **JURY TRIAL DEMAND**

Plaintiff hereby demands a jury of six.

WHEREFORE, Plaintiff demands the following award of damages and relief:

- a. A judgment entered against Defendant, finding that is liable to Plaintiff.
- b. Award compensatory damages;
- c. Award punitive damages;
- d. Award treble damages as allowable;
- e. Award the costs and expenses of this case, including attorneys’ fees;

- f. Award pre-judgment and post-judgment interest;
- f. Allow trial by jury; and
- g. Award all other further and general relief as the Court deems just and proper.

Respectfully submitted,

/s/ Jason Bowles

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