

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT

STATE OF NEW MEXICO,

PLAINTIFF,

VS.

ALEXANDER RAE BALDWIN III,

DEFENDANT.

No. D-0101-CR-2024-0013
Judge Mary Marlowe Sommer

**DEFENDANT ALEC BALDWIN'S REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS THE
INDICTMENT WITH PREJUDICE BASED ON THE STATE'S DESTRUCTION OF EVIDENCE
COMBINED EXHIBITS 1-8**

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EXHIBIT 1

SUPPLEMENTAL REPORT

of

August 31, 2023

in the matter of

STATE of NEW MEXICO

vs.

HANNAH GUTIERREZ REED

1st JUDICIAL DISTRICT

STATE of NEW MEXICO

COUNTY of SANTA FE

Case No. D-101-CR-2023-00040

FSSI Case No. 23/04CR

prepared for

Kari T. Morrissey and Jason J. Lewis

Special Prosecutors

First Judicial District, Santa Fe County, NM

by

Lucien C. Haag

Criminalist/Forensic Firearms Examiner

FORENSIC SCIENCE SERVICES, INC.

P.O. Box 5347

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FSSI Case No. 23/04CR

Introduction

This Report is a supplement to that of August 2, 2023.

On August 24, 2023, this writer traveled to the Santa Fe County Sheriff's Property Facility and met with Detective Hancock at which time she produced SFSO Item 1, the previously-examined Pietta revolver, serial number E52277.

The examination and testing on this date were the result of a follow up request from Special Prosecutor K. Morrissey to examine the evidence revolver in a condition that allowed for an evaluation of the damaged evidence hammer interacting with an undamaged trigger/sear. This was done in order to determine whether the observed damage on the hammer's full-cock notch was the result of the FBI's testing to the point of component failure, or if this damage could have been pre-existing (present at the time of the incident on the Rust set).

As observed and documented in the initial examination of the Item 1 evidence revolver, there are unexplained toolmarks present on the working surface and sides of the evidence trigger/sear. Manufacturing and use marks observed on the other evidence revolvers' triggers/sears and exemplar revolvers from both Forensic Science Consultant's and Forensic Science Service's reference collections demonstrated only expected, regular toolmarks that are present either in parallel or perpendicular to the front face of the sear on these exemplar triggers.

Figure 1 provides a magnified view of the expected toolmarks observed on the working surface of the sear of one of the prop revolvers, SFSO Item 201, a Pietta 1873 Great Western II, serial number E071876 impounded from the Rust set, and FSC's exemplar Pietta revolver.

Microscopic images of the sear engaging surface from the SFSO Item 1 evidence revolver compared to the FSC exemplar sear clarify the differences in toolmarks observed on these items. [See **Figure 2**] As can be seen in this figure, the exemplar sear possesses consistent, parallel toolmarks from the machining process, while the SFSO Item 1 evidence sear possesses coarse, irregular, off-axis or diagonal toolmarks of an unknown origin. It seems unlikely, although it cannot be excluded, that these toolmarks are the result of the damage incurred during the FBI's impact testing because the axis of these striae is not aligned with the direction that the hammer would have engaged and applied pressure to the sear. **Figure 3** depicts the front, facing areas of FSC's trigger/sear and that of the repositioned sear and trigger from the SFSO Item 1 evidence revolver. An edge view the broken evidence trigger is also provided in **Figure 3**.

While the toolmarks observed on the working surface and front surface of the SFSO Item 1 trigger/sear do not appear to be original manufacturing marks or use and abuse toolmarks based on striae's irregular orientation, these toolmarks also are unlikely to have had any bearing on the operation of the revolver at the time of the incident based on the FBI's trigger pull data, an FBI photograph of the hammer at full cock and substantial test-fired of the SFSO Item 1 evidence revolver conducted by the FBI prior to the damage to the trigger/sear and hammer. Their initial testing documented a lack of malfunctions and their measured trigger pull values are consistent with the numerous other evidence and exemplar revolvers examined in this case.

In conclusion, aggressive empirical testing of another exemplar revolver consisting of before and after photography of this working surface might answer the question regarding the source or cause of the coarse, diagonal toolmarks on the working surface of the evidence revolver's sear.

Function Tests of the Evidence Hammer in the Evidence Revolver, SFSO Item 1

The evidence revolver was disassembled and the previously tested and employed trigger/sear was installed. Additionally, a new bolt (cylinder stop latch) was also installed. No other parts were installed or substituted in the evidence revolver, and in fact, all other parts that provide pressure and tension to the internal mechanism (e.g., hammer spring and trigger/bolt spring) were the original components. This is important given that these original components provide the same forces required to move the hammer and trigger/sear. This means that the manner in which the trigger's sear catches the evidence hammer's undamaged half- or quarter-cock notches is as it was *prior to* FBI testing. The purpose of this examination was to isolate and evaluate the function and behavior of the damaged full-cock notch on the evidence hammer, as well as the designed safety measures to prevent discharge if the hammer slips from its full-cock position without the trigger being depressed or pulled.

Results

Upon reassembly, the quarter-cock safety position and the half-cock load position of the evidence hammer functioned properly and as designed and intended by the manufacturer.

Manual retraction of the revolver's external hammer to its *full-cock* position in the customary manner (with the thumb) *immediately* resulted in the hammer falling upon release where it was captured by the hammer's half-cock position.

This hammer retraction and release test was repeated two more times with the same result whereupon it was then video-documented with three more hammer retractions and release of the evidence hammer with the same results. These tests were first carried out with the revolver's cylinder removed, followed by installation of the cylinder for additional video-documentation. As before, the release of the retracted hammer immediately resulted in the hammer slipping from the fully-cocked position after which it was captured in every test by the hammer's half-cock position when the trigger was not depressed.

Figure 4 (taken from a video of this testing) shows the evidence hammer fully retracted immediately prior to its release. **Figure 5** depicts the evidence hammer in the process of falling, but prior to capture by the half-cock notch. **Figure 6** shows the hammer captured at the half-cock position with its integral firing pin well removed from the frame of the revolver.

Hammer capture by the half-cock notch in the evidence hammer would have prevented the discharge of a live cartridge in the chamber aligned with the barrel.

Subsequent removal of the substitute trigger revealed no damage to the sear as a result of these nine (9) hammer falls and captures by the evidence hammer's half-cock notch.

Summary

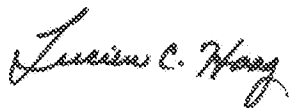
The testing conducted and described above demonstrates that:

- 1) the damage to the full-cock notch of the evidence hammer prevents the revolver from retaining a cocked status; therefore, given that this revolver retained a cocked status in video evidence from the day of the incident, as well as during subsequent FBI testing of trigger pull and the preparation of at least 10 test-fired cartridges, the damage to the full-cock notch of the evidence hammer is a direct result of the FBI's impact testing to the point of parts breakage and failure.
- 2) with the exemplar trigger/sear, this revolver performs as designed, and even when the hammer falls from the full-cock position, the designed safety measures are operable and would prevent discharge unless the trigger was depressed or pulled.

Disposition of the Evidence Revolver

At the conclusion of the examinations on August 24, 2023, the substituted parts were removed from the SFSO Item 1 Pietta revolver, after which it was returned to its condition upon receipt, repackaged in its evidence container, and returned to Detective Hancock.

Signed,



Lucien C. Haag
Forensic Science Services, Inc.
Carefree, Arizona

Technical and Administrative Review



Michael G. Haag
Forensic Science Consultants
Albuquerque, New Mexico

FIGURE 1

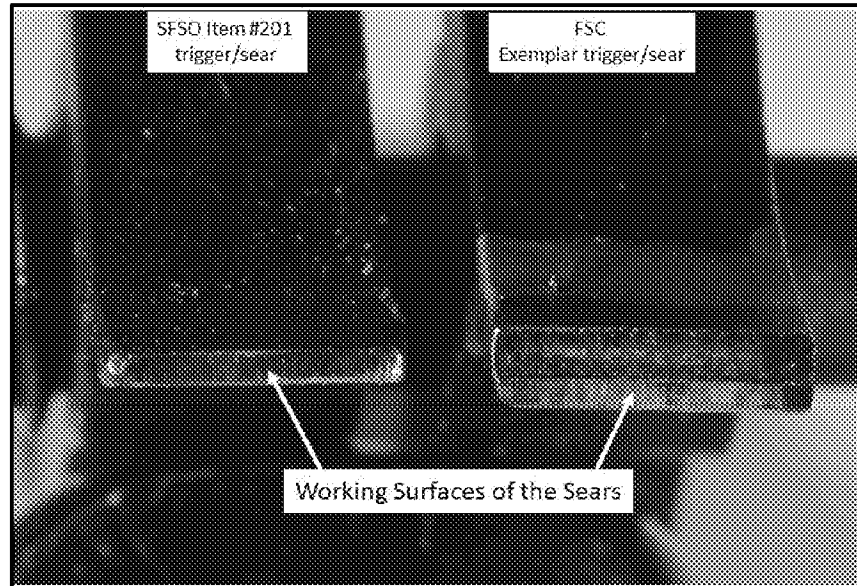


FIGURE 2

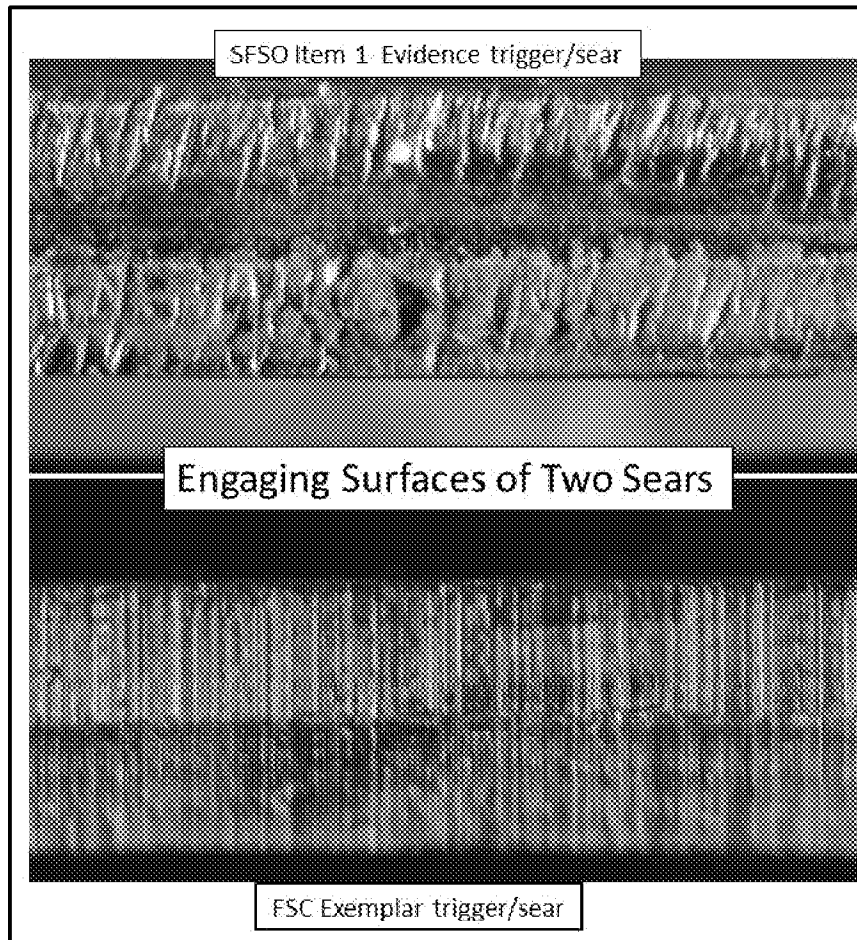


FIGURE 3

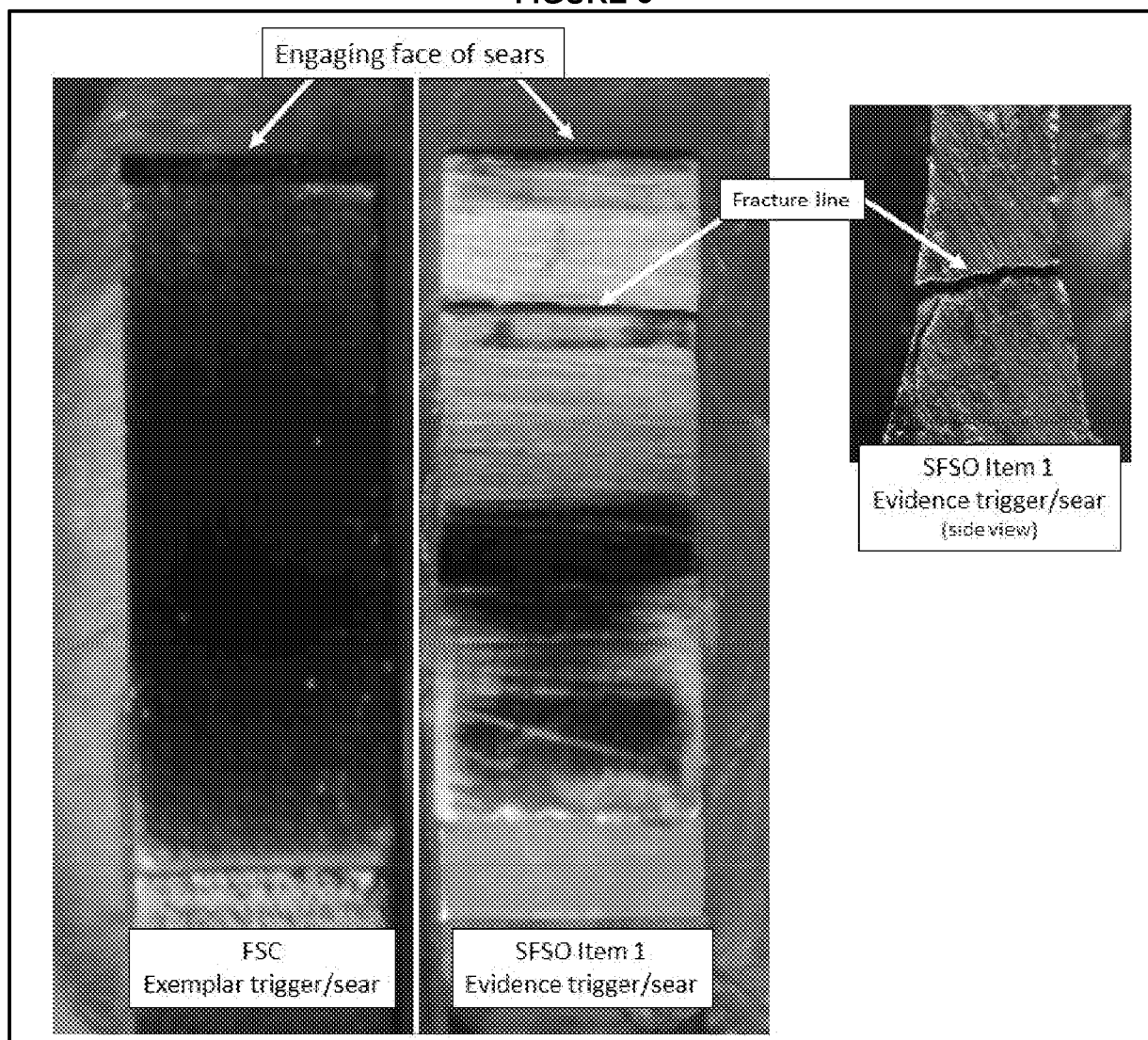


FIGURE 4

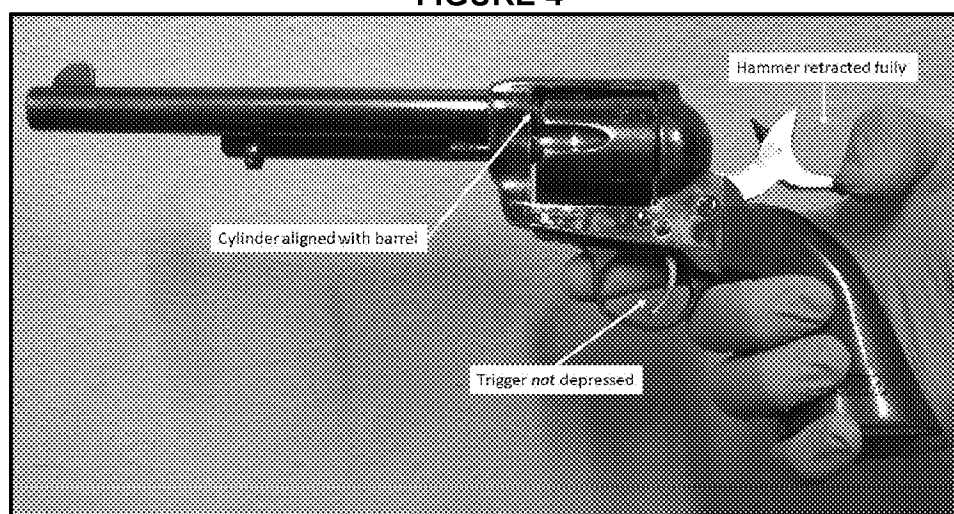


FIGURE 5

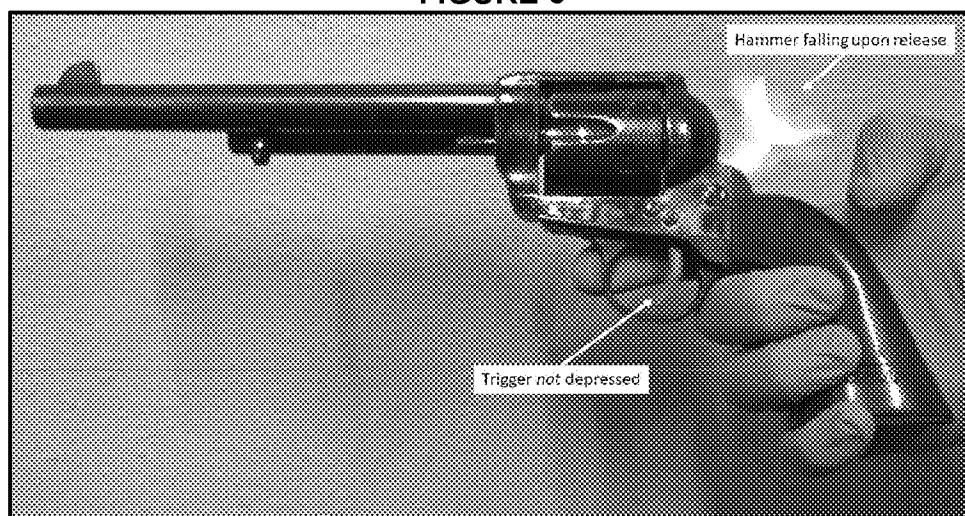


FIGURE 6

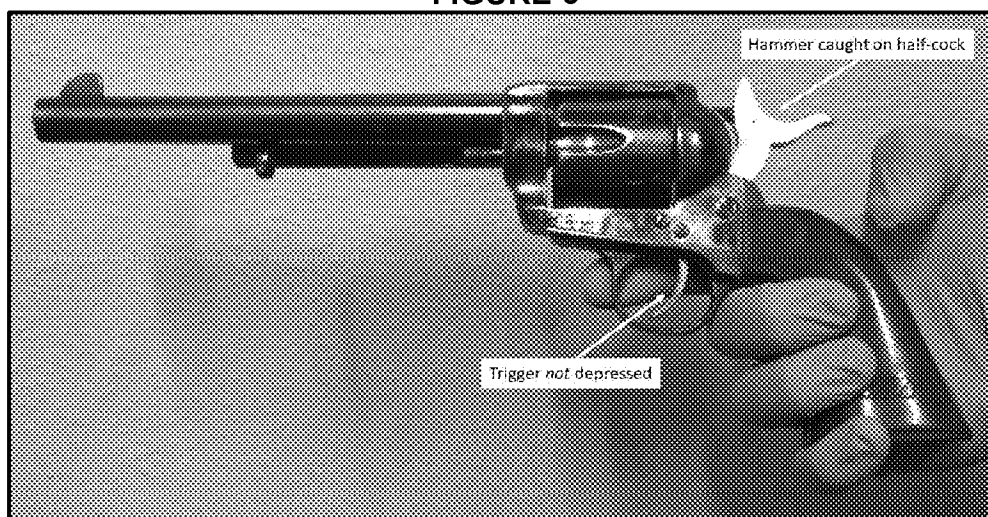


EXHIBIT 2

Santa Fe Sheriffs Office

OCA: 2021007949

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Case Status: *PENDING ACTIVE*Case Mng Status: *ACTIVE*Occurred: *10/21/2021*Offense: *DEATH INVESTIGATION*Investigator: *HANCOCK, A. (7254)*Date / Time: *03/11/2022 12:14:32, Friday*Supervisor: *ZOOK, C. (7140)*Supervisor Review Date / Time: *03/11/2022 13:40:16, Friday*

Contact:

Reference: *Investigation Supplement*

that was recovered from the shoulder of Joel Souza, and she responded that it may be a regular live round.

Hannah was asked if there was anything that stuck out to her today, to which she advised the only thing she could think of was the camera crew quitting, but advised they quit the previous day (10/20/2021). Hannah stated she did not think they would be involved in the incident. She said there was some bickering, but it was highly doubtful they would be able to switch any rounds. Hannah advised she couldn't think of anyone who would do something like this on the set, and wouldn't want to think badly of anyone. Hannah stated there may have just been a bad round in the box. Hannah emphasized again when she checked the rounds in the gun, only one was missing a projectile, and the rest were fine.

Hannah advised it's unpleasant to be in the set due to it being "toxic." She advised she didn't know why the hammer was pulled back for the firearm, because she didn't believe it was supposed to be a part of the shot, however she wasn't made aware the hammer was going to be pulled back for the scene. When asked about the "prop" gun, Hannah stated, "It's a real gun, it's a real fucking gun." Then states how she wishes she would have checked it more. Hannah was asked about the statement she made previously about the round that did not load correctly, and having to clean the gun to get it to fit. She said it didn't seem odd to her, due to the gun being dropped multiple times in the dirt. She said after she cleaned it, the round went in correctly. Hannah said she couldn't remember if she grabbed the rounds she loaded into the gun from a box, or if it was just on the cart. Hannah said she is the only one that uses that cart, however others could have access to it.

Hannah then advised she checks every round of ammo, every time she loads a weapon. She said she checked the rounds before loading the firearm, and said if the round didn't rattle she wouldn't have put it in. Hannah said she checked all six rounds she loaded for a rattle sound.

Hannah made a statement that she did not believe anyone on the film set would be that malicious to bring live ammo onto the set. Hannah confirmed when she was handed the gun after the incident, she was the only one to manipulate it, and it was closed when it was handed to her.

I collected the dummy rounds from Hannah that she provided during the interview to be used for future reference.

INTERVIEW WITH ALEC BALDWIN (10/21/2021):

Alec Baldwin was brought into the interview room at approximately 5:12 PM. He was advised of his Miranda Rights and agreed to speak with Detective Samantha Talamante and myself. Alex began the interview by saying how he was on set for two weeks, and they had done everything the right way, every day. He stated while on set, they would bring the gun and advise it was a "cold gun." He said when they brought the gun the chamber would be empty, or there would be a "cosmetic piece" in it. Alec advised the cosmetic rounds were used on camera, so you can see the rounds in the gun when doing close shots of the gun. Alec said these rounds would not have a charge.

Alec advised there were also "flash loads" that made noise. He advised when shooting these kinds of rounds, the

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crew preps by putting ear plugs in. Alec then advised before going to lunch, Hannah "disarmed" him. He said when they came back to set after lunch "they" armed him. He was asked to clarify who "they" was to which he responded Hannah. Alec advised at this time it was assumed it was a "cold gun" due to it being a rehearsal. Alec stated in this scene, he was to pull the firearm out of a holster, and shoot at the other actors, towards the direction of the camera. Alec stated she (Halyna Hutchins) was standing by the camera with her right armpit showing.

Alec advised in the scene he slowly takes the gun out of the holster, then very dramatically turns it and cocks the hammer, which is when the gun goes off. He said it was supposed to be a "cold gun" so no flash charge or anything should have gone off. Alec said all the rounds in the gun were supposed to be cosmetic or "dummy" rounds. Alec said when the gun went off, he could recall Halyna going down to the ground, and Joel Souza start to scream.

Alec advised every time they have worked with firearms on set, she (Hannah) did it correctly. He said Hannah would make sure the barrel was clear and nothing was lodged in it. Alec advised when they were ready to go "hot," it would be announced and the crew would get ready. Alec said on the day of the incident, Halyna and Joel were not standing in places they typically would be standing, and were standing by the camera due to it only being a rehearsal. He advised since the gun was said to be empty, no one was protected.

Alec said since they were in rehearsal, he assumed he had an empty gun, therefore when he shot the gun, Halyna was right in front of him.

Alec said he arrived in New Mexico on Monday, October 11, 2021, then started fittings and rehearsal on the 12th, then started shooting the film on the 13th. Alec advised the shooting schedule was Wednesday-Sunday, and their days off were Monday and Tuesday. I asked Alec about the armorer, and he stated the crew consisted of three young women including Hannah, and the women were all there since the beginning of the production. Alec advised this crew was in charge of putting on his holsters and weapons. Alec described Hannah to have multi-colored hair, wears glasses, and isn't too tall. He said Hannah's father was a famous armorer and did various movies for decades. He stated he couldn't remember the names of the other women, but described one of them to be thin, and medium height, and the other to be a brunette, and was shorter in height.

Alec stated he arrived on set at approximately 7:45 AM, which was later that most of the crew. I asked who handed him the gun this day, to which he advised Hannah did. He said Hannah physically handed him the weapon, and would show it to him, advise if it was a "cold gun," and ask if he wanted to inspect it. Alec advised he didn't inspect it because there had been no issues with any of the weapons so far. Alec said periodically the first assistant director (David Halls), would inspect the weapons. He said after they were done rehearsing, Hannah would take the gun, and would load it with rounds in her fanny pack when they were ready to film the scene. He said Hannah would always advise what kind of rounds were in the gun when she filled it with blank rounds, and the load size of the blank.

I asked Alec if there was any practice conducted with the firearms, to which he said that is what they did on Tuesday, October 12th. He said he went to the ranch and got trained on the horses and shot the Henry rifle as

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well as the revolver. Alec advised Hannah was present during the firearm practice.

Alec said on the day of the incident, everyone broke for lunch around 12:30 PM, and Hannah was the individual who typically took his weapons when they didn't need them. Alec said when they were not using any type of ammo in the weapon, "the blonde girl" (Sarah Zachry), would assist with taking the weapons. When the scene involved any type of ammo or "flash rounds," Hannah would be the only one handling the firearms. Alec said the crew was back on set at approximately 1:30 PM, and Hannah was the individual who handed him his firearm, and it wasn't handed to anyone else. Alec advised he did not see where Hannah retrieved the gun, but could recall a cart where they would keep all the items that was used. He also said there was a truck where the firearms would get locked up, since some of them were real firearms and it was her responsibility to have them secured properly.

Alec described the gun to be a "period" Colt. He said there were emails transferred back and forth between Hannah and him where she showed him different styles of guns. He said he requested a bigger gun, and she also showed him different styles of knives for the production. Alec was shown a Colt with a brown handle, and a cherry handle, and he ultimately chose the one with the brown handle.

I asked Alec if he believed the incident was intentional, to which he said, "to place a live bullet, someone would have to have extraordinary access to the weapon in order to do it." Alec described how in a normal gun, there would be recoil, and on movie sets he is trained to simulate the recoil due to there being no kick when using flash rounds. Alec said when the gun went off, he could not recall there being a "kick." He said on previous productions, he has had training and rehearsal for hours on various types of weapons, therefore he has experience with them but doesn't own any. Alec advised the production has been very safety conscious since the beginning of filming.

Alec spoke about the camera crew and how they went on strike and walked out the previous day (10/20/2021). He mentioned a heavier set male walking up to him asking to speak to him about the IATSE strike. Alec advised it was due to the individual speaking to him about how some of the camera crew were sleeping in their vehicles because of the contract. Alec said the camera crew was complaining even though they knew what the contract stated, and wanted to be put up in hotels closer to set.

I asked Alec if he saw the rounds inside the gun, to which he said no but he has watched Hannah load the guns many times. I asked Alex if he ever saw any of the rounds used on set, to which he described some of them to have a crimped top, and the cosmetic rounds to look like actual bullets. He said the cosmetic rounds have a brass base, and a clay head. Alec advised for the rehearsal, the gun was supposed to be empty, and then when they went to film the gun was supposed to be filled with flash rounds.

Alec described how David Halls was also someone authorized to handle the firearms, however he said Hannah was the one to hand him the gun inside the church, then went back outside. Alec was asked if David ever handed him the gun, to which he said no Dave never hands him the gun. Alec advised during this scene, he was instructed to cock the hammer back on the gun. He also advised again there have never been any problems on set. I asked Alec who he handed the gun to after it went off, to which replied he didn't remember.

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During the interview, I was informed Halyna passed away at UNMH due to her sustained injury. I informed Alec about Halyna, and he left the Sheriff's Office.

INTERVIEW WITH DAVID HALLS (10/21/2021):

On October 21, 2021, David (Dave) Halls was taken into the interview room at the Santa Fe County Sheriff's Office at approximately 6:26 PM. At approximately 6:41 PM, Detective Samantha Talamante and I went into the interview room to speak with Dave. Dave was informed of his Miranda Rights, waived his rights, and agreed to speak with Detectives.

Dave advised he had been prepping the movie for approximately four weeks now, and have been shooting it for about three weeks. He advised today (10/21/2021), the day started off as it typically does, and they were moving at a pretty fast pace, however everything was right on schedule and nothing was rushed. Dave said the day started at approximately 6:30 AM, and his role for the production is as the first assistant director. Dave advised he is in charge of scheduling, giving information to the crew, managing the set, and the safety coordinator. Dave advised the safety coordinator oversees all departments to ensure they are following safety protocol.

Dave stated he worked close with the armorer, and advised the main armorer was Hannah (Gutierrez), and another individual named Sarah (Zachry), who was in props but helped Hannah. Dave said there was a third person but couldn't recall her name. Dave advised he was their "supervisor" on set.

Dave advised in the morning, there were weapons on set. He said there were three actors with guns, and after that scene was completed they went into the church, and Alec Baldwin's character had a revolver in a holster. David confirmed Hannah to be the person that brought the guns out in the morning, and stated she stored them in a truck. He said the weapons are stored in the truck overnight, or anytime they are not being used. Dave said he wasn't aware of anyone having access to the truck, but it was an open truck.

Dave said there is protocols to be followed when it comes to using firearms on set, but he wasn't aware of any protocols for storing of the weapons. Dave explained how the armorer (Hannah) is in charge of putting the guns on the actors when they are being used. He said the guns are checked by Hannah and him, and every gun being used was checked by both of them in the morning on the day of the incident. Dave said the guns handled in the morning were not the one used by Alec during the incident.

Dave stated the protocol for checking the guns started with Hannah bringing him the gun, he looks down the barrel to make sure there are no obstructions. He then advised most of the time there is no "live fire" and the actors just have them on their person to be used as a "prop" or "costume piece." Dave said if a revolver is being used, Hannah opens up the drum of the revolver, and spins to show it's empty. Dave said after it's spun and he confirms it's empty, he says "cold gun on set."

Investigator Signature

Supervisor Signature

EXHIBIT 3
(intentionally omitted)

EXHIBIT 4

HEARING: JURY TRIAL - DAY 4, 2/27/2024, 8:25 A.M.

THE COURT: Go ahead, Counsel.

MR. LEWIS: Good morning, Your Honor. The state calls Dr. Heather Jarrell.

THE COURT: All right.

THE CLERK: Face the Judge and raise your right hand.

THE COURT: Do you swear, affirm under penalty of law that the testimony you will give in this case will be the truth, the whole truth, and nothing but the truth?

DR. JARRELL: I do.

THE COURT: All right. Thank you. Have a seat. Talk into to the microphone.

MR. LEWIS: Good morning, Doctor.

DR. JARRELL: Good morning.

MR. LEWIS: Would you please state your name for the record and spell your last name, please?

DR. JARRELL: Dr. Heather Jarrell.

MR. LEWIS: What's your current occupation?

DR. JARRELL: J-A-R-R-E-L-L.

MR. LEWIS: There we go.

DR. JARRELL: I'm the Chief Medical Investigator at the Office of the Medical Investigator.

MR. LEWIS: Great. And what are your primary responsibilities as the Chief Medical Examiner at OMI?

DR. JARRELL: I oversee the operations of the OMI,

1 the holster, what we're back to, or I'm back to, I can't
2 tell if he's already got the trigger depressed or it
3 gets pulled later.

4 MR. BOWLES: Okay, sir. And with regard to your
5 conclusion, I want to make sure I was clear on that. I
6 know that you -- and I don't want to use the word
7 critical, but you didn't think that aggressive testing
8 by the FBI was a good idea?

9 MR. HAAG: I didn't think it was necessary in this case,
10 given the context, what are the issues in the case.

11 MR. BOWLES: Okay.

12 MR. HAAG: In my mind, it was never an issue that the
13 hammer got struck by anything or that the gun got
14 dropped.

15 MR. BOWLES: And so you didn't believe that the FBI even
16 needed to do that test?

17 MR. HAAG: From my viewpoint, no.

18 MR. BOWLES: Okay.

19 MR. HAAG: It's not a useful or necessary test to strike
20 the hammer of the fully cocked evidence gun.

21 MR. BOWLES: Did you also say that you did not find any
22 damage to that weapon that would have prevented it from
23 firing as designed? And I'm talking about, not after
24 the FBI, but prior. Is that your conclusion?

25 MR. HAAG: Yes, if the hammer were replaced and the

1 CPL. HANCOCK: Yes.

2 MS. MORRISSEY: And what was the reason that you
3 proceeded with the testing anyway?

4 CPL. HANCOCK: We proceeded with the testing because Mr.
5 Baldwin had made statements that he didn't pull the
6 trigger, and I think his exact statement was that "the
7 gun just went off." So we needed to figure out how to
8 disprove that theory or that statement, and that was the
9 way that was proposed to us and what the FBI could do.

10 MS. MORRISSEY: On October -- I'm going to go through
11 and I'm going to play some videos of your statements
12 with Ms. Gutierrez at this time. And on October 21st,
13 2021, did you have a conversation with Ms. Gutierrez
14 when she was still on set before she was taken to the
15 police station?

16 CPL. HANCOCK: Yeah, we had some -- some brief
17 discussion.

18 MS. MORRISSEY: Okay. And Your Honor, if it's
19 acceptable, some of these video -- the first one isn't
20 that long, but some of these videos are rather lengthy
21 and so I'd like to play them from counsel's table --

22 THE COURT: Sure.

23 MS. MORRISSEY: -- instead of standing.

24 THE COURT: How long are they?

25 MS. MORRISSEY: The first one, I think, is about eight

EXHIBIT 5

TRANSCRIPT OF
INTERVIEW OF THOMAS GANDY
FROM AN AUDIO RECORDING

November 1, 2021
3:30 p.m.

ATTENDING:

THOMAS GANDY

LORENZO MONTOYA
Safety Compliance Officer
Occupational Health and Safety Bureau
525 Camino de Los Marquez, Suite 3
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1 and one of the stuntmen, who is actually a friend of
2 mine, Blaine -- I'm not sure why -- what he has said
3 now, but the impression that I got right after it
4 happened -- because I was right there with that one,
5 too -- was that this rifle with an exposed hammer caught
6 on his sleeve, and it just snapped -- you know, it
7 hooked a little and let it go right in his hand, and it
8 went off.

9 MR. MONTTOYA: Ah.

10 MR. GANDY: He was complaining that all of the
11 firearms had hair triggers. Blaine did, to me. But
12 having never touched -- I didn't have -- I didn't touch
13 one of those firearms the whole show. I don't. Because
14 generally for me I think it's bad juju. As a special
15 effects guy --

16 MR. MONTTOYA: Hmm.

17 MR. GANDY: -- I don't like -- I don't want to
18 touch -- I don't want to muddy the water. So I don't
19 touch any of that shit.

20 MR. MONTTOYA: Right.

21 MR. GANDY: Sorry. Bad stuff.

22 MR. MONTTOYA: You're good. No. And that's
23 certainly the smart way to go about it.

24 MR. GANDY: And my guys the same thing. I --
25 I don't -- we don't want to -- we don't -- I don't ever

1 And then like he said, they were all hair
2 triggers, all hair sensitive --

3 MR. GANDY: He did.

4 MR. MONTTOYA: -- (unintelligible and/or
5 inaudible).

6 MR. GANDY: Some guy had told me he did not --
7 he did not like working her weapons because he felt that
8 they were loose and had hair triggers.

9 MR. MONTTOYA: Hmm.

10 Now, do you know -- were these her personal
11 weapons? Do you know, did they rent these from a gun
12 shop or --

13 MR. GANDY: From what -- from what I -- I do
14 not know -- I could not testify that they -- I could
15 testify that from what I was told and what the
16 impression was is that her father is an experienced
17 armorer and that she took most of these weapons out of
18 his stock to put on the movie.

19 Because I believe he's on the call -- on the
20 crew list as armorer mentor maybe. Whoever the armorer
21 mentor is, I think that's her dad, at -- that's on the
22 crew list, and I think that's -- from what I was told is
23 that she was working out of his stock of weapons.

24 MR. MONTTOYA: I see. Interesting.

25 MR. GANDY: Because they were specialized.

EXHIBIT 6

INTERVIEW: BRYCE ZIEGLER, 04/25/2024

MS. MORRISSEY: Kari Morrissey, Alexander James, and Connor Rice on behalf of the state.

MR. JAMES: And we are recording.

MS. CLARK: Okay. Thank you. Alexander, you said we are recording?

MR. JAMES: Yes, we are.

MS. CLARK: Okay. Great. And you've got Sara Clark, Heather LeBlanc, and Rebecca Arneau (ph) for Mr. Baldwin. And it looks like we've got --

MS. STOTT: Yeah, Kathy -- Kathy Stott from FBI Office of General Counsel.

MS. CLARK: And Mr. Ziegler, can you see and hear me?

MR. ZIEGLER: Yes, I can.

MS. CLARK: Okay. It is 11:05 Mountain Time on April 25th, 2024. This is the pretrial interview of Bryce Ziegler in connection with State versus Alexander Baldwin. My name is Sara Clark, and I'll be doing the majority of the questioning today. Mr. Ziegler, is there anyone else there in the room with you?

MR. ZIEGLER: Nope. I'm by myself.

MS. CLARK: Okay. Great. Just before we get going, I want to ask you that if you have any issues hearing me or understanding me, whether it's because of the connection or I'm speaking too quickly, please just let

1 conversations with Special Agent Cortez about the
2 testing that you were going to conduct on this firearm?

3 MR. ZIEGLER: Yes.

4 MS. CLARK: Okay. And what did you guys discuss?

5 MR. ZIEGLER: So I believe we discussed the -- the
6 function exam, the microscopic comparisons, and then we
7 also discussed the accidental discharge testing.

8 MS. CLARK: Okay. When you say the microscopic
9 comparisons, are you talking about the identification
10 portion?

11 MR. ZIEGLER: Correct.

12 MS. CLARK: Okay. And what was the upshot of those
13 discussions? What did you guys decide?

14 MR. ZIEGLER: So it was at that point -- so we already
15 knew we were going to do the function, and we decided to
16 proceed with the microscopic comparisons. And that was
17 the first time we talked about accidental discharge.
18 That was not part of the original request. And so
19 basically, I explained the test to them, I explained the
20 caveats to the test, and then he took that information
21 to the detectives, and they decided to proceed with that
22 test.

23 MS. CLARK: Okay. So you said you described the
24 accidental discharge test to them. Who all is them?

25 MR. ZIEGLER: Well, I explained it to Special Agent

1 MR. ZIEGLER: Correct.

2 MS. CLARK: Okay. So walk me through how that testing
3 is supposed to go.

4 MR. ZIEGLER: So essentially, the goal of this test is
5 to determine, can I get this firearm to discharge
6 without pulling the trigger. And the method that's used
7 here at the FBI Lab, which is laid out in the SOP, is we
8 attempt to do this by striking the firearm on six planes
9 with a rawhide mallet. And it's -- essentially, it's
10 trying to see if just that amount of shock or vibration
11 that's being introduced to that particular gun, is that
12 enough energy to cause this to fire without me touching
13 the trigger.

14 MS. CLARK: Okay. And whose idea was it to conduct that
15 testing?

16 MR. ZIEGLER: I believe I first brought that to the
17 attention of Special Agent Cortez.

18 MS. CLARK: Okay. And then he would have discussed it
19 with the sheriff's office and then relayed back to you?

20 MR. ZIEGLER: Correct.

21 MS. CLARK: Okay. Okay. So you strike it with a
22 rawhide mallet and then see if it discharges. Were
23 there any other policies or procedures around that or do
24 you just kind of wail on it and go?

25 MR. ZIEGLER: Basically, it -- it lays out the tool

1 that's used, so a rawhide mallet. What areas are
2 struck, so the six different planes. We use a primed
3 cartridge case so that if there is a -- a firing event,
4 I'm not actually shooting a projectile. And I feel
5 that's about it.

6 MS. CLARK: Okay. Any procedures or protocols for how
7 hard you hit it?

8 MR. ZIEGLER: No, ma'am.

9 MS. CLARK: Okay. So how do you make that decision?

10 MR. ZIEGLER: It's -- it's not something that I'm able
11 to quantify.

12 MS. CLARK: Okay.

13 MR. ZIEGLER: It's just I'm -- I'm taking this gun on
14 the range and I'm striking it with a mallet and seeing
15 if that, you know, that type of interaction will cause
16 it to fire.

17 MS. CLARK: Okay. And just so I understand, I know a
18 little bit about guns, but certainly not as much as you,
19 are you holding it and hitting it with a hammer, or is
20 it in some kind of vice? Like how do you -- how does it
21 work?

22 MR. ZIEGLER: So in this case, I had it in what's called
23 a remote firing platform. So, it's essentially a clamp
24 for firearms, and that's also permitted in the SOP.

25 MS. CLARK: Okay. That's in the SOP as well. Okay.

EXHIBIT 7

INTERVIEW WITH: ELIZABETH SMALL, DATE: 5/10/2024

MS. MORRISSEY: Hi. Can you hear me?

MS. SMALL: Yes. Can you hear me?

MS. MORRISSEY: I can. I'm Kari Morrissey. I'm the special prosecutor on this case and here comes Ms. Clark.

MS. CLARK: Who is fighting with her camera, but I think I've got it. There we go. Hi, Ms. Small, My name's Sara Clark. I'm a counsel for the defense.

MS. SMALL: Okay.

MS. MORRISSEY: Sara, are you expecting anybody else?

MS. CLARK: Steph may -- Steph should join shortly. Let me make sure it's not somebody else in the lobby. There we go. I think I've got everybody in now. Yep, that's everybody. So we can get started. Kari, I'm not sure if you'd like to go first. You guys requested the PTI, I believe, last week. We'd already set it, so I'll let you go.

UNIDENTIFIED SPEAKER: Yeah, I'll just -- can I just stop for one second? Sorry. We don't have power, so I'm doing this from my phone. There was a car accident, I think, off of the main road, so we don't have power right now. So if the lights start flickering, you know why. And obviously, if my computer can come back on, I would love to join via my computer as opposed to the

1 discussions about the testing on the firearm that
2 ultimately resulted in damage to the firearm?

3 MS. SMALL: Other than saying that the firearm was
4 suitable for examinations, that would have been my role.

5 MS. MORRISSEY: Okay. So you wouldn't have participated
6 at all in any of the decision-making about exactly what
7 kind of testing to do on the firearm?

8 MS. SMALL: Correct. I don't have subject matter
9 expertise in any of the forensic disciplines.

10 MS. MORRISSEY: Okay, great. That makes this interview
11 much easier in terms of how much of your time I need to
12 take up. Those are really all the -- those are all the
13 questions I have for you, Ms. Small. I'll turn it over
14 to Ms. Clark.

15 MS. SMALL: Okay. Thank you.

16 MS. CLARK: Can you hear me? Ms. Small, can you hear
17 me?

18 MS. SMALL: Yes, I can. Sorry, you were frozen there
19 for a second.

20 MS. CLARK: Okay. You were frozen for me too, so I
21 think we're through it now. Sorry about that. So
22 again, I'm Sara Clark. I'm one of the attorneys for Mr.
23 Baldwin. So I have just a couple of followups on the
24 log. So the communications log, as far as like
25 maintaining that log, deciding what gets attached to it,

1 right, like I see some emails but not others, is that
2 decided by the person making the entry or is there a
3 rule about kind of what you attach and what you don't?
4 MS. SMALL: Yeah. So sometimes a communica -- an email
5 can go back and forth a ton of times. So you kind of
6 just wait till the like termination of that chain and
7 then upload then. It's a lot easier. It allows for
8 readability at the end of the case when you're trying to
9 figure out and follow the communication as opposed to
10 every time an email is sent you upload. And a lot of
11 times, in this case, there were phone calls instead of
12 emails because there was -- and so we then just do a
13 summary. So the rule of uploading or documenting a
14 communication is that it has the -- it has substantive
15 value to the case. So it's going to impact the exam
16 plan or impact how a subject matter expert would handle
17 the evidence or approach their testing.

18 MS. CLARK: Okay. That makes sense. So I know you
19 mentioned that it sounded like in this case maybe the
20 questions being asked shifted or the focus shifted. Can
21 you explain to me a little bit what you were talking
22 about with what that shift in focus was or that change?

23 MS. SMALL: Sure. So -- and it's kind of documented in
24 the communication log. So I don't know if you have that
25 in front of you. But on the 8th of November in 2021,

1 sort of taking into account what the question is, but
2 then I also know you just said you don't know what the
3 question is. So I just want to understand how that kind
4 of flows.

5 MS. SMALL: Yeah. So if you look at that bullet, you
6 said that "Since the source of the ammunition is the
7 biggest question at the moment, we're going to pause on
8 processing the gun." So like I don't know -- like my
9 role is to not know like how the source answers that
10 question, right, I just know that their question was the
11 -- was the source of ammunition. And so that if the
12 source of ammunition was supported, then all they were
13 going to need was function testing on the gun. But if
14 their theory was not supported, whatever that was, we
15 potentially would need to do DNA and latent prints. And
16 so we have to think about what the question is, but then
17 also the order of exams. So DNA is always first because
18 it's the most susceptible to contamination. And then
19 latent prints following that. And then firearms is
20 last. So if we didn't need to do DNA and latents,
21 obviously, we're not going to do it if we don't have to.
22 And then -- but if we only wanted to do firearms, we
23 can't go backwards, kind of similar to the ammunition
24 situation, where then the items of evidence are not
25 handled in an optimal manner.

EXHIBIT 8

From: Bryan Carpenter <bryan@13southproductions.com>
Sent: Saturday, April 22, 2023 2:24 PM
To: Kari Morrissey
Cc: Jason J. Lewis
Subject: Re: Rust movie shooting

First blush analysis

I cannot see any reason that's functionally necessary or does not compromise the safety integrity and/or the operation of the gun.

> On Apr 22, 2023, at 2:58 PM, Kari Morrissey <ktm@morrisseylewis.com> wrote:

>

>

> Bryan

>

> Look at the attached pics. the first pic is of the hammer taken by the FBI - the other two are of a brand new hammer from the exact same gun. Compare the notches (especially full cock notch) in these pics and you will see a very stark difference. Can you imagine why this modification would have been made to the gun? The gun was brand new - the difference is not from wear over time and the full cock notch was not damaged by the FBI during testing. Thanks,

>

> Kari

>> ----- Original Message -----

>> From: Kari Morrissey <ktm@morrisseylewis.com>

>> To: "info@emf-company.com" <info@emf-company.com>

>> Cc: "Jason J. Lewis" <jjl@jjllaw.com>

>> Date: 04/20/2023 9:54 AM MDT

>> Subject: Rust movie shooting

>>

>>

>> Good Morning

>>

>> My name is Kari Morrissey and I am one of the Special Prosecutors on the case involving Alec Balwin and Hannah Gutierrez-Reed in New Mexico. I understand that the gun used in the fatal shooting of Halyna Hutchins was purchased from EMF on September 29, 2021. The gun was a Pietta 1873 Californian 45LC. I have some questions concerning the original condition of the gun at the time you sold the gun to the prop house that supplied it to the movie set.

>>

>> I have attached three photos for your review. The first photo is of a the hammer of the gun used in the shooting of Ms. Hutchins. You can see that the hammer appears to be silver/chrome rather than the blue/black metal of the rest of the gun. Moreover, the full cock notch of the hammer appears to have been filed off. The next two photos are of the hammer of a band new unused gun of the exact same model. The hammer of the comparison gun is the same blue/black metal as the rest of the gun and the hammer notches are fully pronounced.

>>

>> You may notice that the sear in the first photo is broken. I am not concerned about the broken sear as that occurred during forensic testing at the FBI lab.

>>

>> I am trying to determine whether the hammer of the gun was modified after you sold it to the prop supplier. Can you speak to me about this issue? Thank you.

```
>>  
>> Kari Morrissey  
> <image0[1].png>  
> <image3[5].jpeg>  
> <image4[2].jpeg>
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