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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 NOVEMBER 9, 2026 HEARING** Case No. 251403576 Honorable Tony F. Graf, Jr.

Defendant, Tyler James Robinson ("Mr. Robinson"), by and through undersigned counsel, hereby files this *Opposition* to Court TV's October 26, 2026 EMC Request. Dkt. 781. This objection is grounded in Mr. Robinson's rights to a fair trial, due process of law, and a reliable penalty determination under State and Federal constitutional provisions. *See* U.S. Const. IV, V, VI, VIII, XIV; Utah Const. art. I, §§ 7, 12.

First, Mr. Robinson reiterates his continuing objection to the EMC challenge procedure. *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 due process because the 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 November 9, 2026 proceeding in its entirety because "there is a reasonable likelihood that [EMC] will prejudice the right of the parties to a fair proceeding[.]" Utah R. Jud. Admin. 4-401.01(2)(B)(i). Continuing EMC 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 were 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. These pleadings and evidence are incorporated by reference.

The November 9th proceeding is largely administrative; its purpose is for the Court to announce and set a litigation and hearing schedule. In determining the appropriateness of EMC, the Court should examine "the specific circumstances of the proceeding." Utah R. Jud. Admin. 4-401.01(2)(D). At the November 9th proceeding, there will be no witness testimony, presentation of evidence, or argument on the merits of any substantive issue. Any resultant scheduling order 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. In its Oct. 20, 2026 ruling concerning still photography at the Oct. 23, 2026 hearing, the Court recognized that still photographs provide a visual record, but assigned that benefit only "modest weight" under Rule 4-401.01(2)(B)(vii) and (viii), given that the Oct. 23rd hearing involved "no presentation of evidence, witness-credibility assessment, or substantive merits argument." Dkt. 768 at 9. The November 9 hearing is the same in these respects, and this Court should likewise assign at most modest weight to the additional public benefits of

EMC under subsections (vii) and (viii). In fact, the November 9th hearing has an even narrower purpose than the October 23rd hearing; its purpose is principally for the Court to announce the schedule. There is even less public benefit to EMC at the November 9th hearing as compared to the October 23rd hearing. The principal newsworthy information to come out of the hearing will be whether a trial date is set and, if so, what it is. Reporting those facts does not require EMC.

Against the minimal public benefit to EMC at the November 9th hearing, the incremental adverse effect of EMC at this particular proceeding is significant. *See* Utah R. Jud. Admin. 4-401.01(2)(B)(v). The Court previously concluded that the risks of still photography did not overcome the presumption favoring EMC. Here, however, the media seeks video coverage as well as livestreaming. In its October 20th ruling, the Court expressly distinguished still photography from audio recording and livestreaming, noting that verbal exchanges among the Court and counsel concerning schedule and defense preparation would not be recorded or transmitted. Dkt. 768, at 8. The adverse effects of this broader request for EMC are particularly significant given the extraordinary public interest in a trial date for this case. Just before the October 23rd hearing, President Donald J. Trump posted on social media:

> The judge in the Charlie Kirk case is doing a terrible job! This case should be tried within a month, not three years — and it should be over with! The judge is desecrating the memory of the Great Charlie Kirk, while taking forever to ask questions that people already know the answer to. The whole Country is mocking him and our "Legal" System. JUSTICE FOR CHARLIE! President DONALD J. TRUMP[1]

The President's post only heightens the prejudicial impact of EMC at the November 9 hearing. Electronic recording and transmission, particularly through video coverage and

[1] Sorina Trauntvein, *'Justice for Charlie!': Trump criticizes judge overseeing Tyler Robinson case*, News 4 Utah (Oct. 23, 2026), *available at* https://www.abc4.com/news/charlie-kirk-shooting/trump-criticizes-judge-robinson-kirk/ (last accessed October 29, 2026).

livestreaming, create an unnecessary risk that statements made by the Court and counsel will be disseminated outside the context of the case-management discussion in which they are made. Such out-of-context statements provide unnecessary ammunition for public commentary, including by politicians, that risks exerting undue pressure on the proceedings. Even still photography creates risks of prejudicial dissemination and out-of-context interpretation, as the Court recognized in its October 20th ruling. Those risks are substantially magnified by video coverage and livestreaming, particularly where the subject of the hearing—the trial date—has already generated extraordinary public and political attention.

Weighing Mr. Robinson's interests in a fair proceeding against the interest in EMC, Mr. Robinson's interests must prevail. This is so because Mr. Robinson is constitutionally entitled to a fair proceeding but, conversely, there is no constitutional right to electronic media coverage. *See Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 564 (1980)*; see also Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 610 (1978) ("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."). Further, 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. Under the particular circumstances, the minimal additional public benefit of EMC is outweighed by the risks to Mr. Robinson's constitutional rights to due process and a fair trial.

Third, Mr. Robinson objects to EMC of the November 9th 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 November 9, 2026 proceeding.

RESPECTFULLY SUBMITTED this 30th 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 30th day of October, 2026, thereby serving all attorneys of record.

I also certify that on the 30th day of October, 2026, a copy of the foregoing was emailed to the following counsel for their respective media entities:

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