

Kathryn N. Nester (13967)
NESTER LEWIS PLLC
40 S 600 E
Salt Lake City, UT 84102
Telephone: (801) 535-4375
Email: kathy@nesterlewis.com

Richard G. Novak, *pro hac vice*
RICHARD G. NOVAK, APLC
65 North Raymond Avenue, Suite 320
Pasadena, CA 91103
Telephone: 626-578-1175
Email: richard@rgnlaw.com
Attorneys for Tyler James Robinson

Michael N. Burt, *pro hac vice*
LAW OFFICE OF MICHAEL BURT PC
1000 Brannan Street Suite 400
San Francisco, California 94103
Telephone: 415-522-1508
Email: mb@michaelburtlaw.com

Staci Visser (14358)
BROWN, BRADSHAW & MOFFAT
422 N 300 W
Salt Lake City, UT 84103
Telephone: 801-532-5297
Email: staci@brownbradshaw.com

IN THE FOURTH JUDICIAL DISTRICT COURT, PROVO DEPARTMENT
IN AND FOR THE COUNTY OF UTAH, STATE OF UTAH

STATE OF UTAH, Plaintiff, vs. TYLER JAMES ROBINSON, Defendant.	DEFENDANT TYLER JAMES ROBINSON'S OPPOSITION TO EMC ORDER FOR THE OCTOBER 23, 2026 HEARING (DKT 756) Case No. 251403576 Honorable Tony F. Graf, Jr.
--	---

Defendant, Tyler James Robinson ("Mr. Robinson"), by and through undersigned counsel, hereby files this *Opposition* to Deseret News' October 1, 2026 EMC Request. (Dkt 756). This objection is grounded in Mr. Robinson's rights to a fair trial, to due process of law, and to a reliable penalty determination under State and Federal constitutional provisions, including the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and to article I, sections 7 and 12 of the Utah Constitution.

First, Mr. Robinson reiterates his continuing objection to the EMC challenge procedure in the May 8, 2026 Order. *See* Dkt 535. The four-page limitation on objections, the prohibition

on oral argument, the lack of an opportunity for an evidentiary hearing, and the inability to seek relief from a challenged EMC order violates state and federal constitutional rights to due process because the procedural restrictions deprive the parties of a meaningful opportunity to be heard. *See* U.S. Const. amend. XIV; Utah Const. art. I, § 7; *Coleman v. Alabama*, 377 U.S. 129, 129-33 (1964); *Chandler v. Florida*, 449 U.S. 560, 577 (1981).

Second, Mr. Robinson objects to EMC of the October 23 proceeding in its entirety because “there is a reasonable likelihood that electronic media coverage will prejudice the right of the parties to a fair proceeding[.]” Utah R. Jud. Admin. 4-401.01(2)(B)(i). Continuing EMC in this case threatens Mr. Robinson’s rights to a fair trial by an impartial jury by perpetuating bias in the public against Mr. Robinson. The pre-existing bias and the lasting threat to a fair trial posed by that bias was detailed in Mr. Robinson’s *Motion to Exclude Still Photographers, TV Cameras and Microphones from the Courtroom* and in his *Reply* and was elucidated in the evidence presented in support of the motion on April 17, 2026. *See* Dkt 305, 399. The motion, reply, and the evidence supporting these pleadings are incorporated by reference.

The October 23 proceeding is largely administrative in nature; the purpose is to set a litigation schedule. There will be no witness testimony, presentation of evidence, or argument on the merits of any substantive issue. Any scheduling order resulting from the proceeding will be publicly accessible, and the proceeding will remain open to the public and members of the press, who may attend and report on it. The limited case-management purpose of the proceeding substantially reduces the additional public benefit from EMC. Recording and transmission through EMC, however, may inhibit the candid discussion among the Court and counsel necessary to appropriately address scheduling and case preparation in this capital prosecution.

Rule 4-401.01 requires this Court to consider the specific circumstances of this proceeding. Subsection (2)(B)(vii) directs the Court to consider “the public interest in and newsworthiness of the proceeding.” Although the resulting litigation schedule may be newsworthy, there is little additional news value in electronically recording and transmitting the back-and-forth among the Court and counsel concerning scheduling matters. Similarly, because the proceeding will involve no witness testimony, presentation of evidence, or argument on the merits of substantive issues, there is little “beneficial effect[]” from “allowing public observation of the proceeding through electronic media coverage.” Utah R. Jud. Admin. 4-401.01(2)(B)(viii).

By contrast, the incremental adverse effect of EMC at this particular proceeding is significant and outweighs the limited additional benefit EMC might provide to public understanding. *See* Utah R. Jud. Admin. 4-401.01(2)(B)(v). Electronic recording and transmission create a risk that counsel’s statements concerning anticipated motions, defense preparation, and scheduling needs will be disseminated outside the context of the case-management discussion in which they are made. That risk will inhibit the candid exchange necessary for the Court and counsel to develop an appropriate litigation schedule. Indeed, only a few weeks ago, the media reported on costs associated with the defense. Against that backdrop, statements by defense counsel at the upcoming proceeding concerning the time and resources necessary to prepare this case are likely to be examined and disseminated in real time through social media and other media channels and viewed through the lens of cost, rather than in the context of Mr. Robinson’s constitutional rights to the effective assistance of counsel, a fair trial, due process of law, and a reliable penalty determination. Such dissemination risks reinforcing existing prejudicial perceptions of Mr. Robinson and his defense, unnecessarily compounding the risk to Mr. Robinson’s right a fair trial.

Weighing Mr. Robinson's interests in a fair proceeding against the interest in EMC, Mr. Robinson's interests must necessarily prevail. This is so because Mr. Robinson is constitutionally entitled to a fair proceeding but, conversely, there is no right to electronic media coverage. *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 564 (1980) (noting "the defendant's superior right to a fair trial" compared to the public's right of access); *see also Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 610 (1978) ("The requirement of a public trial is satisfied by the opportunity of members of the public and the press to attend the trial and to report what they have observed."). And, as the Utah Court of Appeals has articulated, the Utah Rules of Judicial Administration are not intended to limit, modify, or create substantive rights for any court participants. *See Scott v. Majors*, 1999 UT App 139, ¶ 12, 980 P.2d 214.

Third, Mr. Robinson objects to EMC of the October 23 proceeding in its entirety because this Court's procedure for adjudicating the request does not allow any opportunity for witnesses to address privacy or security concerns relevant under Rule 4-401.01(2)(B)(ii) & (iv). As previously argued, those concerns are substantial with respect to defense counsel, and witnesses should be afforded the opportunity to be heard on these issues.

THEREFORE, Mr. Robinson requests that this Court deny the request for EMC of the October 23, 2026 proceeding.

RESPECTFULLY SUBMITTED this 12th day of October 2026.

/s/ Kathryn N. Nester
Kathryn N. Nester

/s/ Richard G. Novak
Richard G. Novak

/s/ Michael N. Burt
Michael N. Burt

/s/ Staci Visser
Staci Visser

Attorneys for Defendant, Tyler James Robinson

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing *Opposition* was served via the Court's electronic filing system on the 12th day of October, 2026, thereby serving all attorneys of record.

I also certify that on the 12th day of October, 2026, a copy of the foregoing was emailed to the following counsel for their respective media entities:

Jeffrey J. Hunt (5855)
David C. Reymann (8495)
Carissa A. Uresk (18114)
PARR BROWN GEE & LOVELESS
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Telephone: (801) 532-7840
jhunt@parrbrown.com
dreymann@parrbrown.com
curesk@parrbrown.com

C. Michael Judd (14692)
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: (801) 532-1234
mjudd@parsonsbehle.com

/s/ Staci Visser