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# Marilyn Mosby's expert witness in criminal trial previously described her actions as 'quite dumb'

By Lee O. Sanderlin and Alex Mann  
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An expert witness hired by Baltimore State's Attorney Marilyn Mosby to help her defense at her upcoming perjury and mortgage fraud trial previously called her actions "quite dumb."

Mosby's lawyers plan to call Eric Forster, a California-based professional mortgage fraud witness, to provide insight into the two-term Democrat's purchase of two Florida homes in 2020, according to court filings. The defense expects him to testify that the lenders should have scrutinized Mosby's mortgage applications more carefully.

Federal prosecutors are seeking to prevent Forster and another witness, Marcia Wagner, from testifying. Prosecutors also are asking the defense to provide more information about Mosby's third witness, forensic accountant Jerome Schmitt

The government is paying for Mosby's witnesses, at least in part, after a judge

found she [likely cannot afford them](#). Expert witness testimony can cost more than \$10,000. Her trial is scheduled for Sept. 19.

Mosby's defense team, led by attorney A. Scott Bolden, filed motions to prevent the government from calling its witnesses: an FBI accountant and an IRS officer who are supposed to speak to her finances.

Bolden, in court filings, is asking U.S. District Court Judge Lydia Kay Griggsby to ban those witnesses because Bolden says prosecutors didn't properly disclose their experts' testimony.

The city's elected prosecutor is charged with two counts of perjury and two counts of making false statements on loan applications. Publicly available documents suggest Mosby misled her lenders about her finances and her plans for two Florida homes she bought — an eight-bedroom rental near Disney World and a condo on the Gulf Coast.

The reason people do that, [according to several experts, is to get more favorable loan terms](#).

In a March interview with The Baltimore Sun, Forster discussed Mosby's indictment at length, saying her alleged ploy to save on interest and down payments was commonplace. Forster did not respond to a request for comment Monday afternoon.

"I didn't see anything very clever done on her part," he said in March. "Actually, I saw a number of things that were quite dumb. But the point is that I've seen people do it all the time."

Prosecutors, in court filings, said Forster's proposed testimony would be too technical and "any probative value it may have is outweighed by the danger that it will confuse the jury and waste their time."

When Mosby purchased the home near Disney World, she signed a document

promising she would not hire a management company or rent it out for at least a year, according to publicly available mortgage filings. Mortgages for investment homes are typically more expensive, with banks requiring higher interest rates and a 20% down payment compared to the 10% needed for second homes.

However, prosecutors claim that a week before closing, Mosby signed a contract with a management company, giving it control over renting the home, a violation of her mortgage terms.

“When you sign a loan application, just above your signature, there is this verbiage that you’re certifying that everything above is true and correct and bad things can happen to you if you are defrauding the lender,” Forster said.

“Obviously, she knew that.”

Many people who lie about a vacation home that’s an investment property aren’t caught because federal prosecutors can’t keep up with the number of mortgage fraud complaints sent their way, Forster said.

“If it was Joe Schmo, there wouldn’t have been any indictment here,” Forster said about the vacation home agreement.

Mosby and her lawyers previously sought to have the indictment against her dismissed on the grounds of prosecutorial vindictiveness. They argued the charges, which they alleged to be unique, were solely the product of federal prosecutors’ prejudice for Mosby and her policies as state’s attorney. The government vehemently rejected those allegations; Griggsby denied the defense’s request, finding it was problematic.

In addition to Mosby’s alleged indiscretions related to the so-called “second home rider,” federal prosecutors say she lied about her debts on the mortgage application for the Kissimmee home, hence the need for the IRS officer and FBI accountant at trial.

At the time of her application, Mosby and her husband faced a \$45,000 federal

tax lien. Mosby claimed she didn't know about the lien because her husband, Democratic Baltimore City Council President Nick Mosby, handled their taxes.



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Mosby's defense team is offering Wagner, a lawyer with a focus on employee retirement plans, as an expert on the CARES Act and Mosby's retirement withdrawals. The government wants her barred because the presiding judge is the only person who's supposed to tell the jurors how to apply the law.

Mosby used the money she withdrew from her city retirement account, about \$90,000, to purchase the Florida homes, according to the indictment. Under the CARES Act, the first pandemic relief bill, Congress allowed government workers to make early withdrawals from their retirement accounts if they claimed — under penalty of perjury — that they suffered adverse financial consequences as a result of the pandemic or if a business they owned lost money.

Prosecutors say Mosby suffered no such financial hardship in 2020, when she made the withdrawals, pointing out that her salary actually increased over the previous year.

Mosby's defense hasn't offered a concrete explanation for the withdrawals and have filed a motion seeking to block prosecutors from telling a jury how Mosby spent the money she took out of her retirement account.

The decision to spend the money as down payments on vacation homes is irrelevant to the case, Bolden wrote, and would only serve to paint Mosby in a bad light to jurors.

Griggsby is expected to rule Sept. 14 on all of the motions in Mosby's trial.

*Baltimore Sun reporter Giacomo Bologna contributed to this article.*



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