

Wendy M. Lewis (5993)
Kathryn N. Nester (13967)
NESTER LEWIS PLLC
40 S. 600 E.
Salt Lake City, Utah 84102
wendy@nesterlewis.com
kathy@nesterlewis.com
801-535-4375

Alexander E. Ramos (15234)
LANGFORD RAMOS PLLC
43 E. 400 S.
Salt Lake City, Utah 84111
alex@langfordramos.com
801-328-4090

Attorneys for Kouri Darden Richins

IN THE THIRD JUDICIAL DISTRICT COURT SUMMIT COUNTY, STATE OF UTAH	
THE STATE OF UTAH, Plaintiff	DEFENDANT'S MOTION FOR NEW TRIAL
vs.	Case No. 231500139
KOURI DARDEN RICHINS, Defendant	Judge: Richard Mrazik

Pursuant to Utah Rule of Criminal Procedure 24 and Utah Rule of Civil Procedure 7, Kouri Darden Richins hereby moves this Court to grant a new trial due to irregularities in the trial proceedings and cumulative error and presents to the Court the attached video clips and documents in support of her request.

STATEMENT OF FACTS

Ms. Richins was originally charged with one count of criminal homicide, aggravated murder, in violation of Utah Code 76-5-202(2) and three counts of possession of a controlled substance in violation of Utah Code 58-37-8(1)(a)(iii).

Prior to the preliminary hearing on August 27 and 28 of 2024, the information was amended two times. Between the preliminary hearing and the trial in this matter the information was amended an additional two times. A three-week trial was held commencing on February 23, 2026, and concluding on March 16, 2026. At trial Ms.

Richins was found guilty of one count of criminal homicide, aggravated murder, one

count of attempted criminal homicide aggravated murder pursuant to Utah Code §76-6-521(2)(d), two counts of insurance fraud pursuant to Utah Code §76-6-521(2)(d) and §76-6-521(2)(b)(i), and one count of forgery pursuant to Utah Code § 76-6-501(2)(b)(i).

Pursuant to Rule 24 “[t]he court may. . . grant a new trial in the interest of justice if there is *any* error or impropriety which had a substantial adverse effect upon the rights of a party” Utah R. Crim Pro. 24(a)(emphasis added). “A new trial is not necessary, however, when an error is sufficiently inconsequential that [Utah courts] conclude there is no reasonable likelihood that the error affected the outcome of the proceedings. In other words, a new trial is not merited where an error is harmless.” *State v. Montoya*, 400 P.3d 1193n ¶21 (UT App 2017) (internal quotations omitted). “[A] motion for a new trial is generally permitted for correcting errors made in the trial court, or for reviewing a conviction obtained by unfair or

unlawful methods.” *State v. Owens*, 753 P.2d 976 (Utah Ct. App. 1988) (citations omitted).

Ms. Richins’ convictions should be vacated and a new trial granted for the following reasons: (I) the Court’s clear demonstration of bias in favor of the State, displayed before the jury, deprived Ms. Richins of a fair trial; (II) the State’s repeated reliance on other crimes, wrongs or bad acts and the admission of evidence proving Ms. Richins committed wide-ranging financial crimes over numerous years in several general categories went far beyond the Court’s pre-trial rulings, violated Rules 401, 402, 403 and 404(b), and resulted in substantial, undue prejudice

denying Ms. Richins a fair trial; and (III) cumulative error.

ARGUMENT

I. **The Court’s repeated assistance to the prosecution and disparate treatment of defense counsel before the jury denied Ms. Richins her right to a fair trial.**

Throughout trial, the Court repeatedly interrupted defense counsel, corrected counsel in ways that suggested to the jury that counsel was mishandling witnesses,

assisted the prosecution with its objections, and curtailed the defense’s objections.

On at least one occasion, the Court did so in a manner that made clear to the jury that it was offended by defense counsel. This misconduct created an appearance of bias against Ms. Richins and in favor of the prosecution, depriving Ms. Richins of a fair trial.

Pursuant to the 14th Amendment of the United States Constitution and Article 1 §12 of the Utah Constitution, a defendant has the right to an impartial judge, “[a]nd the presence of a judge who is not impartial constitutes a structural defect in the

trial mechanism that violates the United States Constitution and requires reversal”. *State v. Munguia*, 253 P3d 1082 (Utah 2011).

A cardinal principle of our legal system is that courts of justice act upon the belief that if guilty, a party will be so found after a fair trial. Both the ends and the means of a trial must be fair, and no matter how abhorrent the offense charged or how evident the guilt, an accused has an absolute constitutional right to a fair trial before an impartial judge and an unprejudiced jury.

State v. Zwillman, 112 N.J.Super 6 (1970). Further, “[c]ourts have long recognized that a trial judge's comments and actions carry a great deal of influence with a jury:

The influence of the trial judge on the jury is necessarily and properly of great weight and his lightest word or intimation is received with deference, and may prove controlling. A trial judge's position before a jury is overpowering. His position makes his slightest action of great weight with the jury.

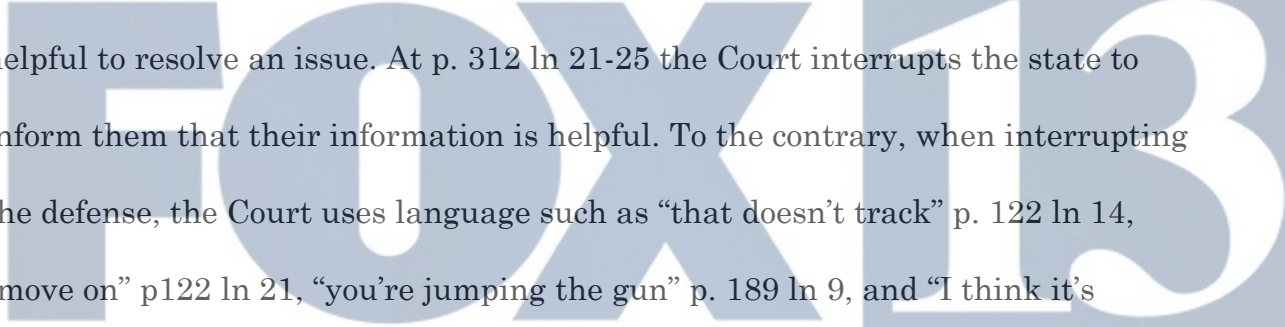
State v. Beck, 136 P.3d 1288 (UT. App. 2006).

In this matter the Court engaged in repeated conduct that denigrated defense counsel both in and out of the presence of the jury. The Court was often impatient, critical and hostile toward the defense and only the defense.¹ The Court frequently interrupted defense counsel telling them to “pause” or “focus”². Never was the State told to “focus”. During day four of trial the Court interrupted defense counsel on

¹ See Trial Tr. Day 12, p.146 ln. 14- p. 148 ln 16. At the bench the Court angrily criticizes Ms. Nester’s objection telling her to “slow her roll” and reminding her that to “read the ruling that I issued yesterday to try and avoid plain error to help your client” Further the Court tells Ms. Nester that she needs to wrap it up because “I have parent teacher conference to go to, and my son barely recognizes me”.

² See Attachment A, video clip of trial Day 4 p.207. The Court interrupts Ms. Lewis in a demeaning manner saying, “please pause”. Seconds later the court follows an interruption of the prosecution with an apology. When Ms. Lewis expresses frustration at the Court for changing a ruling made at the bench, she is told twice to “stay focused” and “Don’t do that. Please stay focused”

twenty-four separate occasions, while only interrupting the state thirteen times. This normally may not show bias, but the interruptions of defense were curt, cutting off statements and arguments while interruptions of the prosecution were followed by apologies, were often to help with logistical issues or to aid them with objections. This pattern followed throughout the trial. On day 1 alone, the Court interrupted the defense 36 times, as opposed to interrupting the prosecution 20 times. Interruptions of the prosecution were generally clarifying, accommodating or logistical. For example, at Trial Tr. Day 1, p.40 ln 17, the Court interrupts the state to help clarify their argument and to redirect the state's argument into the Court's



framing. At p. 101 ln 11-24, the Court interrupts the state but only to confirm a fact helpful to resolve an issue. At p. 312 ln 21-25 the Court interrupts the state to inform them that their information is helpful. To the contrary, when interrupting the defense, the Court uses language such as “that doesn't track” p. 122 ln 14, “move on” p.122 ln 21, “you're jumping the gun” p. 189 ln 9, and “I think it's premature” p. 189 ln. 23. This is only day one of the trial. A full review of the trial

transcript demonstrates that this disparate treatment of the defense was persistent, prejudicial, and well outside the bounds of neutral courtroom management and administration.

In addition to speaking in a disparaging and condescending manner to the defense, the Court would also reframe arguments in a way to help the prosecution. One strong example of this took place on day 10 of trial when the defense was attempting to elicit testimony of the victim's prior use of pain pills. Not only did the

court interrupt the defense, but it also continuously rephrased the argument, insisting that the defense use the term “illicit street drugs” defining such drugs in a way that does not include prescription pain pills. *See* Attachment A Day 10 p68, Day 10 p74, Day 10 p93 and Day 10 p95. During this argument, the Court did more than frame the issue in terms favorable to the State; it affirmatively accused Ms. Nester of knowingly misusing the Court’s chosen definition, a definition unsupported by any expert testimony or evidentiary basis and instead supplied by the Court itself.

Other examples of the Court speaking down to defense counsel are noted at

Attachment A Day 9 p20 where the Court accuses Ms. Lewis of intentionally ignoring what the Court is saying, and informing defense, as an answer to the objection that they can call their own witnesses in their case, thereby burden shifting. At Attachment A Day 11 49min the Court didn’t simply rule on Ms. Nester’s objection to relevance but commented on the objection in an extremely disparaging and condescending manner saying “you don’t see the relevance”? At

Day 11, 57min the Court was extremely condescending towards Ms. Nester’s request for a continuing objection and at Day 14 p.14 the Court shot down an objection by Ms. Lewis, during closing, interrupting her in the process and strongly saying “please be seated”. This was particularly prejudicial to the defendant as it was in front of the jury, indicating that the Court was angry with the defense, and making it clear that objections during closing would not be tolerated. The state then went on to make several objectionable statements during closing leaving the

defense with no remedy in front of the jury.³

In *State v. Beck*, 136 P.3d 1288 (Ut. Ct. App, 2006) the Court addressed this issue holding that:

Judges must be particularly cautious with their treatment of counsel in front of a jury and a judge's conduct before a jury is critically important because it directly implicates a defendant's constitutional right to a fair trial. When a judge abandons impartiality, the resulting bias can infect the entire proceeding, violate due process, and require reversal of a conviction, regardless of the strength of the evidence. . . Courts have long recognized that a trial judge's comments and actions carry a great deal of influence with a jury: The influence of the trial judge on the jury is necessarily and properly of great weight and his lightest word or intimation is received with deference and may prove controlling. A trial judge's position before a jury is overpowering. His position makes his slightest action of great weight with the jury. [citing] *United States v. Nickl*, 427 F.3d 1286, 1295 (10th Cir.2005) (citing *Quercia v. United States*, 289 U.S. 466, 470, 53 S.Ct. 698, 77 L.Ed. 1321 (1933)) (other quotations, citations, and alteration omitted). Thus, in order to assure a fair outcome and maintain public confidence in the legal system, it is paramount that the trial judge maintain the appearance of impartiality, especially in jury trials. *See State v. Gardner*, 789 P.2d 273, 278 (Utah 1989) ("Nothing is more damaging to the public confidence in the legal system than the appearance of bias or prejudice on the part of the judge."); *Mellen*, 583 P.2d at 48 ("[P]articularly in a jury trial, a judge should maintain an attitude of neutrality and should not, either by his comments or demeanor, indicate his opinions either as to the credibility of evidence or on the disputed issues of fact.").

A full review of the trial transcript clearly shows that the Court was demeaning and condescending to defense counsel and in contrast was friendly to the prosecution, often helping them with both their objections and the framing of arguments. Much

³ Ms. Nester did make a record outside the presence of the jury, after closing arguments were complete as to the improper comments made in the state's closing, although of course by then, the jury had already heard the improper arguments.

of this conduct took place in front of the jury and as *Beck* stated, a trial judge's position before a jury is overpowering. Trial judges sit high above everyone else in the courtroom. They preside and they decide. They welcome and protect the jurors; accommodate their schedules and make sure they have everything they need. "The influence of the trial judge on the jury 'is necessarily and properly of great weight' and 'his lightest word or intimation is received with deference, and may prove controlling.' *Quercia v. United States*, 289 U.S. 466, 470, 53 S. Ct. 698, 699, 77 L. Ed. 1321 (1933). The trial judge often banters and jokes with the jury, and this case was no different. The jury looked up to the trial judge, laughed at his jokes, and

engaged favorably with him throughout the trial. A full review of the record makes it clear that the Court let it be known to the jury that it favored counsel for the state, and their positions. When the prosecution raised concerns, the Court often accepted, clarified, or helped frame them. When the defense raised concerns, the Court more often responded with interruption, correction, skepticism, or curt commands to move on.

In addition to the Court's treatment of counsel, a full review of the trial transcript shows multiple instances where the Court suggested that defense objections could be resolved by the defense calling their own witnesses, thereby shifting the burden by instructing them to put on a defense. The rule "with respect to the scope of cross-examination continues to be that it is limited to the 'subject matter of the examination in chief,' or in more modern parlance to 'the limited scope of the direct examination.' While enforcement of this rule generally is within the

trial court's discretion, in a close case the rule must not be so strictly applied as to deprive the defense of an opportunity to present to the jury a vital element of the defense, here Government 'inducement,' an element of the entrapment defense on which the accused has the burden of proof. *U.S. v. Lewis* 447 F.2d 134 (2nd Cir. 1970). In a particularly heated debate with defense counsel regarding argument over the state's request to put in additional statements by Carmen Lauber after she had already taken the stand, the Court told defense that they should recall Ms. Lauber in their case if they wanted to question her on these statements that the state did not put in during her testimony. *See Attachment A Day 11 1:34:35. At*

times the court went so far as to tell the defense to put the defendant on the stand rather than allowing certain lines of questioning. *See Trial Transcript Day 7 p. 240 ln 10 and p. 265 ln 2.*

In addition to disparaging defense counsel, the Court repeatedly aided the prosecution by supplying objections the State had not made and, on at least one occasion, sua sponte objected on the State's behalf and then sustained its own

objection. *See Attachment A Day 1 p.117; Day1 p.220; Day 6 p.61; Day 9 p.165; Day 13 p.117 and Day 13 p.38.* Although a trial judge may control the courtroom and rule on objections, the Court may not abandon the role of neutral arbiter and assume the role of advocate for one side. The Supreme Court has long cautioned that the judge's influence over a jury is uniquely powerful, and that even slight judicial intimations may affect the jury's view of the parties and the evidence. *Quercia v. United States*, 289 U.S. 466, 470 (1933). Utah courts recognize the same

principle: a judge must maintain both actual neutrality and the appearance of neutrality, particularly in a jury trial, because judicial comments or conduct suggesting favoritism can undermine public confidence and deprive the accused of a fair trial. *State v. Gardner*, 789 P.2d 273, 278 (Utah 1989); *State v. Beck*, 136 P.3d 1288 (Utah Ct. App. 2006). When the Court supplied objections for the prosecution and then sustained those objections, the Court did more than manage the proceedings; it communicated to the jury that the State's position had the Court's approval and that the defense's questioning warranted judicial intervention even when the prosecution itself did not object. That appearance of alignment with the prosecution is precisely the type of conduct that can infect the fairness of the trial and requires a new trial.

Overall, based on the court's conduct, it often appeared that the defendant was not facing a single adversary but rather had to bear the consequence of a judge who at times acted as a second adversary and who appeared to disbelieve either defense counsel or a defense witness. As a result of the Court's repeated prejudicial conduct toward the defense in this case, the defendant did not receive a fair trial by a neutral arbiter of justice.

Because Ms. Richins is asserting herein a claim of bias on the part of the Judge, the Court should reassign the consideration of this motion to another judge, in compliance with the Utah Code of Judicial Conduct.

"A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or

prejudice concerning a party or a party's lawyer..." UT R CJC Rule 2.11 (West).

The Utah Code of Judicial Conduct defines "impartiality," as the "absence of bias or prejudice in favor of, or against, particular parties [...], as well as presence of an objective and open mind in considering matters that come before a judge." UT R CJC Terminology (West). Even the most scrupulous efforts to keep an objective and open mind are near impossible when a judge is being asked to consider whether his own behavior was prejudicial during trial.

Due process guarantees "an absence of actual bias" on the part of a judge. *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955). Bias is easy to attribute to others and difficult to discern in oneself. To establish an enforceable and workable framework, the Court's precedents apply an objective standard that, in the usual case, avoids having to determine whether actual bias is present. The Court asks not whether a judge harbors an actual, subjective bias, but instead whether, as an objective matter, "the average judge in his position is 'likely' to be neutral, or whether there is an unconstitutional 'potential for bias.'" *Caperton*, 556 U.S., at 881, 129 S.Ct. 2252.

Williams v. Pennsylvania, 579 U.S. 1, 8, 136 S. Ct. 1899, 1905, 195 L. Ed. 2d 132 (2016).

Given the apparent objective bias discussed, the actual conflict of interest created by allegations of the Court's bias, and the need to ensure due process, disqualification from ruling on this motion is warranted.

II. State's repeated reliance on other crimes, wrongs or bad acts and the admission of evidence proving Ms. Richins committed wide-ranging financial crimes over numerous years in several general categories went far beyond the Court's pre-trial rulings, violated

Rules 401, 402, 403 and 404(b), and resulted in substantial, undue prejudice denying Ms. Richins a fair trial

Prior to trial the defense filed Motions in Limine seeking to exclude from trial evidence of over 30 other crimes, wrongs or bad acts connected to Ms. Richins' business and/or her financial dealings over a period of several years. On January 7, 2026, the Court held a hearing to determine to what extent all of Ms. Richins' alleged financial misdeeds spanning years before Eric Richins' death could be admitted at trial. The Court gave the State some general guardrails, attempting to avoid 404(b) issues at trial. See Attachment B, partial hearing transcript. In

trial, the State went far beyond the Court's pre-trial rulings, and introduced the testimony of Chelsea Barney and Brooke Karrington, going into great detail about numerous financial misdeeds. See Attachment C & D. Ms. Karrington spent an entire day on the stand testifying about bounced checks, false bank statements, misleading communications with lenders, mismanagement of business affairs, sloppy accounting, improper tax accounting and on and on and

on. Ms. Barney testified about how she lost her life savings and her home when Ms. Richins mishandled a real estate transaction for her and allegedly lied about it. The defense objected to all of the State's attempts to inject allegations of financial and business fraud and/or dishonesty into the trial despite the Court's pretrial rulings, and each and every objection was overruled by the Court. See Attachments C & D. The very beginning of the State's Closing Argument specifically referred to Ms. Richins taking out a HELOC without her husband knowing about it years before he died. See Attachment E. Seven pages of the

State’s closing argument focused on the testimony of Karrington and Barney.
(pp. 27-34 of Attachment E).

Ms. Richins’ case is similar to the case of *State of South Carolina v. Richard Alexander Murdaugh*, Opinion No. 28329, South Carolina Supreme Court, May 13, 2026, wherein the Supreme Court for the State of South Carolina held that it was overly prejudicial to allow the state, under the guise of proving motive, to introduce vast amounts of evidence showing financial misdeeds of the defendant spanning years of time prior to the murders of his family. Like the Murdaugh case, Ms. Richins was denied a fair trial due to the undue prejudice of financial wrongdoings permeating her trial. The only appropriate remedy is a new trial.

III. Alternatively, this Court should grant Ms. Richins’ a new trial under the cumulative-error doctrine.

Under the cumulative-error doctrine, a conviction should be reversed when (1) “two or more errors occurred,” (2) “[each] error, standing alone, has a conceivable potential for harm,” and (3) “the cumulative effect of those errors undermines [the court’s] confidence that a fair trial was had.” *Conocophillips Co. v. Utah Dep’t of Transp.*, 397 P.3d 772, 780 (UT. App.2017) and *State v. Green*, 532 P.3d 930, 941 (Utah, 2023) (cleaned up). A court’s “confidence is more likely to be shaken when the errors work together in a pernicious manner so as to cause more prejudice than the mere sum of the individual errors.” *Conocophillips Co.*, at 780. “Cumulative error refers to a number of errors which prejudice a defendant’s right to a fair trial.” *State v. Martinez-Castellanos*, 428 P.3d 1038, 1047 (Utah 2018). The cumulative error doctrine applies “when a single error may not constitute grounds for reversal,

but many errors, when taken collectively, do.” *Id.* Cumulative error requires reversal “if the cumulative effect of the several errors undermines [this Court’s] confidence. . . that a fair trial was had.” *Id.* Importantly, the doctrine applies only “to errors that substantial enough to accumulate,” it does not apply to errors “found to be so minor as to result in no harm. *Id.* “When considering reversal under the cumulative error doctrine. . . not only must a court make a determination that an error exists, it must also make a separate determination that the error could conceivably cause some harm before it adds the error’s effect to the cumulative error scale”. *Id.*

CONCLUSION

The Court should recuse from consideration of this motion, and an evidentiary hearing should be scheduled before the judge assigned to the motion to present evidence and argument in support of Richins’ request for a motion for new trial.

DATED this 30th day of June, 2025.

/s/ Wendy M. Lewis
Wendy M. Lewis
Kathryn N. Nester
Alexander E. Ramos
Attorneys for Ms. Richins