David T. Robinson, PhD

July 1, 2024

Chief Judge Margo Brodie
United States District Court Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: United States versus Carlos Watson and Ozy Media, Inc.

Dear Judge Brodie:

I appeared as an expert witness for the defense in US v. Carlos Watson and Ozy Media on Thursday, June 27. I am writing to you to convey my concern about the judicial bias that I saw present that day.

At the outset, I want to be clear: I am not writing at the request of defense counsel, nor has defense counsel (or anyone, for that matter) reviewed or assisted in the preparation this letter. I am writing simply as a private citizen to express my concern based on what I witnessed in the courtroom, no different than if I were sitting in the public gallery listening to the trial.

At numerous points during the day in connection with my testimony, the judge took actions that seemed clearly to favor or assist the prosecution. For example, during my cross-examination, I found it impossible to understand a particular hypothetical question posed by prosecution. The judge then reformulated the hypothetical to help the prosecution get her point across. In fact, he began his interjection with, "I think the question is meant to imply …" and then went on to vary the hypothetical on her behalf, departing from what I understood her to be asking. I was then directed to answer his question instead of hers. I found myself wondering, "Is the Judge working for the prosecution? I didn't think a judge could do this." If leading the witness is a basis for objection, how is leading the prosecution not objectionable?

Evidence of his disdain for the defense was rampant throughout the day. Over the weekend I shared the following courtroom exchange with a colleague who teaches in a law school:

> **Ron Sullivan**: "At this point, Your Honor, we would tender Dr. Robinson as an expert in the area of entrepreneurial finance."
>
> **Judge Komitee**: "I do not qualify witnesses as experts, but the witness may give testimony pursuant to Rule 702"

When my colleague heard this, he cackled and said, "Well when he allowed you to give testimony pursuant to Rule 702 he in fact DID qualify you as an expert, because 702 concerns the definition of an expert. It sounds to me that he just didn't want to say those words in front of the jury because he didn't want the jury to hear the word *expert* in connection with your testimony."

There were other instances that day where the context of the question from the judge, his tone of voice, nonverbal cues, etc., suggested to me that he looked on the defendant with suspicion, but did not look upon the prosecution with similar suspicion. When I shared my concerns about my experience to friends and colleagues who either teach in law schools or have argued cases before juries, they each said, "Judges can ask questions but they aren't supposed to be biased." Their reactions have led me to conclude that I needed to share my concerns with you.

I fully understand and accept that courtrooms are contentious places. I also understand that the prosecution has an obligation, as well as strong incentives based on career concerns, to work as hard as it can to win its case. My concern is that the behavior I saw in court deprives the accused of a fair trial by limiting his counsel's ability to mount a defense. My understanding is that it is the solemn responsibility of a jury, and their responsibility alone, to render a verdict based on the facts of a case as they understand them. If a judge behaves in a manner that suggests to the jury that he looks with suspicion at one side but not the other, then that judge surely biases their judgments. I worry that this is happening right now on the 8th floor of your courthouse in the matter of US vs. Carlos Watson and Ozy Media.

Very truly yours,



David T. Robinson