

Dodging a Bullet: Where does Legal Liability Lie with the “Rust” Shooting?

In October of last year, Alec Baldwin fired a prop gun, a task not unusual to action film stars. What followed, however, was entirely out of the ordinary—the gun, which an assistant director announced was “cold,” actually fired and killed cinematographer Halyna Hutchens and wounded director Joel Souza. The incident has spurred controversy over who should be responsible for Hutchens’ death and Souza’s injuries. Though no one has been criminally charged for the shooting, private suits have been filed against various individuals.

Because Baldwin fired the gun, he has faced public scrutiny and is defending himself in a lawsuit brought by Mamie Mitchell, the *Rust* script supervisor, alleging assault, intentional infliction of emotional distress, and deliberate infliction of harm. Although Baldwin fired the gun, most evidence indicates he was unaware that the gun was loaded—this will make it difficult to prove an intentional harm. Even then, Baldwin claims he did not actually pull the gun’s trigger; rather, the gun went off after he cocked the hammer of the gun. If the suit is not dismissed, liability will likely depend on whether a reasonable person would rely upon the assistant director’s statement that it was a “cold gun,” as did Baldwin.

Since Baldwin was a producer of the film, if decision-making producers clearly cut safety protocols, he could still face liability despite these facts. If criminal charges are filed, involuntary manslaughter or negligent homicide are the most likely avenues the State will pursue. As for civil suits, plaintiffs would have a better chance pursuing a non-intentional claim as well, such as negligence.

Additionally, the armorer for *Rust*, Hannah Gutierrez Reed, recently filed suit against the ammunition and guns supplier for the movie, Seth Kenney. Kenney was hired to provide the production with blanks and dummy rounds, but the lawsuit alleges that he sent live ammunition to the set. Alternatively, because the armorer for the film typically holds primary responsibility for all guns on set, Gutierrez Reed may be liable herself because of a report that the film crew was firing real bullets at cans with the guns used on set for fun.

Some insist that liability should fall on assistant director Dave Halls, who announced that the gun was “cold.” According to the New York Times, Halls told investigators that he did not check all of the rounds before handing the gun to Baldwin. This oversight could open him up to claims of negligence.

Although there is much speculation about the incident, both criminal and civil liability will depend on how the projectile that was fired ended up in the gun. Even then, live ammunition is rarely, if ever, kept on set. Additionally, an affected party might have issues establishing a negligence claim since the incident was likely attributable to a “cascading series of mistakes” – depending on the facts, establishing causation will be an issue.

The *Rust* shooting has inspired conversations about reassessing gun protocols on Hollywood sets. Baldwin himself has said that “new measures have to take place,” and entertainment industry personnel have suggested a switch to rubber or otherwise fake guns.

Sources:

1. <https://www.forbes.com/sites/legalentertainment/2021/10/29/rust-shootingwho-could-be-held-legally-responsible-and-why/>
2. <https://www.reuters.com/article/us-film-rust-idUSKBN2JZ24X>

3. <https://www.cbsnews.com/news/alec-baldwin-rust-shooting-armorers-hannah-gutierrez-reed-lawsuit-ammunition-supplier/>.
4. <https://www.hindustantimes.com/entertainment/hollywood/post-rust-incident-sebastian-stan-wants-hollywood-to-reassess-gun-protocols-i-m-fine-with-rubber-weapons-101643113996405.html>
5. <https://deadline.com/2022/01/alec-baldwin-lawsuit-rust-producers-dismiss-fatal-shooting-mamie-mitchell-gloria-allred-1234919067/>

-- *Alex Bernard*

This article provides a brief overview of the different suits filed in relation to the *Rust* shooting. It describes the different parties' involvement with the shooting and evaluates potential legal liability of such parties.

Alex Bernard is a 2L from Knoxville, Tennessee and plans to practice corporate law after graduation. She enjoys playing with her dog and hosting wine nights with friends in her free time.